

HOUSE BILL No. 2339

By By Committee on Appropriations

2-15

1 AN ACT concerning crimes, punishment and criminal procedure;
2 amending K.S.A. 8-254, 8-285, 8-1450, 9-2004, 19-101d, 19-27,139,
3 19-4804, 20-369, 22-2411, 22-2615, 22-2307, 22-2908, 22-3008, 22-
4 3102, 22-3414, 22-3415, 22-3427, as amended by section 306 of
5 chapter 136 of the 2010 Session Laws of Kansas, 22-3429, 22-3436,
6 22-3439, 22-3602, 22-3701, 22-3725, 22-4807a, 34-228, 34-249a, 36-
7 602, 38-1132, 39-720, 39-785, 41-206, 44-1039, 46-920, 47-653c, 47-
8 1715, 50-618, 50-648, 50-651, 50-653, 57-227, 58-2573, 60-523, 60-
9 1620, 60-2610, 60-4111, 60-4402, 60-4404, 60-4405, 65-444, 65-
10 1120, 65-2006, 65-2859, 65-28,108, 65-28a05, 65-4209, 65-6703, 65-
11 6721, 68-422a, 74-7325, 74-7333, 75-4004, 75-5233 and 75-5269;
12 K.S.A. 2010 Supp. 8-116a, 8-255, 8-262, 8-287, 8-2,144, 8-1013, 8-
13 1102, 8-1567, 8-2106, 8-2117, 8-2410, 12-16,119, 12-4104, 12-4516,
14 12-4516a, 12-4517, 17-12a508, 20-2207, 20-2208, 20-3207, 21-
15 3212a, 21-3220, 21-3221, 22-2310, 22-2410, 22-2512, 22-2802, 22-
16 2901, 22-2909, 22-3212, 22-3303, 22-3426, 22-3716, 22-3717, 22-
17 3727, 22-3727a, 22-4614, 22-4616, 22-4617, 22-4902, 22-4906, 28-
18 177, 32-1013, 32-1047, 32-1063, 36-604, 38-2202, 38-2255, 38-2271,
19 38-2302, 38-2303, 38-2309, 38-2310, 38-2312, 38-2313, 38-2326, 38-
20 2331, 38-2355, 38-2356, 38-2361, 38-2364, 38-2365, 38-2371, 38-
21 2377, 39-970, 40-252, 40-2,118, 40-1702, 40-3213, 41-346, 41-2611,
22 41-2708, 41-2905, 41-2906, 44-5,125, 44-706, 44-719, 44-1131, 45-
23 217, 45-221, 45-230, 47-1706, 47-1707, 58-3043, 58-3068, 58-4505,
24 59-2132, 59-2948, 59-29a02, 59-29a07, 59-29a14, 59-29b48, 60-312,
25 60-455, 60-1610, 60-1629, 60-3107, 60-31a06, 60-4104, 60-4105, 60-
26 4113, 60-4119, 60-4403, 60-5001, 65-448, 65-516, 65-1436, 65-1627,
27 65-2434, 65-2836, 65-5117, 66-2304, 72-1397, 72-5445, 74-4924, 74-
28 5602, 74-7301, 74-7305, 74-8702, 74-9101, 75-452, 75-453, 75-755,
29 75-7b01, 75-7b13, 75-7c03, 75-7c04, 75-7c05, 75-7c09, 75-7c17, 75-
30 7c19, 75-7c26, 75-1508, 75-4362, 75-5133, 75-5218, 75-5291, 75-
31 52,127, 75-52,144, 75-52,148 and 76-11a13; and Sections 2, 11, 21,
32 22, 23, 24, 25, 26, 28, 33, 34, 35, 39, 47, 48, 49, 52, 53, 56, 57, 60, 61,
33 62, 64, 67, 68, 70, 74, 76, 78, 88, 96, 98, 105, 136, 139, 141, 147, 158,
34 159, 164, 177, 183, 186, 187, 188, 189, 190, 192, 194, 198, 209, 212,
35 223, 225, 230, 232. 242, 243, 244, 247, 248, 254, 257, 259. 260, 262,
36 266, 267, 268, 269, 271, 285, 291, 292, 294, 298, 299 and 302 of

1 chapter 136 of the 2010 Session Laws of Kansas and repealing the
2 existing sections; also repealing K.S.A. 22-3220, K.S.A. 2009 Supp.
3 21-3110, as amended by section 5 of chapter 101 of the 2010 Session
4 Laws of Kansas, 21-3412a, as amended by section 6 of chapter 101 of
5 the 2010 Session Laws of Kansas, 21-4603d, as amended by Section 7
6 of chapter 101 of the 2010 Session Laws of Kansas, 21-4704, as
7 amended by section 6 of chapter 147 of the 2010 Session Laws of
8 Kansas; K.S.A. 2010 Supp. 21-3105, 21-3211, 21-3212, 21-3213, 21-
9 3214, 21-3215, 21-3216, 21-3217, 21-3218, 21-3301, 21-3302, 21-
10 3303, 21-3437, 21-3446, 21-3447, 21-3449, 21-3450, 21-3502, 21-
11 3504, 21-3506, 21-3513, 21-3516, 21-3520, 21-3608a, 21-3826, 21-
12 4018, 21-4201, 21-4203, 21-4204, 21-4218, 21-4226, 21-4311, 21-
13 4316, 21-4603d, 21-4610a, 21-4619, 21-4623, 21-4624, 21-4632, 21-
14 4634, 21-4642, 21-4643, 21-4704, 21-4710, 21-4718, 22-3212a, 22-
15 3717c, 38-2255a and 65-516b and repealing the existing section.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) Maintenance of a common nuisance is
19 maintaining or assisting in the maintenance of a common nuisance as
20 described by K.S.A. 22-3901, and amendments thereto.

21 (b) Maintenance of a common nuisance is a class A, nonperson
22 misdemeanor. In addition to the sentence authorized by law, the defendant
23 may be fined in an amount not exceeding \$25,000.

24 (c) This section shall be part of and supplemental to article 39 of
25 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

26 Sec. 2. K.S.A. 2010 Supp. 21-3212a is hereby amended to read as
27 follows: 21-3212a. (a) For the purposes of K.S.A. 21-3211 and 21-3212,
28 *prior to their repeal, or sections 21 and 22 of chapter 136 of the 2010*
29 *Session Laws of Kansas*, and amendments thereto, a person is presumed
30 to have a reasonable belief that deadly force is necessary to prevent
31 imminent death or great bodily harm to such person or another person if:

32 (1) The person against whom the force is used, at the time the force
33 is used:

34 (A) Is unlawfully or forcefully entering, or has unlawfully or
35 forcefully entered, and is present within, the dwelling, place of work or
36 occupied vehicle of the person using force; or

37 (B) Has removed or is attempting to remove another person against
38 such other person's will from the dwelling, place of work or occupied
39 vehicle of the person using force; and

40 (2) The person using force knows or has reason to believe that any of
41 the conditions set forth in paragraph (1) is occurring or has occurred.

42 (b) The presumption set forth in subsection (a) does not apply if, at
43 the time the force is used:

1 (1) The person against whom the force is used has a right to be in, or
2 is a lawful resident of, the dwelling, place of work or occupied vehicle of
3 the person using force, and is not subject to any order listed in K.S.A. 21-
4 3843, *prior to its repeal, or section 149 of chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto, that would prohibit
6 such person's presence in the property;

7 (2) the person sought to be removed is a child, grandchild or is
8 otherwise in the lawful custody or under the lawful guardianship of the
9 person against whom the force is used;

10 (3) the person using force is engaged in the commission of a crime,
11 attempting to escape from a location where a crime has been committed,
12 or is using the dwelling, place of work or occupied vehicle to further the
13 commission of a crime; or

14 (4) the person against whom the force is used is a law enforcement
15 officer who has entered or is attempting to enter a dwelling, place of work
16 or occupied vehicle in the lawful performance of such officer's lawful
17 duties, and the person using force knows or reasonably should know that
18 the person who has entered or is attempting to enter is a law enforcement
19 officer.

20 Sec. 3. K.S.A. 2010 Supp. 21-3220 is hereby amended to read as
21 follows: 21-3220. The provisions of ~~this act~~ *sections 21 through 28 of*
22 *chapter 136 of the 2010 Session Laws of Kansas, and K.S.A. 2010 Supp.*
23 *21-3212a, 21-3220 and 21-3221, and amendments thereto*, are to be
24 construed and applied retroactively.

25 Sec. 4. K.S.A. 2010 Supp. 21-3221 is hereby amended to read as
26 follows: 21-3221. (a) As used in article 32 of chapter 21 of the Kansas
27 Statutes Annotated, *prior to their repeal, sections 13 through 19, and*
28 *sections 21 through 32 of chapter 136 of the 2010 Session Laws of*
29 *Kansas, and K.S.A. 2010 Supp. 21-3212a, 21-3220 and 21-3221*, and
30 amendments thereto:

31 (1) "Use of force" means any or all of the following directed at or
32 upon another person or thing: (A) Words or actions that reasonably
33 convey the threat of force, including threats to cause death or great bodily
34 harm to a person; (B) the presentation or display of the means of force; or
35 (C) the application of physical force, including by a weapon or through
36 the actions of another.

37 (2) "Use of deadly force" means the application of any physical
38 force described in paragraph (1) which is likely to cause death or great
39 bodily harm to a person. Any threat to cause death or great bodily harm,
40 including, but not limited to, by the display or production of a weapon,
41 shall not constitute use of deadly force, so long as the actor's purpose is
42 limited to creating an apprehension that the actor will, if necessary, use
43 deadly force in defense of such actor or another or to affect a lawful

1 arrest.

2 (b) An actor who threatens deadly force as described in subsection
3 (a)(1) shall be subject to the determination in subsection (a) of K.S.A. 21-
4 3211, *prior to its repeal, or subsection (a) of section 21 of chapter 136 of*
5 *the 2010 Session Laws of Kansas*, and amendments thereto, and not to the
6 determination in subsection (b) of K.S.A. 21-3211, *prior to its repeal, or*
7 *subsection (b) of section 21 of chapter 136 of the 2010 Session Laws of*
8 *Kansas*, and amendments thereto.

9 Sec. 5. Section 2 of chapter 136 of the 2010 Session Laws of Kansas
10 is hereby amended to read as follows: Sec. 2. A crime is an act or
11 omission defined by law and for which, upon conviction, a sentence of
12 death, imprisonment or fine, or both imprisonment and fine, is authorized
13 or, in the case of a traffic infraction or a cigarette or tobacco infraction, a
14 fine is authorized. Crimes are classified as felonies, misdemeanors, traffic
15 infractions and cigarette or tobacco infractions.

