

HOUSE BILL No. 2290

AN ACT concerning public agencies; establishing the Kansas closed case task force; creating the Kansas criminal justice reform commission; relating to the Kansas bureau of investigation; criminal history record checks for entities providing care to children, the elderly or individuals with disabilities; relating to the attorney general; creating a statewide Kansas victim information and notification everyday (VINE) coordinator; appointment of a Kansas youth suicide prevention coordinator; relating to the crime victims compensation board; creating the crime victims compensation division within the office of the attorney general; relating to the Kansas open records act; legislative review of exceptions to disclosure of public records; relating to the tort claims fund; claims involving alleged violations of the open records act or the open meetings act; amending K.S.A. 74-7304, 74-7305, 74-7308 and 74-7317 and K.S.A. 2018 Supp. 9-513c, 40-3407, 45-229 and 75-6117 and repealing the existing sections; also repealing K.S.A. 74-7306.

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

New Section 1. (a) There is hereby established the Kansas closed case task force. The task force shall be composed of 15 voting members, as follows:

- (1) The chairperson of the standing senate committee on judiciary;
- (2) the ranking minority member of the standing senate committee on judiciary;
- (3) the chairperson of the standing house committee on judiciary;
- (4) the ranking minority member of the standing house committee on judiciary;
- (5) the governor or the governor's designee;
- (6) the attorney general or the attorney general's designee;
- (7) the director of the Kansas bureau of investigation or the director's designee;
- (8) the state combined DNA index system (CODIS) administrator as designated by the director of the Kansas bureau of investigation forensic science laboratory;
- (9) a sheriff as designated by the Kansas sheriff's association;
- (10) a chief of police as designated by the Kansas association of chiefs of police;
- (11) a prosecutor as designated by the Kansas county and district attorneys association;
- (12) the executive director of the state board of indigents' defense services or the executive director's designee;
- (13) the president of the Kansas bar association or the president's designee;
- (14) the director of victim services of the department of corrections or the director's designee; and
- (15) one member designated by the governor who represents an organization that litigates claims of innocence.

(b) (1) Members shall be appointed to the task force on or before September 1, 2019. The initial meeting of the task force shall be convened on or before October 1, 2019.

(2) The chairperson of the standing senate committee on judiciary and the chairperson of the standing house committee on judiciary shall serve as co-chairs of the task force.

(3) The task force shall meet in an open meeting at any time and at any place within the state of Kansas upon the call of either co-chairperson of the task force. A majority of the voting members of the task force constitutes a quorum. Any action by the task force shall be by motion adopted by a majority of the voting members present when there is a quorum.

(c) The task force, in consultation with practitioners and experts, shall develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

- (1) Timely receipt of the data relating to hits to the combined DNA index system (CODIS) from the forensic laboratory;
- (2) directly connecting the data relating to hits to the combined DNA index system (CODIS) to the relevant case file;
- (3) proper policies and procedures to ensure all hits are accounted for and followed up;
- (4) procedures to address how the key parties can conduct a

reasonable and timely investigation into the significance of the hit; and

(5) sharing the hits in data from both solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

(d) The task force shall complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020. The plan shall include a mechanism to ensure uniform compliance at the local law enforcement agency level.

(e) On or before December 1, 2020, the task force shall submit a report containing a plan for uniform implementation of the protocol throughout the state, including articulated benchmarks to facilitate and measure adoption. This report shall be posted on a public website maintained by the Kansas bureau of investigation and presented to the governor, the speaker of the house of representatives and the president of the senate.

(f) Legislative members of the task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto. Non-legislative members of the task force may be reimbursed by their appointing authority.

(g) The provisions of this section shall expire on December 30, 2020.

New Sec. 2. (a) There is hereby created the Kansas criminal justice reform commission.

