

HOUSE BILL No. 2028

By Committee on Judiciary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) the Kansas sentencing commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
24 2022 Supp. 21-5503, and amendments thereto;

25 (2) indecent liberties with a child or aggravated indecent liberties
26 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
27 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;

28 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and
30 amendments thereto;

31 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
32 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;

33 (5) indecent solicitation of a child or aggravated indecent solicitation
34 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
35 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;

36 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
37 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

38 (7) internet trading in child pornography or aggravated internet
39 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,
40 and amendments thereto;

41 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
42 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;

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

1 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.
2 21-5601, and amendments thereto;

3 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
4 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;

5 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
6 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;

7 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
8 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

9 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
10 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;

11 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
12 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;

13 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
14 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;

15 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
16 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim
17 was less than 18 years of age at the time the crime was committed;

18 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
19 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;

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

22 (19) any conviction for any offense in effect at any time prior to July
23 1, 2011, that is comparable to any offense as provided in this subsection.

24 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
25 for any offender who is required to register as provided in the Kansas
26 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
27 there shall be no expungement of any conviction or any part of the
28 offender's criminal record while the offender is required to register as
29 provided in the Kansas offender registration act.

30 (g) (1) When a petition for expungement is filed, the court shall set a
31 date for a hearing of such petition and shall cause notice of such hearing to
32 be given to the prosecutor and the arresting law enforcement agency. The
33 petition shall state the:

34 (A) Defendant's full name;

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

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

38 (D) crime for which the defendant was arrested, convicted or
39 diverted;

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

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

43 (2) Except as otherwise provided by law, a petition for expungement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

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

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

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

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