16 (a) A felony is a crime punishable by death or by imprisonment in
17 any state correctional institution or a crime which is defined as a felony
18 by law.

19 (b) A traffic infraction is a violation of any of the statutory
20 provisions listed in subsection (c) of K.S.A. 8-2118, and amendments
21 thereto.

22 (c) A cigarette or tobacco infraction is a violation of *K.S.A. 21-4009*
23 *through 21-4014 and* subsection (m) or (n) of K.S.A. 79-3321, and
24 amendments thereto.

25 (d) All other crimes are misdemeanors.

26 Sec. 6. Section 11 of chapter 136 of the 2010 Session Laws of
27 Kansas is hereby amended as follows: Sec. 11. The following definitions
28 shall apply when the words and phrases defined are used in this code,
29 except when a particular context clearly requires a different meaning.

30 (a) "Act" includes a failure or omission to take action.

31 (b) "Another" means a person or persons as defined in this code
32 other than the person whose act is claimed to be criminal.

33 (c) "Conduct" means an act or a series of acts, and the
34 accompanying mental state.

35 (d) "Conviction" includes a judgment of guilt entered upon a plea of
36 guilty.

37 (e) "Deception" means knowingly creating or reinforcing a false
38 impression, including false impressions as to law, value, intention or
39 other state of mind. Deception as to a person's intention to perform a
40 promise shall not be inferred from the fact alone that such person did not
41 subsequently perform the promise. Falsity as to matters having no
42 pecuniary significance, or puffing by statements unlikely to deceive
43 reasonable persons, is not deception.

1 (f) "Deprive permanently" means to:

2 (1) Take from the owner the possession, use or benefit of property,
3 without an intent to restore the same;

4 (2) retain property without intent to restore the same or with intent to
5 restore it to the owner only if the owner purchases or leases it back, or
6 pays a reward or other compensation for its return; or

7 (3) sell, give, pledge or otherwise dispose of any interest in property
8 or subject it to the claim of a person other than the owner.

9 (g) "Distribute" means the actual or constructive transfer from one
10 person to another of some item whether or not there is an agency
11 relationship. "Distribute" includes, but is not limited to, sale, offer for
12 sale, furnishing, buying for, delivering, giving, or any act that causes or is
13 intended to cause some item to be transferred from one person to another.
14 "Distribute" does not include acts of administering, dispensing or
15 prescribing a controlled substance as authorized by the pharmacy act of
16 the state of Kansas, the uniform controlled substances act, or otherwise
17 authorized by law.

18 (h) "DNA" means deoxyribonucleic acid.

19 (i) *"Domestic violence" means an act or threatened act of violence*
20 *against a person with whom the offender is involved or has been involved*
21 *in a dating relationship, or an act or threatened act of violence against a*
22 *family or household member by a family or household member. Domestic*
23 *violence also includes any other crime committed against a person or*
24 *against property, or any municipal ordinance violation against a person*
25 *or against property, when directed against a person with whom the*
26 *offender is involved or has been involved in a dating relationship or*
27 *when directed against a family or household member by a family or*
28 *household member. For the purposes of this definition:*

29 (1) *"Dating relationship" means a social relationship of a romantic*
30 *nature. In addition to any other factors the court deems relevant, the trier*
31 *of fact may consider the following when making a determination of*
32 *whether a relationship exists or existed: Nature of the relationship, length*
33 *of time the relationship existed, frequency of interaction between the*
34 *parties and time since termination of the relationship, if applicable.*

35 (2) *"Family or household member" means persons 18 years of age*
36 *or older who are spouses, former spouses, parents or stepparents and*
37 *children or stepchildren, and persons who are presently residing together*
38 *or have resided together in the past, and persons who have a child in*
39 *common regardless of whether they have been married or have lived*
40 *together at any time. Family or household member also includes a man*
41 *and woman if the woman is pregnant and the man is alleged to be the*
42 *father; regardless of whether they have been married or have lived*
43 *together at any time.*

1 (j) "Domestic violence offense" means any crime committed
2 whereby the underlying factual basis includes an act of domestic
3 violence.

4 (k) "Dwelling" means a building or portion thereof, a tent, a
5 vehicle or other enclosed space which is used or intended for use as a
6 human habitation, home or residence.

7 (l) "Expungement" means the sealing of records such that the
8 records are unavailable except to the petitioner and criminal justice
9 agencies as provided by K.S.A. 22-4701 et seq., and amendments thereto,
10 and except as provided in this act.

11 (m) "Firearm" means any weapon designed or having the capacity
12 to propel a projectile by force of an explosion or combustion.

13 (n) "Forcible felony" includes any treason, murder, voluntary
14 manslaughter, rape, robbery, burglary, arson, kidnapping, aggravated
15 battery, aggravated sodomy and any other felony which involves the use
16 or threat of physical force or violence against any person.

17 (o) "Intent to defraud" means an intention to deceive another
18 person, and to induce such other person, in reliance upon such deception,
19 to assume, create, transfer, alter or terminate a right, obligation or power
20 with reference to property.

21 (p) "Law enforcement officer" means:

22 (1) Any person who by virtue of such person's office or public
23 employment is vested by law with a duty to maintain public order or to
24 make arrests for crimes, whether that duty extends to all crimes or is
25 limited to specific crimes;

26 (2) any officer of the Kansas department of corrections or, for the
27 purposes of ~~sections~~ section 47 and subsection (d) of section 48 of
28 chapter 136 of the 2010 Session Laws of Kansas, and amendments
29 thereto, any employee of the Kansas department of corrections; or

30 (3) any university police officer or campus police officer, as defined
31 in K.S.A. 22-2401a, and amendments thereto.

32 (q) "Obtain" means to bring about a transfer of interest in or
33 possession of property, whether to the offender or to another.

34 (r) "Obtains or exerts control" over property includes, but is not
35 limited to, the taking, carrying away, sale, conveyance, transfer of title to,
36 interest in, or possession of property.

37 (s) "Owner" means a person who has any interest in property.

38 (t) "Person" means an individual, public or private corporation,
39 government, partnership, or unincorporated association.

40 (u) "Personal property" means goods, chattels, effects, evidences
41 of rights in action and all written instruments by which any pecuniary
42 obligation, or any right or title to property real or personal, shall be
43 created, acknowledged, assigned, transferred, increased, defeated,

1 discharged, or dismissed.

2 ~~(t)~~(v) "Possession" means having joint or exclusive control over an
3 item with knowledge of or intent to have such control or knowingly
4 keeping some item in a place where the person has some measure of
5 access and right of control.

6 ~~(u)~~(w) "Property" means anything of value, tangible or intangible,
7 real or personal.

8 ~~(v)~~(x) "Prosecution" means all legal proceedings by which a person's
9 liability for a crime is determined.

10 ~~(w)~~(y) "Prosecutor" means the same as prosecuting attorney in
11 K.S.A. 22-2202, and amendments thereto.

12 ~~(x)~~(z) "Public employee" is a person employed by or acting for the
13 state or by or for a county, municipality or other subdivision or
14 governmental instrumentality of the state for the purpose of exercising
15 their respective powers and performing their respective duties, and who is
16 not a "public officer."

17 ~~(y)~~(aa) "Public officer" includes the following, whether elected or
18 appointed:

19 (1) An executive or administrative officer of the state, or a county,
20 municipality or other subdivision or governmental instrumentality of or
21 within the state;

22 (2) a member of the legislature or of a governing board of a county,
23 municipality, or other subdivision of or within the state;

24 (3) a judicial officer, which shall include a judge of the district court,
25 juror, master or any other person appointed by a judge or court to hear or
26 determine a cause or controversy;

27 (4) a hearing officer, which shall include any person authorized by
28 law or private agreement, to hear or determine a cause or controversy and
29 who is not a judicial officer;

30 (5) a law enforcement officer; and

31 (6) any other person exercising the functions of a public officer
32 under color of right.

33 ~~(z)~~(bb) "Real property" or "real estate" means every estate, interest,
34 and right in lands, tenements and hereditaments.

35 ~~(aa)~~(cc) "Solicit" or "solicitation" means to command, authorize,
36 urge, incite, request or advise another to commit a crime.

37 ~~(bb)~~(dd) "State" or "this state" means the state of Kansas and all land
38 and water in respect to which the state of Kansas has either exclusive or
39 concurrent jurisdiction, and the air space above such land and water.
40 "Other state" means any state or territory of the United States, the District
41 of Columbia and the Commonwealth of Puerto Rico.

42 ~~(ee)~~(ee) "Stolen property" means property over which control has
43 been obtained by theft.

1 ~~(dd)~~(ff) "Threat" means a communicated intent to inflict physical or
2 other harm on any person or on property.

3 ~~(ee)~~(gg) "Written instrument" means any paper, document or other
4 instrument containing written or printed matter or the equivalent thereof,
5 used for purposes of reciting, embodying, conveying or recording
6 information, and any money, token, stamp, seal, badge, trademark, or
7 other evidence or symbol of value, right, privilege or identification,
8 which is capable of being used to the advantage or disadvantage of some
9 person.

10 Sec. 7. Section 21 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 21. (a) A person is
12 justified in the use of force against another when and to the extent it
13 appears to such person and such person reasonably believes that such *use*
14 *of* force is necessary to defend such person or a third person against such
15 other's imminent use of unlawful force.

16 (b) A person is justified in the use of deadly force under
17 circumstances described in subsection (a) if such person reasonably
18 believes *that such use of* deadly force is necessary to prevent imminent
19 death or great bodily harm to such person or a third person.

20 (c) Nothing in this section shall require a person to retreat if such
21 person is using force to protect such person or a third person.

22 Sec. 8. Section 22 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 22. (a) A person is
24 justified in the use of force against another when and to the extent that it
25 appears to such person and such person reasonably believes that such *use*
26 *of* force is necessary to prevent or terminate such other's unlawful entry
27 into or attack upon such person's dwelling, *place of work* or occupied
28 vehicle.

29 (b) A person is justified in the use of deadly force to prevent or
30 terminate unlawful entry into or attack upon any dwelling, *place of work*
31 or occupied vehicle if such person reasonably believes *that such use of*
32 deadly force is necessary to prevent imminent death or great bodily harm
33 to such person or another.

34 (c) Nothing in this section shall require a person to retreat if such
35 person is using force to protect such person's dwelling, *place of work* or
36 occupied vehicle.

37 Sec. 9. Section 23 of chapter 136 of the 2010 Session Laws of
38 Kansas is hereby amended to read as follows: Sec. 23. A person who is
39 lawfully in possession of property other than a dwelling, *place of work* or
40 occupied vehicle is justified in the ~~threat or~~ use of force against another
41 for the purpose of preventing or terminating an unlawful interference
42 with such property. Only such ~~degree use of force or threat thereof~~ as a
43 reasonable person would deem necessary to prevent or terminate the

1 interference may intentionally be used.