(b) The commission shall:

(1) Analyze the sentencing guidelines grids for drug and nondrug crimes and make recommendations for legislation that would ensure sentences are appropriate;

(2) review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;

(3) analyze diversion programs utilized throughout the state and make recommendations with respect to expanding diversion options and implementation of a state-wide diversion standards;

(4) review the supervision levels and programming available for offenders who serve sentences for felony offenses on community supervision;

(5) study specialty courts and make recommendations for the use of specialty courts throughout the state;

(6) survey the availability of evidence-based programming for offenders provided both in correctional facilities and in the community, and make recommendations for changes in available programming;

(7) study the policies of the department of corrections for placement of offenders within the correctional facility system and make recommendations with respect to specialty facilities, including, but not limited to, geriatric, healthcare and substance abuse facilities;

(8) evaluate existing information management data systems and make recommendations for improvements to data systems that will enhance the ability of criminal justice agencies to evaluate and monitor the efficacy of the criminal justice system at all points in the criminal justice process; and

(9) study other matters, that, as the commission determines, are appropriate and necessary to complete a thorough review of the criminal justice system.

(c) The commission shall be made of the following members:

(1) One member of the Kansas senate appointed by the president of the senate;

(2) one member of the Kansas senate appointed by the minority leader of the senate;

(3) one member of the Kansas house of representatives appointed by the speaker of the Kansas house of representatives;

(4) one member of the Kansas house of representatives appointed by the minority leader of the Kansas house of representatives;

(5) one member of the judicial branch court services appointed by the chief justice of the supreme court;

(6) one criminal defense attorney or public defender appointed by the governor;

(7) one county or district attorney from an urban area and one county attorney from a rural area appointed by the Kansas county and district attorneys association;

(8) one sheriff and one chief of police appointed by the attorney general;

(9) one professor of law from the university of Kansas school of law and one professor of law from Washburn university school of law, appointed by the deans of such schools;

(10) one drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program appointed by the Kansas sentencing commission;

(11) one district judge appointed by the Kansas district judges association;

(12) one district magistrate judge appointed by the Kansas district magistrate judges association;

(13) one member representative of the faith-based community appointed by the governor;

(14) one member of a criminal justice reform advocacy organization appointed by the legislative coordinating council;

(15) one mental health professional appointed by the Kansas community mental health association;

(16) one member representative of community corrections appointed by the secretary of corrections; and

(17) the attorney general, the secretary of corrections and the executive director of the Kansas sentencing commission, or such persons' designees, shall serve as ex officio, nonvoting members of the commission.

(d) Members of the commission shall be appointed before August 1, 2019. The appointing authorities shall provide notice of such appointments to the office of revisor of statutes and the legislative research department.

(e) The members of the commission shall elect officers from among its members necessary to discharge its duties. The commission shall receive testimony from interested parties at public hearings to be conducted in the various geographic areas of the state.

(f) If approved by the legislative coordinating council, legislative members of the commission attending meetings authorized by the commission shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

(g) The commission shall have the authority to organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such commission's duties, including adding ex officio, nonvoting members to such task forces or subcommittees.

(h) The commission shall work with the Kansas judicial council, the department of corrections, the office of judicial administration and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.

(i) The commission shall prepare and submit its interim report to the legislature on or before December 1, 2019. A final report and recommendations shall be submitted to the legislature on or before December 1, 2020.

(j) The staff of the office of revisor of statutes and the legislative research department shall provide such assistance as may be requested by the commission as authorized by the legislative coordinating council.

(k) The governor shall appoint a facilitator to assist the commission in developing a project plan and who shall assist the commission in carrying out the duties of the commission in an orderly manner. The facilitator shall work in collaboration with the commission

chairperson and staff of the office of revisor of statutes and the legislative research department. The facilitator shall not be a member of the commission. The facilitator, in coordination with the office of revisor of statutes and the legislative research department, shall call the first meeting of the commission, which shall take place during August 2019.

New Sec. 3. (a) As used in this section:

(1) "Care" means the provision of treatment, education, training, instruction, supervision or recreation to children, the elderly or individuals with disabilities.

(2) "Provider" means a person who:

(A) Is employed by a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care;

(B) is a volunteer of a qualified entity and has, seeks to have, or may have supervised or unsupervised access to children, the elderly or individuals with disabilities to whom the qualified entity provides care; or

(C) owns, operates or seeks to own or operate a qualified entity.

(3) "Qualified entity" means a business or organization that provides care to children, the elderly or individuals with disabilities that is private, for profit, not-for-profit or voluntary, except such businesses or organizations that are subject to the provisions of K.S.A. 39-970, 65-516 or 65-5117, and amendments thereto, or K.S.A. 2018 Supp. 39-2009 or 75-53,105, and amendments thereto.