2 Sec. 10. Section 24 of chapter 136 of the 2010 Session Laws of
3 Kansas is hereby amended to read as follows: Sec. 24. The justification
4 described in *K.S.A. 21-3211, 21-3212 and 21-3213, prior to their repeal,*
5 *or sections 21, 22 and 23 of chapter 136 of the 2010 Session Laws of*
6 *Kansas, and amendments thereto, is not available to a person who:*

7 (a) Is attempting to commit, committing or escaping from the
8 commission of a forcible felony;

9 (b) initially provokes the use of *any* force against such person or
10 another, with intent to use such force as an excuse to inflict bodily harm
11 upon the assailant; or

12 (c) otherwise initially provokes the use of *any* force against such
13 person or another, unless:

14 (1) Such person has reasonable ~~ground~~ *grounds* to believe that such
15 person is in imminent danger of death or great bodily harm, and has
16 exhausted every reasonable means to escape such danger other than the
17 use of *deadly* force ~~which is likely to cause death or great bodily harm to~~
18 ~~the assailant;~~ or

19 (2) in good faith, such person withdraws from physical contact with
20 the assailant and indicates clearly to the assailant that such person desires
21 to withdraw and terminate the use of *such* force, but the assailant
22 continues or resumes the use of *such* force.

23 Sec. 11. Section 25 of chapter 136 of the 2010 Session Laws of
24 Kansas is hereby amended to read as follows: Sec. 25. (a) A law
25 enforcement officer, or any person whom such officer has summoned or
26 directed to assist in making a lawful arrest, need not retreat or desist from
27 efforts to make a lawful arrest because of resistance or threatened
28 resistance to the arrest. Such officer is justified in the use of any force
29 which such officer reasonably believes to be necessary to effect the arrest
30 and *the use* of any force which such officer reasonably believes to be
31 necessary to defend the officer's self or another from bodily harm while
32 making the arrest. However, such officer is justified in using *deadly* force
33 ~~likely to cause death or great bodily harm~~ only when such officer
34 reasonably believes that such force is necessary to prevent death or great
35 bodily harm to such officer or another person, or when such officer
36 reasonably believes that such force is necessary to prevent the arrest from
37 being defeated by resistance or escape and such officer has probable
38 cause to believe that the person to be arrested has committed or attempted
39 to commit a felony involving *death or* great bodily harm or is attempting
40 to escape by use of a deadly weapon, or otherwise indicates that such
41 person will endanger human life or inflict great bodily harm unless
42 arrested without delay.

43 (b) A law enforcement officer making an arrest pursuant to an

1 invalid warrant is justified in the use of any force which such officer
2 would be justified in using if the warrant were valid, unless such officer
3 knows that the warrant is invalid.

4 Sec. 12. Section 26 of chapter 136 of the 2010 Session Laws of
5 Kansas is hereby amended to read as follows: Sec. 26. (a) A private
6 person who makes, or assists another private person in making a lawful
7 arrest is justified in the use of any force which such person would be
8 justified in using if such person were summoned or directed by a law
9 enforcement officer to make such arrest, except that such person is
10 justified in the use of *deadly* force ~~likely to cause death or great bodily~~
11 ~~harm~~ only when such person reasonably believes that such force is
12 necessary to prevent death or great bodily harm to such person or another.

13 (b) A private person who is summoned or directed by a law
14 enforcement officer to assist in making an arrest which is unlawful, is
15 justified in the use of any force which such person would be justified in
16 using if the arrest were lawful.

17 Sec. 13. Section 28 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 28. A person who is
19 not engaged in an unlawful activity and who is attacked in a place where
20 such person has a right to be has no duty to retreat and has the right to
21 stand such person's ground and ~~meet force with force~~ *use any force which*
22 *such person would be justified in using under article 32 of chapter 21 of*
23 *the Kansas Statute Annotated, prior to their repeal, or sections 13*
24 *through 19 and sections 21 through 32 of chapter 136 of the 2010 Session*
25 *Laws of Kansas, and K.S.A. 2010 Supp. 21-3212a, 21-3220 and 21-3221,*
26 *and amendments thereto.*

27 Sec. 14. Section 33 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 33. (a) An attempt is
29 any overt act toward the perpetration of a crime done by a person who
30 intends to commit such crime but fails in the perpetration thereof or is
31 prevented or intercepted in executing such crime.

32 (b) It shall not be a defense to a charge of attempt that the
33 circumstances under which the act was performed or the means employed
34 or the act itself were such that the commission of the crime was not
35 possible.

36 (c) (1) An attempt to commit an off-grid felony shall be ranked at
37 nondrug severity level 1. An attempt to commit any other nondrug felony
38 shall be ranked on the nondrug scale at two severity levels below the
39 appropriate level for the underlying or completed crime. The lowest
40 severity level for an attempt to commit a nondrug felony shall be a
41 severity level 10.

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

1 (A) Aggravated human trafficking, as defined in subsection (b) of
2 section 61 of chapter 136 of the 2010 Session Laws of Kansas, and
3 amendments thereto, if the offender is 18 years of age or older and the
4 victim is less than 14 years of age;

5 (B) terrorism ~~pursuant to section 56~~ as defined in section 56 of
6 chapter 136 of the 2010 Session Laws of Kansas, and amendments
7 thereto; ~~or of~~

8 (C) illegal use of weapons of mass destruction ~~pursuant to section 57~~
9 as defined in section 57 of chapter 136 of the 2010 Session Laws of
10 Kansas, and amendments thereto;

11 (D) rape, as defined in subsection (a)(3) of section 67 of chapter
12 136 of the 2010 Session Laws of Kansas, and amendments thereto, if the
13 offender is 18 years of age or older;

14 (E) aggravated indecent liberties with a child, as defined in
15 subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws
16 of Kansas, and amendments thereto, if the offender is 18 years of age or
17 older;

18 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or
19 (b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,
20 and amendments thereto, if the offender is 18 years of age or older;

21 (G) promoting prostitution, as defined in section 230 of chapter 136
22 of the 2010 Session Laws of Kansas, and amendments thereto, if the
23 offender is 18 years of age or older and the prostitute is less than 14
24 years of age; or

25 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
26 (a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,
27 and amendments thereto, if the offender is 18 years of age or older and
28 the child is less than 14 years of age.

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

32 (2) The provisions of this subsection shall not apply to a violation of
33 attempting to commit a violation of K.S.A. 2010 Supp. 21-36a03, and
34 amendments thereto.

35 (e) An attempt to commit a class A person misdemeanor is a class B
36 person misdemeanor. An attempt to commit a class A nonperson
37 misdemeanor is a class B nonperson misdemeanor.

38 (f) An attempt to commit a class B or C misdemeanor is a class C
39 misdemeanor.

40
41 Sec. 15. Section 34 of chapter 136 of the 2010 Session Laws of
42 Kansas is hereby amended to read as follows: Sec. 34. (a) A conspiracy is
43 an agreement with another person to commit a crime or to assist in

1 committing a crime. No person may be convicted of a conspiracy unless
2 an overt act in furtherance of such conspiracy is alleged and proved to
3 have been committed by such person or by a co-conspirator.

4 (b) It shall be a defense to a charge of conspiracy that the accused
5 voluntarily and in good faith withdrew from the conspiracy, and
6 communicated the fact of such withdrawal to one or more of the accused
7 person's co-conspirators, before any overt act in furtherance of the
8 conspiracy was committed by the accused or by a co-conspirator.

9 (c) (1) Conspiracy to commit an off-grid felony shall be ranked at
10 nondrug severity level 2. Conspiracy to commit any other nondrug felony
11 shall be ranked on the nondrug scale at two severity levels below the
12 appropriate level for the underlying or completed crime. The lowest
13 severity level for conspiracy to commit a nondrug felony shall be a
14 severity level 10.

15 (2) The provisions of this subsection shall not apply to a violation of
16 conspiracy to commit the crime of:

17 (A) *Aggravated human trafficking, as defined in subsection (b) of*
18 *section 61 of chapter 136 of the 2010 Session Laws of Kansas, and*
19 *amendments thereto, if the offender is 18 years of age or older and the*
20 *victim is less than 14 years of age;*

21 (B) *terrorism pursuant to as defined in section 56 of chapter 136 of the*
22 *2010 Session Laws of Kansas, and amendments thereto;* ~~or of~~

23 (C) *illegal use of weapons of mass destruction pursuant to as defined*
24 *in section 57 of chapter 136 of the 2010 Session Laws of Kansas, and*
25 *amendments thereto;*

26 (D) *rape, as defined in subsection (a)(3) of section 67 of chapter*
27 *136 of the 2010 Session Laws of Kansas, and amendments thereto, if the*
28 *offender is 18 years of age or older;*

29 (E) *aggravated indecent liberties with a child, as defined in*
30 *subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws*
31 *of Kansas, and amendments thereto, if the offender is 18 years of age or*
32 *older;*

33 (F) *aggravated criminal sodomy, as defined in subsection (b)(1) or*
34 *(b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,*
35 *and amendments thereto, if the offender is 18 years of age or older;*

36 (G) *promoting prostitution, as defined in section 230 of chapter 136*
37 *of the 2010 Session Laws of Kansas, and amendments thereto, if the*
38 *offender is 18 years of age or older and the prostitute is less than 14*
39 *years of age; or*

40 (H) *sexual exploitation of a child, as defined in subsection (a)(1) or*
41 *(a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,*
42 *and amendments thereto, if the offender is 18 years of age or older and*
43 *the child is less than 14 years of age.*

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

4 (e) A conspiracy to commit a misdemeanor is a class C
5 misdemeanor.

6 Sec. 16. Section 35 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 35. (a) Criminal
8 solicitation is commanding, encouraging or requesting another person to
9 commit a felony, attempt to commit a felony or aid and abet in the
10 commission or attempted commission of a felony for the purpose of
11 promoting or facilitating the felony.

12 (b) It is immaterial under subsection (a) that the actor fails to
13 communicate with the person solicited to commit a felony if the person's
14 conduct was designed to effect a communication.

15 (c) It is an affirmative defense that the actor, after soliciting another
16 person to commit a felony, persuaded that person not to do so or
17 otherwise prevented the commission of the felony, under circumstances
18 manifesting a complete and voluntary renunciation of the actor's criminal
19 purposes.

20 (d) (1) Criminal solicitation to commit an off-grid felony shall be
21 ranked at nondrug severity level 3. Criminal solicitation to commit any
22 other nondrug felony shall be ranked on the nondrug scale at three
23 severity levels below the appropriate level for the underlying or
24 completed crime. The lowest severity level for criminal solicitation to
25 commit a nondrug felony shall be a severity level 10.

26 (2) The provisions of this subsection shall not apply to a violation of
27 criminal solicitation to commit the crime of:

28 (A) *Aggravated human trafficking, as defined in subsection (b) of*
29 *section 61 of chapter 136 of the 2010 Session Laws of Kansas, and*
30 *amendments thereto, if the offender is 18 years of age or older and the*
31 *victim is less than 14 years of age;*

32 (B) *terrorism pursuant to as defined in section 56 of chapter 136 of the*
33 *2010 Session Laws of Kansas, and amendments thereto;* ~~or of~~

34 (C) *illegal use of weapons of mass destruction pursuant to as*
35 *defined in section 57 of chapter 136 of the 2010 Session Laws of Kansas,*
36 *and amendments thereto;*

37 (D) *rape, as defined in subsection (a)(3) of section 67 of chapter*
38 *136 of the 2010 Session Laws of Kansas, and amendments thereto, if the*
39 *offender is 18 years of age or older;*

40 (E) *aggravated indecent liberties with a child, as defined in*
41 *subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws*
42 *of Kansas, and amendments thereto, if the offender is 18 years of age or*
43 *older;*

1 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or
2 (b)(2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas,
3 and amendments thereto, if the offender is 18 years of age or older;

4 (G) promoting prostitution, as defined in section 230 of chapter 136
5 of the 2010 Session Laws of Kansas, and amendments thereto, if the
6 offender is 18 years of age or older and the prostitute is less than 14
7 years of age; or

8 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
9 (a)(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas,
10 and amendments thereto, if the offender is 18 years of age or older and
11 the child is less than 14 years of age.

12 (e) Criminal solicitation to commit a felony which prescribes a
13 sentence on the drug grid shall reduce the prison term prescribed in the
14 drug grid block for an underlying or completed crime by six months.

15 Sec. 17. Section 39 of chapter 136 of the 2010 Session Laws of
16 Kansas is hereby amended to read as follows: Sec. 39. (a) Voluntary
17 manslaughter is knowingly killing a human being committed:

18 (1) Upon a sudden quarrel or in the heat of passion; or

19 (2) upon an unreasonable but honest belief that circumstances
20 existed that justified *use of* deadly force under section 21, 22 or 23 of
21 chapter 136 of the 2010 Session Laws of Kansas, and amendments
22 thereto.

23 (b) Voluntary manslaughter is a severity level 3, person felony.

24 Sec. 18. Section 47 of chapter 136 of the 2010 Session Laws of
25 Kansas is hereby amended to read as follows: Sec. 47. (a) Assault is
26 knowingly placing another person in reasonable apprehension of
27 immediate bodily harm;

28 (b) Aggravated assault is assault, as ~~described~~ defined in subsection
29 (a), committed:

30 (1) With a deadly weapon;

31 (2) while disguised in any manner designed to conceal identity; or

32 (3) with intent to commit any felony.

33 (c) Assault of a law enforcement officer is assault, as defined in
34 subsection (a), committed against:

35 (1) A uniformed or properly identified state, county or city law
36 enforcement officer while such officer is engaged in the performance of
37 such officer's duty; or

38 (2) a uniformed or properly identified university or campus police
39 officer while such officer is engaged in the performance of such officer's
40 duty.

41 (d) Aggravated assault of a law enforcement officer is assault of a
42 law enforcement officer, as defined in subsection (c), committed:

43 (1) With a deadly weapon;

- 1 (2) while disguised in any manner designed to conceal identity; or
2 (3) with intent to commit any felony.
3 (e) (1) Assault is a class C person misdemeanor.
4 (2) Aggravated assault is a severity level 7, person felony.
5 (3) Assault of a law enforcement officer is a class A person
6 misdemeanor.

7 (4) Aggravated assault of a law enforcement officer is a severity
8 level 6, person felony. A person convicted of aggravated assault of a law
9 enforcement officer shall be subject to the provisions of subsection (g) of
10 section 285 of chapter 136 of the 2010 Session Laws of Kansas, and
11 amendments thereto.

12 Sec. 19. Section 48 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 48. (a) Battery is:

14 (1) Knowingly or recklessly causing bodily harm to another person;
15 or

16 (2) knowingly causing physical contact with another person when
17 done in a rude, insulting or angry manner;

18 (b) Aggravated battery is:

19 (1) (A) Knowingly causing great bodily harm to another person or
20 disfigurement of another person;

21 (B) knowingly causing bodily harm to another person with a deadly
22 weapon, or in any manner whereby great bodily harm, disfigurement or
23 death can be inflicted; or

24 (C) knowingly causing physical contact with another person when
25 done in a rude, insulting or angry manner with a deadly weapon, or in any
26 manner whereby great bodily harm, disfigurement or death can be
27 inflicted;

28 (2) (A) recklessly causing great bodily harm to another person or
29 disfigurement of another person; or

30 (B) recklessly causing bodily harm to another person with a deadly
31 weapon, or in any manner whereby great bodily harm, disfigurement or
32 death can be inflicted.

33 (c) Battery against a law enforcement officer is:

34 (1) Battery, as defined in subsection (a)(2), committed against a:

35 (A) Uniformed or properly identified university or campus police
36 officer while such officer is engaged in the performance of such officer's
37 duty; or

38 (B) uniformed or properly identified state, county or city law
39 enforcement officer, other than a state correctional officer or employee, a
40 city or county correctional officer or employee, a juvenile correctional
41 facility officer or employee or a juvenile detention facility ~~office~~ officer,
42 or employee, while such officer is engaged in the performance of such
43 officer's duty; or

- 1 (2) battery, as defined in subsection (a)(1), committed against a:
- 2 (A) Uniformed or properly identified university or campus police
3 officer while such officer is engaged in the performance of such officer's
4 duty; or
- 5 (B) uniformed or properly identified state, county or city law
6 enforcement officer, other than a state correctional officer or employee, a
7 city or county correctional officer or employee, a juvenile correctional
8 facility officer or employee or a juvenile detention facility officer, or
9 employee, while such officer is engaged in the performance of such
10 officer's duty; or
- 11 (3) battery, as defined in subsection (a) committed against a:
- 12 (A) State correctional officer or employee by a person in custody of
13 the secretary of corrections, while such officer or employee is engaged in
14 the performance of such officer's or employee's duty;
- 15 (B) juvenile correctional facility officer or employee by a person
16 confined in such juvenile correctional facility, while such officer or
17 employee is engaged in the performance of such officer's or employee's
18 duty;
- 19 (C) juvenile detention facility officer or employee by a person
20 confined in such juvenile detention facility, while such officer or
21 employee is engaged in the performance of such officer's or employee's
22 duty; or
- 23 (D) city or county correctional officer or employee by a person
24 confined in a city holding facility or county jail facility, while such officer
25 or employee is engaged in the performance of such officer's or
26 employee's duty.
- 27 (d) Aggravated battery against a law enforcement officer is:
- 28 (1) An aggravated battery, as defined in subsection (b)(1)(a)(A)
29 committed against a:
- 30 (A) Uniformed or properly identified state, county or city law
31 enforcement officer while the officer is engaged in the performance of the
32 officer's duty; or
- 33 (B) uniformed or properly identified university or campus police
34 officer while such officer is engaged in the performance of such officer's
35 duty;
- 36 (2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)
37 (1)(C), committed against a:
- 38 (A) Uniformed or properly identified state, county or city law
39 enforcement officer while the officer is engaged in the performance of the
40 officer's duty; or
- 41 (B) uniformed or properly identified university or campus police
42 officer while such officer is engaged in the performance of such officer's
43 duty; or

- 1 (3) knowingly causing, with a motor vehicle, bodily harm to a:
- 2 (A) Uniformed or properly identified state, county or city law
3 enforcement officer while the officer is engaged in the performance of the
4 officer's duty; or
- 5 (B) uniformed or properly identified university or campus police
6 officer while such officer is engaged in the performance of such officer's
7 duty.
- 8 (e) Battery against a school employee is a battery, as defined in
9 subsection (a), committed against a school employee in or on any school
10 property or grounds upon which is located a building or structure used by
11 a unified school district or an accredited nonpublic school for student
12 instruction or attendance or extracurricular activities of pupils enrolled in
13 kindergarten or any of the grades one through 12 or at any regularly
14 scheduled school sponsored activity or event, while such employee is
15 engaged in the performance of such employee's duty.
- 16 (f) Battery against a mental health employee is a battery, as defined
17 in subsection (a), committed against a mental health employee by a
18 person in the custody of the secretary of social and rehabilitation services,
19 while such employee is engaged in the performance of such employee's
20 duty.
- 21 (g) (1) Battery is a class B person misdemeanor.
- 22 (2) Aggravated battery as defined in:
- 23 (A) Subsection (b)(1)(A) is a severity level 4, person felony;
- 24 (B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person
25 felony;
- 26 (C) subsection (b)(2)(A) is a severity level 5, person felony; and
- 27 (D) subsection (b)(2)(B) is a severity level 8, person felony.
- 28 (3) Battery against a law enforcement officer as defined in:
- 29 (A) Subsection (c)(1) is a class A person misdemeanor;
- 30 (B) subsection (c)(2) is a severity level 7, person felony; and
- 31 (C) subsection (c)(3) is a severity level 5, person felony.
- 32 (4) Aggravated battery against a law enforcement officer as defined
33 in:
- 34 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;
35 and
- 36 (B) subsection (d)(2) is a severity level 4, person felony.
- 37 (5) Battery against a school employee is a class A person
38 misdemeanor.
- 39 (6) Battery against a mental health employee is a severity level 7,
40 person felony.
- 41 (h) As used in this section:
- 42 (1) "Correctional institution" means any institution or facility under
43 the supervision and control of the secretary of corrections;

1 (2) "state correctional officer or employee" means any officer or
2 employee of the Kansas department of corrections or any independent
3 contractor, or any employee of such contractor, working at a correctional
4 institution;

5 (3) "juvenile correctional facility officer or employee" means any
6 officer or employee of the juvenile justice authority or any independent
7 contractor, or any employee of such contractor, working at a juvenile
8 correctional facility, as defined in K.S.A. ~~2009~~2010 Supp. 38-2302, and
9 amendments thereto;

10 (4) "juvenile detention facility officer or employee" means any
11 officer or employee of a juvenile detention facility as defined in K.S.A.
12 ~~2009~~2010 Supp. 38-2302, and amendments thereto;

13 (5) "city or county correctional officer or employee" means any
14 correctional officer or employee of the city or county or any independent
15 contractor, or any employee of such contractor, working at a city holding
16 facility or county jail facility;

17 (6) "school employee" means any employee of a unified school
18 district or an accredited nonpublic school for student instruction or
19 attendance or extracurricular activities of pupils enrolled in kindergarten
20 or any of the grades one through 12; and

21 (7) "mental health employee" means an employee of the department
22 of social and rehabilitation services working at Larned state hospital,
23 Osawatomie state hospital and Rainbow mental health facility, Kansas
24 neurological institute and Parsons state hospital and training center and
25 the treatment staff as defined in K.S.A. 59-29a02, and amendments
26 thereto.