(b) A qualified entity may request the Kansas bureau of investigation to conduct a state and national criminal history record check on any person who will serve as a provider, or is currently a provider with such entity. The qualified entity may request a state and national criminal history record check by submitting the following:

(1) The person's fingerprints; and

(2) a copy of a completed and signed statement furnished by the qualified entity that includes:

(A) A waiver permitting the qualified entity to request and receive a criminal history record check for the purpose of determining the person's qualification and fitness to serve as a provider;

(B) the name, address and date of birth of the person as it appears on a valid identification document;

(C) a disclosure of whether or not the person has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction; and

(D) a notice to the person that they are entitled to obtain a copy of the criminal history record check to challenge the accuracy and completeness of any information contained in any such report before any final determination is made by the qualified entity.

(c) A qualified entity is authorized to require a person to be fingerprinted and to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The qualified entity shall use the fingerprints to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdictions or countries. The qualified entity may use the information obtained from the fingerprints and such state and national criminal history record checks in the official determination of the qualifications and fitness of the person to be permitted to serve as a provider.

(d) Local and state law enforcement officers and agencies shall assist the qualified entity in taking and processing a person's fingerprints as authorized by this section.

(e) The Kansas bureau of investigation shall release all records of the person's adult convictions and diversions, and adult convictions and diversions from another state, jurisdiction or country, to the qualified entity to make a final determination of the qualification of such person to serve as a provider.

(f) A qualified entity shall be solely responsible for making any determination that a person's criminal history record shows that such person has been convicted of a crime that bears upon the fitness of such person to serve as a provider. This section does not require the Kansas bureau of investigation to make such a determination on behalf of any qualified entity.

New Sec. 4. (a) The attorney general shall appoint a Kansas victim information and notification everyday (VINE) coordinator, and within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator.

(b) The Kansas VINE coordinator shall work with interested parties, including, but not limited to, the sheriffs throughout the state, to oversee the implementation and operation of the VINE system throughout the state.

(c) The attorney general may appoint an advisory board to make recommendations for the implementation and operation of the VINE program. Such advisory committee, if appointed, may consist of up to five members appointed by the attorney general. One member shall be a victim advocate and one shall be a representative of the Kansas sheriffs' association. Except as provided in K.S.A. 75-3212, and amendments thereto, no member of any such advisory committee shall receive any compensation, subsistence, mileage or other allowance for serving on an advisory board appointed pursuant to this section.

(d) The attorney general shall promulgate rules and regulations necessary to carry out the provisions of this section.

New Sec. 5. (a) The attorney general shall appoint a Kansas youth suicide prevention coordinator and, within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator. The Kansas youth suicide prevention coordinator shall identify, create, coordinate and support youth suicide awareness and prevention efforts throughout the state.

(b) Within the limits of appropriations therefor, the Kansas youth suicide prevention coordinator may:

(1) Lead the development, implementation and marketing of a website, online application and mobile phone application to facilitate communication with youth for the purpose of preventing youth suicide and promoting youth safety and well-being;

(2) develop and promote multidisciplinary and interagency strategies to help communities, schools, mental health professionals, medical professionals, law enforcement and others work together and coordinate efforts to prevent and address youth suicide;

(3) organize events that bring together youth, educators and community members from across the state to share information and receive training to prevent and address youth suicide in their communities;

(4) gather, disseminate and promote information focused on suicide reduction; and

(5) perform any other duty assigned by the attorney general to carry out the provisions of this section.

New Sec. 6. (a) There is hereby established within the office of the attorney general a crime victims compensation division to administer and support the operations of the crime victims compensation board established pursuant to K.S.A. 74-7301 et seq., and amendments thereto. The division shall receive applications for compensation and all supporting papers and shall, if requested by the board, investigate the claim, appear in proceedings related to the claim and present evidence in opposition to or support of an award.

(b) The attorney general shall establish and maintain a principal office for the division and other necessary offices within the state, appoint employees and agents, as necessary, and prescribe the duties and compensation for each employee and agent subject to appropriations. The crime victims compensation division shall be headed by a director appointed by the attorney general in consultation with the crime victims compensation board.