27 Sec. 20. Section 49 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 49. (a) Domestic
29 battery is:

30 (1) *Knowingly or* recklessly causing bodily harm by a family or
31 household member against a family or household member; or

32 (2) knowingly causing physical contact with a family or household
33 member by a family or household member when done in a rude, insulting
34 or angry manner.

35 (b) Domestic battery is a:

36 (1) Class B person misdemeanor and the offender shall be sentenced
37 to not less than 48 consecutive hours nor more than six months'
38 imprisonment and fined not less than \$200, nor more than \$500 or in the
39 court's discretion the court may enter an order which requires the offender
40 enroll in and successfully complete a domestic violence prevention
41 program, except as provided in subsection (b)(2) or (b)(3);

42 (2) class A person misdemeanor, if, within five years immediately
43 preceding commission of the crime, an offender is convicted of domestic

1 battery a second time and the offender shall be sentenced to not less than
2 90 days nor more than one year's imprisonment and fined not less than
3 \$500 nor more than \$1,000, except as provided in subsection (b)(3). The
4 five days imprisonment mandated by this paragraph may be served in a
5 work release program only after such offender has served 48 consecutive
6 hours imprisonment, provided such work release program requires such
7 offender to return to confinement at the end of each day in the work
8 release program. The offender shall serve at least five consecutive days
9 imprisonment before the offender is granted probation, suspension or
10 reduction of sentence or parole or is otherwise released. As a condition of
11 any grant of probation, suspension of sentence or parole or of any other
12 release, the offender shall be required to enter into and complete a
13 treatment program for domestic violence prevention; and

14 (3) person felony, if, within five years immediately preceding
15 commission of the crime, an offender is convicted of domestic battery a
16 third or subsequent time, and the offender shall be sentenced to not less
17 than 90 days nor more than one year's imprisonment and fined not less
18 than \$1,000 nor more than \$7,500. The offender convicted shall not be
19 eligible for release on probation, suspension or reduction of sentence or
20 parole until the offender has served at least 90 days imprisonment. The
21 court shall require as a condition of parole that such offender enter into
22 and complete a treatment program for domestic violence. If the offender
23 does not enter into and complete a treatment program for domestic
24 violence, the offender shall serve not less than 180 days nor more than
25 one year's imprisonment. The 90 days imprisonment mandated by this
26 paragraph may be served in a work release program only after such
27 offender has served 48 consecutive hours imprisonment, provided such
28 work release program requires such offender to return to confinement at
29 the end of each day in the work release program.

30 (c) As used in this section:

31 (1) "Family or household member" means persons 18 years of age or
32 older who are spouses, former spouses, parents or stepparents and
33 children or stepchildren, and persons who are presently residing together
34 or who have resided together in the past, and persons who have a child in
35 common regardless of whether they have been married or who have lived
36 together at any time. "Family or household member" also includes a man
37 and woman if the woman is pregnant and the man is alleged to be the
38 father, regardless of whether they have been married or have lived
39 together at any time; and

40 (2) for the purpose of determining whether a conviction is a first,
41 second, third or subsequent conviction in sentencing under this section:

42 (A) "Conviction" includes being convicted of a violation of K.S.A.
43 21-3412a, prior to its repeal, this section or entering into a diversion or

1 deferred judgment agreement in lieu of further criminal proceedings on a
2 complaint alleging a violation of this section;

3 (B) "conviction" includes being convicted of a violation of a law of
4 another state, or an ordinance of any city, or resolution of any county,
5 which prohibits the acts that this section prohibits or entering into a
6 diversion or deferred judgment agreement in lieu of further criminal
7 proceedings in a case alleging a violation of such law, ordinance or
8 resolution;

9 (C) only convictions occurring in the immediately preceding five
10 years including prior to ~~the effective date of this act July 1, 2001~~ shall be
11 taken into account, but the court may consider other prior convictions in
12 determining the sentence to be imposed within the limits provided for a
13 first, second, third or subsequent offender, whichever is applicable; and

14 (D) it is irrelevant whether an offense occurred before or after
15 conviction for a previous offense.

16 (d) A person may enter into a diversion agreement in lieu of further
17 criminal proceedings for a violation of this section or an ordinance of any
18 city or resolution of any county which prohibits the acts that this section
19 prohibits only twice during any ~~three-year~~ *five-year* period.

20 Sec. 21. Section 52 of chapter 136 of the 2010 Session Laws of
21 Kansas is hereby amended to read as follows: Sec. 52. (a) Mistreatment
22 of a dependent adult is knowingly committing one or more of the
23 following acts:

24 (1) Infliction of physical injury, unreasonable confinement or ~~eruel~~
25 *unreasonable* punishment upon a dependent adult;

26 (2) taking unfair advantage of a dependent adult's physical or
27 financial resources for another individual's personal or financial
28 advantage by the use of undue influence, coercion, harassment, duress,
29 deception, false representation or false pretense ~~by a caretaker or another~~
30 ~~person~~; or

31 (3) ~~omitting or depriving~~ *omission or deprivation* of treatment,
32 goods or services ~~by a caretaker or another person which~~ *that* are
33 necessary to maintain physical or mental health of a dependent adult.

34 (b) Mistreatment of a dependent adult as defined in:

35 (1) Subsection (a)(1) is a severity level 6, person felony;

36 (2) subsection (a)(2) ~~is a severity level 6, person felony~~ if the
37 aggregate amount of the value of the resources is ~~\$100,000 or more~~;

38 (3) ~~subsection (a)(2) is a severity level 7, person felony~~ if the
39 aggregate amount of the value of the resources is at least \$25,000 but less
40 than \$100,000;

41 (4) ~~subsection (a)(2) is a severity level 9, person felony~~ if the
42 aggregate amount of the value of the resources is at least \$1,000 but less
43 than \$25,000;

1 ~~(5) subsection (a)(2) is a:~~

2 ~~(A) Class A person misdemeanor if the aggregate amount of the~~
3 ~~value of the resources is less than \$1,000, except as provided in~~
4 ~~subsection (b)(5)(B); and~~

5 ~~(B) severity level 9, person felony, if:~~

6 ~~(A) \$1,000,000 or more is a severity level 2, person felony;~~

7 ~~(B) at least \$250,000 but less than \$1,000,000 is a severity level 3,~~
8 ~~person felony;~~

9 ~~(C) at least \$100,000 but less than \$250,000 is a severity level 4,~~
10 ~~person felony;~~

11 ~~(D) at least \$25,000 but less than \$100,000 is a severity level 5,~~
12 ~~person felony;~~

13 ~~(E) at least \$1,000 but less than \$25,000 is a severity level 7, person~~
14 ~~felony;~~

15 ~~(F) less than \$1,000 is a class A person misdemeanor, except as~~
16 ~~provided in subsection (b)(2)(G); and~~

17 ~~(G) less than \$1,000 and committed by a person who has, within~~
18 ~~five years immediately preceding commission of the crime, the offender~~
19 ~~has been convicted of mistreatment of a dependent adult two or more~~
20 ~~times is a severity level 7, person felony; and~~

21 ~~(6)(3) subsection (a)(3) is a class A person misdemeanor severity~~
22 ~~level 8, person felony.~~

23 (c) No dependent adult is considered to be mistreated for the sole
24 reason that such dependent adult relies upon or is being furnished
25 treatment by spiritual means through prayer in lieu of medical treatment
26 in accordance with the tenets and practices of a recognized church or
27 religious denomination of which such dependent adult is a member or
28 adherent.

29 (d) As used in this section, "dependent adult" means an individual
30 18 years of age or older who is unable to protect the individual's own
31 interest. Such term shall include, but is not limited to, any:

32 (1) Resident of an adult care home including, but not limited to,
33 those facilities defined by K.S.A. 39-923, and amendments thereto;

34 (2) adult cared for in a private residence;

35 (3) individual kept, cared for, treated, boarded, confined or
36 otherwise accommodated in a medical care facility;

37 (4) individual with mental retardation or a developmental disability
38 receiving services through a community mental retardation facility or
39 residential facility licensed under K.S.A. 75-3307b, and amendments
40 thereto;

41 (5) individual with a developmental disability receiving services
42 provided by a community service provider as provided in the
43 developmental disability reform act; or

1 (6) individual kept, cared for, treated, boarded, confined or
2 otherwise accommodated in a state psychiatric hospital or state institution
3 for the mentally retarded.

4 (e) An offender who violates the provisions of this section may also
5 be prosecuted for, convicted of, and punished for any other offense in
6 sections 36 through 125 *of chapter 136 of the 2010 Session Laws of*
7 *Kansas*, and amendments thereto.

8 Sec. 22. Section 53 of chapter 136 of the 2010 Session Laws of
9 Kansas is hereby amended as follows: Sec. 53. (a) Hazing is recklessly
10 coercing, demanding or encouraging another person to perform, as a
11 condition of membership in a social or fraternal organization, any act
12 which could reasonably be expected to result in great bodily harm,
13 disfigurement or death or which is done in a manner whereby great
14 bodily harm, disfigurement or death could be inflicted.

15 (b) ~~Promoting or permitting~~ Hazing is a class B nonperson
16 misdemeanor.

17 Sec. 23. Section 56 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 56. (a) Terrorism is the
19 commission of, the attempt to commit, the conspiracy to commit, or the
20 criminal solicitation to commit any felony with the intent to:

- 21 (1) Intimidate or coerce the civilian population;
- 22 (2) influence government policy by intimidation or coercion; or
- 23 (3) affect the operation of any unit of government.

24 (b) *Terrorism or attempt, conspiracy or criminal solicitation to*
25 *commit terrorism* is an off-grid person felony.

26 (c) The provisions of subsection (c) of section 33 *of chapter 136 of*
27 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not
28 apply to a violation of attempting to commit the crime of terrorism
29 pursuant to this section. The provisions of subsection (c) of section 34 *of*
30 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
31 thereto, shall not apply to a violation of conspiracy to commit the crime
32 of terrorism pursuant to this section. The provisions of subsection (d) of
33 section 35 *of chapter 136 of the 2010 Session Laws of Kansas*, and
34 amendments thereto, shall not apply to a violation of criminal solicitation
35 to commit the crime of terrorism pursuant to this section.

36 Sec. 24. Section 57 of chapter 136 of the 2010 Session Laws of
37 Kansas is hereby amended to read as follows: Sec. 57. (a) The illegal use
38 of weapons of mass destruction is:

39 (1) Knowingly and without lawful authority, developing, producing,
40 stockpiling, transferring, acquiring, retaining or possessing any:

- 41 (A) Biological agent, toxin or delivery system for use as a weapon;
- 42 (B) chemical weapon; or
- 43 (C) nuclear materials or nuclear byproduct materials for use as a

1 weapon;

2 (2) knowingly assisting a foreign state or any organization to do any
3 such activities as specified in subsection (a)(1); or

4 (3) ~~attempting, threatening, conspiring or criminally soliciting~~ to do
5 any such activities as specified in subsection (a)(1) or (a)(2).

6 (b) Illegal use of weapons of mass destruction *or attempt,*
7 *conspiracy or criminal solicitation to commit illegal use of weapons of*
8 *mass destruction* is an off-grid person felony.

9 (c) The provisions of subsection (c) of section 33 *of chapter 136 of*
10 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not
11 apply to a violation of attempting to commit the crime of illegal use of
12 weapons of mass destruction pursuant to this section. The provisions of
13 subsection (c) of section 34 *of chapter 136 of the 2010 Session Laws of*
14 *Kansas*, and amendments thereto, shall not apply to a violation of
15 conspiracy to commit the crime of illegal use of weapons of mass
16 destruction pursuant to this section. The provisions of subsection (d) of
17 section 35 *of chapter 136 of the 2010 Session Laws of Kansas*, and
18 amendments thereto, shall not apply to a violation of criminal solicitation
19 to commit the crime of illegal use of weapons of mass destruction
20 pursuant to this section.

21 (d) The following shall not be prohibited under the provisions of this
22 section:

23 (1) Any peaceful purpose related to an industrial, agricultural,
24 research, medical or pharmaceutical activity or other activity;

25 (2) any purpose directly related to protection against toxic chemicals
26 and to protection against chemical weapons;

27 (3) any military purpose of the United States that is not connected
28 with the use of a chemical weapon or that is not dependent on the use of
29 the toxic or poisonous properties of the chemical weapon to cause death
30 or other harm;

31 (4) any law enforcement purpose, including any domestic riot
32 control purpose and including imposition of capital punishment; or

33 (5) any individual self-defense device, including those using a
34 pepper spray or chemical mace.

35 (e) As used in this section:

36 (1) "Biological agent" means any microorganism, virus, infectious
37 substance or biological product that may be engineered as a result of
38 biotechnology, or any naturally occurring or bioengineered component of
39 any such microorganism, virus, infectious substance, or biological
40 product, capable of causing:

41 (A) Death, disease or other biological malfunction in a human, an
42 animal, a plant or another living organism;

43 (B) deterioration of food, water, equipment, supplies or material of

- 1 any kind; or
- 2 (C) deleterious alteration of the environment;
- 3 (2) "chemical weapon" means the following together or separately:
- 4 (A) A toxic chemical and its precursors, except where intended for a
- 5 purpose not prohibited under this section, as long as the type and quantity
- 6 is consistent with such a purpose;
- 7 (B) a munition or device, specifically designed to cause death or
- 8 other harm through toxic properties of those toxic chemicals specified in
- 9 subparagraph (A), which would be released as a result of the employment
- 10 of such munition or device; or
- 11 (C) any equipment specifically designed for use directly in
- 12 connection with the employment of munitions or devices specified in
- 13 subparagraph (B);
- 14 (3) "key component of a binary or multicomponent chemical
- 15 system" means the precursor which plays the most important role in
- 16 determining the toxic properties of the final product and reacts rapidly
- 17 with other chemicals in the binary or multicomponent system;
- 18 (4) "delivery system" means:
- 19 (A) Any apparatus, equipment, device or means of delivery
- 20 specifically designed to deliver or disseminate a biological agent, toxin or
- 21 vector; or
- 22 (B) any vector;
- 23 (5) "for use as a weapon" does not include the development,
- 24 production, transfer, acquisition, retention or possession of any biological
- 25 agent, toxin or delivery system for prophylactic, protective or other
- 26 peaceful purposes;
- 27 (6) "nuclear material" means material containing any:
- 28 (A) Plutonium;
- 29 (B) uranium not in the form of ore or ore residue that contains the
- 30 mixture of isotopes as occurring in nature;
- 31 (C) enriched uranium, defined as uranium that contains the isotope
- 32 233 or 235 or both in such amount that the abundance ratio of the sum of
- 33 those isotopes to the isotope 238 is greater than the ratio of the isotope
- 34 235 to the isotope 238 occurring in nature; or
- 35 (D) uranium 233;
- 36 (7) "nuclear byproduct material" means any material containing any
- 37 radioactive isotope created through an irradiation process in the operation
- 38 of a nuclear reactor or accelerator;
- 39 (8) "precursor" means any chemical reactant which takes part at any
- 40 stage in the production by whatever method of a toxic chemical.
- 41 "Precursor" includes any key component of a binary or multicomponent
- 42 chemical system;
- 43 (9) "toxic chemical" means any chemical which through its chemical

1 action on life processes can cause death, temporary incapacitation or
2 permanent harm to humans or animals. "Toxic chemical" includes all
3 such chemicals, regardless of their origin or of their method of
4 production, and regardless of whether they are produced in facilities, in
5 munitions or elsewhere;

6 (10) "toxin" means the toxic material of plants, animals,
7 microorganisms, viruses, fungi or infectious substances, or a recombinant
8 molecule, whatever its origin or method of production, including:

9 (A) Any poisonous substance or biological product that may be
10 engineered as a result of biotechnology produced by a living organism; or

11 (B) any poisonous isomer or biological product, homolog or
12 derivative of such a substance; and

13 (11) "vector" means a living organism or molecule, including a
14 recombinant molecule, or biological product that may be engineered as a
15 result of biotechnology, capable of carrying a biological agent or toxin to
16 a host.

17 Sec. 25. Section 60 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 60. (a) Unlawful
19 administration of a substance is the administration of a substance to
20 another person without consent with the intent to impair such other
21 person's physical or mental ability to appraise or control such person's
22 conduct.

23 (b) Unlawful administration of a substance is a class A person
24 misdemeanor.

25 (c) This section shall not prohibit administration of any substance
26 described in subsection ~~(b)~~(d) for lawful medical or therapeutic treatment.

27 (d) As used in this section, "administration of a substance" means
28 any method of causing the ingestion by another person of a controlled
29 substance, including gamma hydroxybutyric acid, or any controlled
30 substance analog, as defined in K.S.A. 65-4101, *and amendments thereto*,
31 of gamma hydroxybutyric acid, including gamma butyrolactone;
32 butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone
33 dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
34 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-
35 hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with
36 CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-
37 butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-
38 tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol.

39 Sec. 26. Section 61 of chapter 136 of the 2010 Session Laws of
40 Kansas is hereby amended to read as follows: Sec. 61. (a) *Human*
41 trafficking is:

42 (1) ~~Recruiting, harboring, transporting, providing or obtaining, by~~
43 ~~any means, another person with knowledge that force, fraud, threat or~~

1 ~~coercion will be used to cause the person to engage in forced labor or~~
 2 ~~involuntary servitude; or~~ *The intentional recruitment, harboring,*
 3 *transportation, provision or obtaining of a person for labor or services,*
 4 *through the use of force, fraud or coercion for the purpose of subjecting*
 5 *the person to involuntary servitude or forced labor;*

6 (2) *intentionally benefitting financially or by receiving anything of*
 7 *value from participation in a venture that the person has reason to know*
 8 *has engaged in acts set forth in subsection (a)(1);;*

9 (3) *knowingly coercing employment by obtaining or maintaining*
 10 *labor or services that are performed or provided by another person*
 11 *through any of the following:*

12 (A) *Causing or threatening to cause physical injury to any person;*

13 (B) *physically restraining or threatening to physically restrain*
 14 *another person;*

15 (C) *abusing or threatening to abuse the law or legal process;*

16 (D) *threatening to withhold food, lodging or clothing; or*

17 (E) *knowingly destroying, concealing, removing, confiscating or*
 18 *possessing any actual or purported government identification document*
 19 *of another person; or*

20 (4) *knowingly holding another person in a condition of peonage in*
 21 *satisfaction of a debt owed the person who is holding such other person.*

22 (b) *Aggravated human trafficking is:*

23 (1) *Human trafficking, as defined in subsection (a):*

24 (A) *Involving the commission or attempted commission of*
 25 *kidnapping, as defined in subsection (a) of section 43 of chapter 136 of*
 26 *the 2010 Session Laws of Kansas, and amendments thereto;*

27 (B) *committed in whole or in part for the purpose of the sexual*
 28 *gratification of the defendant or another; or*

29 (C) *resulting in a death; or*

30 (2) *recruiting, harboring, transporting, providing or obtaining, by*
 31 *any means, a person under 18 years of age knowing that the person, with*
 32 *or without force, fraud, threat or coercion, will be used to engage in*
 33 *forced labor, involuntary servitude or sexual gratification of the defendant*
 34 *or another.*

35 (c) (1) *Human trafficking is a severity level 2, person felony.*

36 (2) *Aggravated human trafficking is a:*

37 ~~(A)~~ *severity level 1, person felony, except as provided in subsection*
 38 ~~(c)(2)(B); and (3).~~

39 ~~(B)~~(3) *Aggravated human trafficking or attempt, conspiracy or*
 40 *criminal solicitation to commit aggravated human trafficking is an off-*
 41 *grid person felony, when the offender is 18 years of age or older and the*
 42 *victim is less than 14 years of age.*

43 (d) *If the offender is 18 years of age or older and the victim is less*

1 *than 14 years of age, the provisions of:*

2 *(1) Subsection (c) of section 33 of chapter 136 of the 2010 Session*
3 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
4 *of attempting to commit the crime of aggravated human trafficking*
5 *pursuant to this section;*

6 *(2) subsection (c) of section 34 of chapter 136 of the 2010 Session*
7 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
8 *of conspiracy to commit the crime of aggravated human trafficking*
9 *pursuant to this section; and*

10 *(3) subsection (d) of section 35 of chapter 136 of the 2010 Session*
11 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
12 *of criminal solicitation to commit the crime of aggravated human*
13 *trafficking pursuant to this section.*

14 *(e) The provisions of this section shall not apply to the use of the*
15 *labor of any person incarcerated in a state or county correctional facility*
16 *or city jail.*