(c) The crime victims compensation division shall:

(1) Prescribe forms on which applications for compensation shall be made;

(2) request investigations and data from county and district attorneys, law enforcement officers and other sources to enable the crime victims compensation board to determine whether, and to what extent a claimant qualifies for compensation;

(3) make available for public inspection, as provided by the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, all rules and regulations, written statements of policy, interpretations formulated, adopted or used by the crime victims compensation board and decisions and opinions of the crime victims compensation board;

(4) publicize the availability of compensation and information regarding the filing of claims; and

(5) perform any other duty assigned by the attorney general to carry out the provisions of this section.

(d) Confidentiality provided by law covering a claimant's or victim's juvenile court records shall not be applicable in proceedings pursuant to K.S.A. 74-7301 et seq., and amendments thereto.

Sec. 7. K.S.A. 2018 Supp. 9-513c is hereby amended to read as follows: 9-513c. (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

~~(b)-(1)~~ All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

~~(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2019.~~

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

Sec. 8. K.S.A. 2018 Supp. 40-3407 is hereby amended to read as

follows: 40-3407. (a) Except for investment purposes, all payments from the fund shall be upon warrants of the state of Kansas issued pursuant to vouchers approved by the executive director or the executive director's designee, and, with respect to claim payments, accompanied by: (1) A file stamped copy of a final judgment against a healthcare provider or inactive healthcare provider for which the fund is liable; or (2) a file stamped copy of a court approved settlement against a healthcare provider or inactive healthcare provider for which the fund is liable.

(b) For investment purposes amounts shall be paid from the fund upon vouchers approved by the chairperson of the pooled money investment board.

(c)~~(1)~~ Payments from the fund for attorney fees, expert witness fees, and other costs related to claims, including invoices, statements and other documentation thereof, shall not be subject to K.S.A. 45-218, and amendments thereto.

~~(2) The provisions of this subsection shall expire on June 30, 2019, unless the legislature acts to reenact such provisions. The provisions of this section shall be reviewed by the legislature prior to July 1, 2019.~~

Sec. 9. K.S.A. 2018 Supp. 45-229 is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

(1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year ~~which~~ that meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the

following year's certification after that determination.

(f) "Exception" means any provision of law that creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law that creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or
- (4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

- (A) Allows the effective and efficient administration of a governmental program, ~~which administration~~ that would be significantly impaired without the exception;
- (B) protects information of a sensitive personal nature concerning individuals, the release of ~~which~~ such information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or
- (C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information ~~which~~ that is used to protect or further a business advantage over those who do not know or use it, *if* the disclosure of ~~which~~ such information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence:

- 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-

221(a)(1) through (43), 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-972a, 74-50,217 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and that have been reviewed during the 2016 legislative session are hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 56-1a610, 56a-1204, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and that have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

(n) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) *Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).*

Sec. 10. K.S.A. 74-7304 is hereby amended to read as follows: 74-7304. In addition to the powers and duties specified elsewhere in this act, the board shall have the following powers and duties:

~~(a) The duty to establish and maintain a principal office and other necessary offices within this state, to appoint employees and agents as necessary and to prescribe their duties and compensation, all within the limitations and conditions of appropriations made therefor;~~

~~(b) The duty power to adopt by rule and regulation a description of the organization of the board, stating the general method and course of operation of the board;~~

~~(e)(b) the duty power to adopt rules and regulations to carry out the provisions of this act, and the property crime restitution and compensation act, including rules for the allowance of attorney fees for representation of claimants; and to adopt rules and regulations providing for discovery proceedings, including medical examination, consistent with the provisions of this act relating thereto. Rules and regulations adopted by the board shall be statements of general applicability which implement, interpret or prescribe policy, or describe the procedure or practice requirements of the board;~~

~~(d) the duty to prescribe forms on which applications for compensation shall be made;~~

~~(e)(c) the duty to hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitation or periods of prescription;~~

~~(f) the power to request investigations and data from county and district attorneys and law enforcement officers to enable the board to determine whether and the extent to which a claimant qualifies for compensation. Confidentiality provided by law covering claimant's or victim's juvenile court records shall not be applicable in proceedings under this act;~~

~~(g)(d) the duty, if it would contribute to the function of the board, to subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct hearings and receive relevant, nonprivileged evidence; and~~