17 *(f) As used in this section, "peonage" means a condition of*
18 *involuntary servitude in which the victim is forced to work for another*
19 *person by the use or threat of physical restraint or physical injury, or by*
20 *the use or threat of coercion through law or the legal process.*

21 **Sec. 27. Section 62 of chapter 136 of the 2010 Session Laws of**
22 **Kansas is hereby amended to read as follows: Sec. 62. (a) Stalking is:**

23 **(1) Recklessly engaging in a course of conduct targeted at a specific**
24 **person which would cause a reasonable person in the circumstances of**
25 **the targeted person to fear for such person's safety, or the safety of a**
26 **member of such person's immediate family and the targeted person is**
27 **actually placed in such fear;**

28 **(2) engaging in a course of conduct targeted at a specific person with**
29 **knowledge that the course of conduct will place the targeted person in**
30 **fear for such person's safety or the safety of a member of such person's**
31 **immediate family; or**

32 **(3) after being served with, or otherwise provided notice of, any**
33 **protective order included in K.S.A. 21-3843, prior to its repeal or section**
34 **149 of chapter 136 of the 2010 Session Laws of Kansas, and amendments**
35 **thereto, that prohibits contact with a targeted person, recklessly engaging**
36 **in at least one act listed in subsection (f)(1) that violates the provisions of**
37 **the order and would cause a reasonable person to fear for such person's**
38 **safety, or the safety of a member of such person's immediate family and**
39 **the targeted person is actually placed in such fear.**

40 **(b) Stalking as defined in:**

41 **(1) Subsection (a)(1) is a:**

42 **(A) Class A person misdemeanor, except as provided in subsection**
43 **(b)(1)(B); and**

1 (B) severity level 7, person felony upon a second or subsequent
2 conviction;

3 (2) subsection (a)(2) is a:

4 (A) Class A person misdemeanor, except as provided in subsection
5 (b)(2)(B); and

6 (B) severity level 5, person felony upon a second or subsequent
7 conviction; and

8 (3) subsection (a)(3) is a:

9 (A) Severity level 9, person felony, except as provided in subsection
10 (b)(3)(B); and

11 (B) severity level 5, person felony, upon a second or subsequent
12 conviction.

13 (c) For the purposes of this section, a person served with a protective
14 order as defined by K.S.A. 21-3843, prior to its repeal ~~and~~ *or* section 149
15 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
16 thereto, or a person who engaged in acts which would constitute stalking,
17 after having been advised by a law enforcement officer, that such person's
18 actions were in violation of this section, shall be presumed to have acted
19 knowingly as to any like future act targeted at the specific person or
20 persons named in the order or as advised by the officer.

21 (d) In a criminal proceeding under this section, a person claiming an
22 exemption, exception or exclusion has the burden of going forward with
23 evidence of the claim.

24 (e) The present incarceration of a person alleged to be violating this
25 section shall not be a bar to prosecution under this section.

26 (f) As used in this section:

27 (1) "Course of conduct" means two or more acts over a period of
28 time, however short, which evidence a continuity of purpose. A course of
29 conduct shall not include constitutionally protected activity nor conduct
30 that was necessary to accomplish a legitimate purpose independent of
31 making contact with the targeted person. A course of conduct shall
32 include, but not be limited to, any of the following acts or a combination
33 thereof:

34 (A) Threatening the safety of the targeted person or a member of
35 such person's immediate family;

36 (B) following, approaching or confronting the targeted person or a
37 member of such person's immediate family;

38 (C) appearing in close proximity to, or entering the targeted person's
39 residence, place of employment, school or other place where such person
40 can be found, or the residence, place of employment or school of a
41 member of such person's immediate family;

42 (D) causing damage to the targeted person's residence or property or
43 that of a member of such person's immediate family;

1 (E) placing an object on the targeted person's property or the
2 property of a member of such person's immediate family, either directly
3 or through a third person;

4 (F) causing injury to the targeted person's pet or a pet belonging to a
5 member of such person's immediate family;

6 (G) any act of communication;

7 (2) "communication" means to impart a message by any method of
8 transmission, including, but not limited to: Telephoning, personally
9 delivering, sending or having delivered, any information or material by
10 written or printed note or letter, package, mail, courier service or
11 electronic transmission, including electronic transmissions generated or
12 communicated via a computer;

13 (3) "computer" means a programmable, electronic device capable of
14 accepting and processing data;

15 (4) "conviction" includes being convicted of a violation of K.S.A.
16 21-3438, prior to its repeal, this section or a law of another state which
17 prohibits the acts that this section prohibits; and

18 (5) "immediate family" means father, mother, stepparent, child,
19 stepchild, sibling, spouse or grandparent of the targeted person; any
20 person residing in the household of the targeted person; or any person
21 involved in an intimate relationship with the targeted person.

22 Sec. 28. Section 64 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 64. (a) Blackmail is
24 *intentionally* gaining or attempting to gain anything of value or
25 compelling or attempting to compel another to act against such person's
26 will, by threatening to communicate accusations or statements, about any
27 person that would subject such person or any other person to public
28 ridicule, contempt or degradation.

29 (b) Blackmail is a severity level 7, nonperson felony.

30 Sec. 29. Section 67 of chapter 136 of the 2010 Session Laws of
31 Kansas is hereby amended to read as follows: Sec. 67. (a) Rape is:

32 (1) Knowingly engaging in sexual intercourse with a victim who
33 does not consent to the sexual intercourse under any of the following
34 circumstances:

35 (A) When the victim is overcome by force or fear; or

36 (B) when the victim is unconscious or physically powerless;

37 (2) Knowingly engaging in sexual intercourse with a victim when
38 the victim is incapable of giving consent because of mental deficiency or
39 disease, or when the victim is incapable of giving consent because of the
40 effect of any alcoholic liquor, narcotic, drug or other substance, which
41 condition was known by the offender or was reasonably apparent to the
42 offender;

43 (3) sexual intercourse with a child who is under 14 years of age;

1 (4) sexual intercourse with a victim when the victim's consent was
 2 obtained through a knowing misrepresentation made by the offender that
 3 the sexual intercourse was a medically or therapeutically necessary
 4 procedure; or

5 (5) sexual intercourse with a victim when the victim's consent was
 6 obtained through a knowing misrepresentation made by the offender that
 7 the sexual intercourse was a legally required procedure within the scope
 8 of the offender's authority.

9 (b)(1) Rape as defined in:

10 ~~(1)(A)~~ Subsection (a)(1) or (a)(2) is a severity level 1, person felony;

11 ~~(2)(B)~~ subsection (a)(3) is a:

12 (A) severity level 1, person felony, except as provided in subsection
 13 (b)(2)(B); and

14 ~~(B) off-grid person felony, when the offender is 18 years of age or
 15 older; and~~

16 ~~(3)(C)~~ subsection (a)(4) or (a)(5) is a severity level 2, person felony.

17 (2) *Rape as defined in subsection (a)(3) or attempt, conspiracy or
 18 criminal solicitation to commit rape as defined in subsection (a)(3) is an
 19 off-grid person felony, when the offender is 18 years of age or older.*

20 (c) *If the offender is 18 years of age or older, the provisions of:*

21 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session
 22 Laws of Kansas, and amendments thereto, shall not apply to a violation
 23 of attempting to commit the crime of rape as defined in subsection (a)(3);*

24 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session
 25 Laws of Kansas, and amendments thereto, shall not apply to a violation
 26 of conspiracy to commit the crime of rape as defined in subsection (a)(3);
 27 and*

28 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session
 29 Laws of Kansas, and amendments thereto, shall not apply to a violation
 30 of criminal solicitation to commit the crime of rape as defined in
 31 subsection (a)(3).*

32 ~~(e)(d)~~ It shall be a defense to a prosecution of rape under subsection
 33 (a)(3) that the child was married to the accused at the time of the offense.

34 ~~(e)(e)~~ Except as provided in subsection (a)(2), it shall not be a
 35 defense that the offender did not know or have reason to know that the
 36 victim did not consent to the sexual intercourse, that the victim was
 37 overcome by force or fear, or that the victim was unconscious or
 38 physically powerless.

39 Sec. 30. Section 68 of chapter 136 of the 2010 Session Laws of
 40 Kansas is hereby amended to read as follows: Sec. 68. (a) Criminal
 41 sodomy is:

42 (1) Sodomy between persons who are 16 or more years of age and
 43 members of the same sex;

- 1 (2) sodomy between a person and an animal;
2 (3) sodomy with a child who is 14 or more years of age but less than
3 16 years of age; or
4 (4) causing a child 14 or more years of age but less than 16 years of
5 age to engage in sodomy with any person or animal.
6 (b) Aggravated criminal sodomy is:
7 (1) Sodomy with a child who is under 14 years of age;
8 (2) causing a child under 14 years of age to engage in sodomy with
9 any person or an animal; or
10 (3) sodomy with a victim who does not consent to the sodomy or
11 causing a victim, without the victim's consent, to engage in sodomy with
12 any person or an animal under any of the following circumstances:
13 (A) When the victim is overcome by force or fear;
14 (B) when the victim is unconscious or physically powerless; or
15 (C) when the victim is incapable of giving consent because of
16 mental deficiency or disease, or when the victim is incapable of giving
17 consent because of the effect of any alcoholic liquor, narcotic, drug or
18 other substance, which condition was known by, or was reasonably
19 apparent to, the offender.
20 (c) (1) Criminal sodomy as defined in:
21 (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor;
22 and
23 (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.
24 ~~(e)~~ (2) Aggravated criminal sodomy as defined in:
25 (A) Subsection (b)(3) is a severity level 1, person felony; and
26 (B) subsection (b)(1) or (b)(2) is a:
27 ~~(i)~~ severity level 1, person felony, except as provided in subsection
28 ~~(c)(2)(B)(ii); and (3).~~
29 ~~(ii) off-grid person felony, when the offender is 18 years of age or~~
30 ~~older.~~
31 (3) *Aggravated criminal sodomy as defined in subsection (b)(1) or*
32 *(b)(2) or attempt, conspiracy or criminal solicitation to commit*
33 *aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is*
34 *an off-grid person felony, when the offender is 18 years of age or older.*
35 (d) *If the offender is 18 years of age or older, the provisions of:*
36 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session*
37 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
38 *of attempting to commit the crime of aggravated criminal sodomy as*
39 *defined in subsection (b)(1) or (b)(2);*
40 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session*
41 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
42 *of conspiracy to commit the crime of aggravated criminal sodomy as*
43 *defined in subsection (b)(1) or (b)(2); and*

1 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session*
 2 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
 3 *of criminal solicitation to commit the crime of aggravated criminal*
 4 *sodomy as defined in subsection (b)(1) or (b)(2).*

5 ~~(d)~~(e) It shall be a defense to a prosecution of criminal sodomy, as
 6 defined in subsection (a)(3), and aggravated criminal sodomy, as defined
 7 in subsection (b)(1), that the child was married to the accused at the time
 8 of the offense.