~~(h)(e) the power to take notice of judicially recognizable facts and general, technical and scientific facts within their specialized knowledge;~~

~~(i) the duty to make available for public inspection all rules and regulations, written statements of policy, interpretations formulated, adopted or used by the board in discharging its functions, and decisions and opinions of the board;~~

~~(j) the duty to publicize the availability of compensation and information regarding the filing of claims therefor.~~

Sec. 11. K.S.A. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the ~~board~~ *crime victims compensation division created by section 6, and amendments thereto.*

(b) Compensation may not be awarded unless an application has been filed with the ~~board~~ *division* within two years of the reporting of the incident to law enforcement officials if the victim was less than 16

years of age and the injury or death is the result of any of the following crimes: (1) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(a), and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2018 Supp. 21-5506(b), and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2018 Supp. 21-5504(b), and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509, prior to its repeal; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(a), and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2018 Supp. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2018 Supp. 21-5510, and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2018 Supp. 21-5604(b), and amendments thereto; (9) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(a), and amendments thereto; (10) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2018 Supp. 21-5426(b), and amendments thereto; or (11) commercial sexual exploitation of a child as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto. Compensation for mental health counseling may be awarded if a claim is filed within two years of: (1) Testimony, to a claimant who is, or will be, required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the claimant or the victim on whose behalf the claim is made; or (2) notification, to a claimant who is notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, or is notified of the identification of a suspected offender who victimized the claimant or the victim on whose behalf the claim is made, whichever occurs later. For all other incidents of criminally injurious conduct, compensation may not be awarded unless the claim has been filed with the ~~board~~ *division* within two years after the injury or death upon which the claim is based. Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(c) Compensation otherwise payable to a claimant shall be reduced or denied, to the extent, if any that the:

(1) Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;

(2) board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or

(3) board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based. This subsection shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.

(d) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider all relevant factors, including:

(1) The number of *the* claimant's dependents;

(2) the usual living expenses of the claimant and the claimant's family;

(3) the special needs of the claimant and the claimant's dependents;

(4) the claimant's income and potential earning capacity; and

(5) the claimant's resources.

(e) Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after its occurrence or the board finds there was good cause for the failure to report within that time.

(f) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

(g) Except in K.S.A. 21-3602 or 21-3603, prior to their repeal, or K.S.A. 2018 Supp. 21-5604, and amendments thereto, or cases of sex offenses established in article 35 of chapter 21, of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2018 Supp. 21-6419 through 21-6422, and amendments thereto, or human trafficking or aggravated human trafficking, as defined in K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 2018 Supp. 21-5426, and amendments thereto, compensation may not be awarded if the economic loss is less than \$100.

(h) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed \$400 per week or actual loss, whichever is less.

(i) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed \$25,000 in the aggregate.

(j) Nothing in subsections (c)(2), (c)(3), (e) and (f) shall be construed to reduce or deny compensation to a victim of human trafficking or aggravated human trafficking, as defined in K.S.A. 2018 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined in K.S.A. 2018 Supp. 21-6422, and amendments thereto, who was 18 years of age or younger at the time the crime was committed and is otherwise qualified for compensation.

Sec. 12. K.S.A. 74-7308 is hereby amended to read as follows: 74-7308. (a) There shall be no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant or victim in a proceeding under this act in which such condition is an element.

(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown upon notice to the person to be examined and to all persons who have appeared. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made; and the order shall require the person to file with the board a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognosis and other conclusions and reports of earlier examinations of the same conditions.

(c) On request of the person examined, the board shall furnish a copy of the report to such person. If the victim is deceased, the board, on request, shall furnish to the claimant a copy of the report.

(d) The board may require the claimant to supplement the application with any reasonably available medical or psychological reports relating to the injury for which compensation is claimed.

(e) All records and information given to the board *and the crime victims compensation division created by section 6, and amendments thereto*, to process a claim on behalf of a crime victim shall be confidential. Such exhibits, medical records, psychological records, counseling records, work records, criminal investigation records,

criminal court case records, witness statements, telephone records; and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim shall not be obtainable by any party to any action, civil or criminal, through any discovery process except:

(1) In the event of an appeal under the Kansas administrative procedure act from a decision of the board and then only to the extent narrowly and necessarily to obtain court review;

(2) upon a strict showing to the court in a separate civil or criminal action that particular information or documents are not obtainable after diligent effort from any independent source, and are known to exist otherwise only in board records, the court may inspect in camera such records to determine whether the specific requested information exists. If the court determines the specific information sought exists in the board records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety of the victim or any other person whose identity may appear in board records; or

(3) by any board order granting or denying compensation to a crime victim.

Sec. 13. K.S.A. 74-7317 is hereby amended to read as follows: 74-7317. (a) There is hereby established in the state treasury the crime victims compensation fund.

(b) Moneys in the crime victims compensation fund shall be used only for the payment of compensation pursuant to K.S.A. 74-7301 et seq., and amendments thereto, and for state operations of the board *and the crime victims compensation division of the office of the attorney general created pursuant to section 6, and amendments thereto*. Payments from the fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board and the attorney general or by a person or persons designated by the chairperson and the attorney general.

(c) The crime victims compensation board may apply for, receive and accept money from any source, including financial contributions from inmates as provided by ~~subsection (b) of~~ K.S.A. 75-5211(b), and amendments thereto, for the purposes for which money in the crime victims compensation fund may be expended. Upon receipt of any such money, the chairperson of the board shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the crime victims compensation fund.

Sec. 14. K.S.A. 2018 Supp. 75-6117 is hereby amended to read as follows: 75-6117. (a) There is hereby established in the state treasury the tort claims fund which shall be administered by the attorney general. All expenditures from such fund shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the attorney general or by a designee of the attorney general.

(b) (1) Moneys in the tort claims fund shall be used only for the purpose of paying: (A) Compromises, settlements and final judgments arising from claims against the state or an employee of the state under the Kansas tort claims act or under the civil rights laws of the United States or of the state of Kansas; (B) costs of defending the state or an employee of the state in any actions or proceedings on those claims; and (C) judgments arising from claims pursuant to K.S.A. 2018 Supp. 60-5004, and amendments thereto, including, but not limited to, premiums under the state health care benefits program.

(2) Payment of a judgment arising from a claim pursuant to K.S.A. 2018 Supp. 60-5004, and amendments thereto, shall be subject to review by the state finance council. The attorney general shall notify the state finance council of the need for such review and ensure that payment of the judgment occurs without unnecessary delay.

(3) Payment of a compromise or settlement shall be subject to approval by the state finance council as provided in K.S.A. 75-6106,

and amendments thereto.

(4) Payment of a final judgment shall be made from the fund if there has been a determination of any appeal taken from the judgment or, if no appeal is taken, if the time for appeal has expired.

(5) No payment shall be made from the fund to satisfy a compromise, settlement or final judgment when there exists insurance coverage obtained therefor, except that payment shall be made from the fund to satisfy a compromise settlement or final judgment for claims against the state or an employee of the state in any actions or proceedings arising from rendering or failure to render professional services by: (A) A charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto; (B) a local health department as defined by K.S.A. 65-241, and amendments thereto, or an employee thereof; or (C) an indigent health care clinic as defined by K.S.A. 75-6115, and amendments thereto, or an employee thereof, even if there exists insurance coverage obtained therefor.

(c) Upon certification by the attorney general to the director of accounts and reports that the unencumbered balance in the tort claims fund is insufficient to pay an amount for which the fund is liable, the director of accounts and reports shall transfer an amount equal to the insufficiency from the state general fund to the tort claims fund.

(d) When payment is made from the ~~Kansas~~ tort claims fund on behalf of the university of Kansas hospital authority, the authority shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the authority.

(e) This section shall be part of and supplemental to the Kansas tort claims act.

(f) When payment is made from the tort claims fund on behalf of a state agency or employee for defense or indemnification in an action, proceeding or investigation involving an alleged violation of the Kansas open records act or the Kansas open meetings act, the agency requesting the defense or indemnification or employing the employee who requests the defense or indemnification shall transfer to the tort claims fund an amount equal to the payment made by the tort claims fund on behalf of the agency.

Sec. 15. K.S.A. 74-7304, 74-7305, 74-7306, 74-7308 and 74-7317 and K.S.A. 2018 Supp. 9-513c, 40-3407, 45-229 and 75-6117 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.