9 ~~(e)~~(f) Except as provided in subsection (b)(3)(C), it shall not be a
 10 defense that the offender did not know or have reason to know that the
 11 victim did not consent to the sodomy, that the victim was overcome by
 12 force or fear, or that the victim was unconscious or physically powerless.

13 Sec. 31. Section 70 of chapter 136 of the 2010 Session Laws of
 14 Kansas is hereby amended to read as follows: Sec. 70. (a) Indecent
 15 liberties with a child is engaging in any of the following acts with a child
 16 who is 14 *or more* years of age but less than 16 years of age:

17 (1) Any lewd fondling or touching of the person of either the child
 18 or the offender, done or submitted to with the intent to arouse or to satisfy
 19 the sexual desires of either the child or the offender, or both; or

20 (2) soliciting the child to engage in any lewd fondling or touching of
 21 the person of another with the intent to arouse or satisfy the sexual desires
 22 of the child, the offender or another.

23 (b) Aggravated indecent liberties with a child is:

24 (1) Sexual intercourse with a child who is 14 or more years of age
 25 but less than 16 years of age;

26 (2) engaging in any of the following acts with a child who is 14 or
 27 more years of age but less than 16 years of age and who does not consent
 28 thereto:

29 (A) Any lewd fondling or touching of the person of either the child
 30 or the offender, done or submitted to with the intent to arouse or to satisfy
 31 the sexual desires of either the child or the offender, or both; or

32 (B) causing the child to engage in any lewd fondling or touching of
 33 the person of another with the intent to arouse or satisfy the sexual desires
 34 of the child, the offender or another; or

35 (3) engaging in any of the following acts with a child who is under
 36 14 years of age:

37 (A) Any lewd fondling or touching of the person of either the child
 38 or the offender, done or submitted to with the intent to arouse or to satisfy
 39 the sexual desires of either the child or the offender, or both; or

40 (B) soliciting the child to engage in any lewd fondling or touching of
 41 the person of another with the intent to arouse or satisfy the sexual desires
 42 of the child, the offender or another.

43 (c) (1) Indecent liberties with a child is a severity level 5, person

1 felony.

2 (2) Aggravated indecent liberties with a child as defined in:

3 (A) Subsection (b)(1) is a severity level 3, person felony;

4 (B) subsection (b)(2) is a severity level 4, person felony; and

5 (C) subsection (b)(3) is a:

6 (i) severity level 3, person felony, except as provided in subsection

7 (c)(2)(C)(ii); and (3).

8 (ii) ~~off-grid person felony, when the offender is 18 years of age or~~

9 ~~older.~~

10 (3) *Aggravated indecent liberties with a child as defined in*

11 *subsection (b)(3) or attempt, conspiracy or criminal solicitation to*

12 *commit aggravated indecent liberties with a child as defined in*

13 *subsection (b)(3) is an off-grid person felony, when the offender is 18*

14 *years of age or older.*

15 (d) *If the offender is 18 years of age or older, the provisions of:*

16 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session*

17 *Laws of Kansas, and amendments thereto, shall not apply to a violation*

18 *of attempting to commit the crime of aggravated indecent liberties with a*

19 *child as defined in subsection (b)(3);*

20 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session*

21 *Laws of Kansas, and amendments thereto, shall not apply to a violation*

22 *of conspiracy to commit the crime of aggravated indecent liberties with a*

23 *child as defined in subsection (b)(3);*

24 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session*

25 *Laws of Kansas, and amendments thereto, shall not apply to a violation*

26 *of criminal solicitation to commit the crime of aggravated indecent*

27 *liberties with a child as defined in subsection (b)(3).*

28 (d)(e) It shall be a defense to a prosecution of indecent liberties with

29 a child, as defined in subsection (a)(1), and aggravated indecent liberties

30 with a child, as defined in subsections (b)(1), (b)(2)(A) and (b)(3)(A) that

31 the child was married to the accused at the time of the offense.

32 Sec. 32. Section 74 of chapter 136 of the 2010 Session Laws of

33 Kansas is hereby amended to read as follows: Sec. 74. (a) Sexual

34 exploitation of a child is:

35 (1) Employing, using, persuading, inducing, enticing or coercing a

36 child under 18 years of age to engage in sexually explicit conduct with

37 the intent to promote any performance;

38 (2) possessing any visual depiction of a child under 18 years of age

39 shown or heard engaging in sexually explicit conduct with intent to

40 arouse or satisfy the sexual desires or appeal to the prurient interest of the

41 offender or any other person;

42 (3) being a parent, guardian or other person having custody or

43 control of a child under 18 years of age and knowingly permitting such

1 child to engage in, or assist another to engage in, sexually explicit
2 conduct for any purpose described in subsection (a)(1) or (2); or

3 (4) promoting any performance that includes sexually explicit
4 conduct by a child under 18 years of age, knowing the character and
5 content of the performance.

6 (b) (1) Sexual exploitation of a child as defined in:

7 ~~(A)~~ Subsection (a)(2) or (a)(3) is a severity level 5, person felony;
8 and

9 ~~(2)(B)~~ subsection (a)(1) or (a)(4) is a:

10 ~~(A)~~ severity level 5, person felony, except as provided in subsection
11 ~~(b)(2)(B); and (2).~~

12 ~~(B) off-grid person felony, when the offender is 18 years of age or
13 older and the child is under 14 years of age.~~

14 (2) *Sexual exploitation of a child as defined in subsection (a)(1) or
15 (a)(4) or attempt, conspiracy or criminal solicitation to commit sexual
16 exploitation of a child as defined in subsection (a)(1) or (a)(4) is an off-
17 grid person felony, when the offender is 18 years of age or older and the
18 child is under 14 years of age.*

19 (c) *If the offender is 18 years of age or older and the child is under
20 14 years of age, the provisions of:*

21 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session
22 Laws of Kansas, and amendments thereto, shall not apply to a violation
23 of attempting to commit the crime of sexual exploitation of a child as
24 defined in subsection (a)(1) or (a)(4);*

25 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session
26 Laws of Kansas, and amendments thereto, shall not apply to a violation
27 of conspiracy to commit the crime of sexual exploitation of a child as
28 defined in subsection (a)(1) or (a)(4); and*

29 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session
30 Laws of Kansas, and amendments thereto, shall not apply to a violation
31 of criminal solicitation to commit the crime of sexual exploitation of a
32 child as defined in subsection (a)(1) or (a)(4).*

33 ~~(e)~~(d) As used in this section:

34 (1) "Sexually explicit conduct" means actual or simulated:
35 Exhibition in the nude; sexual intercourse or sodomy, including genital-
36 genital, oral-genital, anal-genital or oral-anal contact, whether between
37 persons of the same or opposite sex; masturbation; sado-masochistic
38 abuse with the intent of sexual stimulation; or lewd exhibition of the
39 genitals, female breasts or pubic area of any person;

40 (2) "promoting" means procuring, transmitting, distributing,
41 circulating, presenting, producing, directing, manufacturing, issuing,
42 publishing, displaying, exhibiting or advertising:

43 (A) For pecuniary profit; or

1 (B) with intent to arouse or gratify the sexual desire or appeal to the
2 prurient interest of the offender or any other person;

3 (3) "performance" means any film, photograph, negative, slide,
4 book, magazine or other printed or visual medium, any audio tape
5 recording or any photocopy, video tape, video laser disk, computer
6 hardware, software, floppy disk or any other computer related equipment
7 or computer generated image that contains or incorporates in any manner
8 any film, photograph, negative, photocopy, video tape or video laser disk
9 or any play or other live presentation;

10 (4) "nude" means any state of undress in which the human genitals,
11 pubic region, buttock or female breast, at a point below the top of the
12 areola, is less than completely and opaquely covered; *and*

13 (5) "visual depiction" means any photograph, film, video picture,
14 digital or computer-generated image or picture, whether made or
15 produced by electronic, mechanical or other means.

16 Sec. 33. Section 76 of chapter 136 of the 2010 Session Laws of
17 Kansas is hereby amended to read as follows: Sec. 76. (a) Unlawful
18 sexual relations is engaging in consensual sexual intercourse, lewd
19 fondling or touching, or sodomy with a person who is not married to the
20 offender if:

21 (1) The offender is an employee or volunteer of the department of
22 corrections, or the employee or volunteer of a contractor who is under
23 contract to provide services for a correctional institution, and the person
24 with whom the offender is engaging in consensual sexual intercourse,
25 lewd fondling or touching, or sodomy is a person 16 years of age or older
26 who is an inmate;

27 (2) the offender is a parole officer, volunteer for the department of
28 corrections or the employee or volunteer of a contractor who is under
29 contract to provide supervision services for persons on parole, conditional
30 release or postrelease supervision and the person with whom the offender
31 is engaging in consensual sexual intercourse, lewd fondling or touching,
32 or sodomy is a person 16 years of age or older who is an inmate who has
33 been released on parole, ~~or conditional release or postrelease supervision~~
34 ~~under the direct supervision and control of the offender;~~ *and the offender*
35 *has knowledge that the person with whom the offender is engaging in*
36 *consensual sexual intercourse, lewd fondling or touching, or sodomy is*
37 *an inmate who has been released and is currently on parole, conditional*
38 *release or postrelease supervision;*

39 (3) the offender is a law enforcement officer, an employee of a jail,
40 or the employee of a contractor who is under contract to provide services
41 in a jail and the person with whom the offender is engaging in consensual
42 sexual intercourse, lewd fondling or touching, or sodomy is a person 16
43 years of age or older who is confined to such jail;

1 (4) the offender is a law enforcement officer, an employee of a
2 juvenile detention facility or sanctions house, or the employee of a
3 contractor who is under contract to provide services in such facility or
4 sanctions house and the person with whom the offender is engaging in
5 consensual sexual intercourse, lewd fondling or touching, or sodomy is a
6 person 16 years of age or older who is confined to such facility or
7 sanctions house;

8 (5) the offender is an employee of the juvenile justice authority or
9 the employee of a contractor who is under contract to provide services in
10 a juvenile correctional facility and the person with whom the offender is
11 engaging in consensual sexual intercourse, lewd fondling or touching, or
12 sodomy is a person 16 years of age or older who is confined to such
13 facility;

14 (6) the offender is an employee of the juvenile justice authority or
15 the employee of a contractor who is under contract to provide direct
16 supervision and offender control services to the juvenile justice authority
17 and the person with whom the offender is engaging in consensual sexual
18 intercourse, lewd fondling or touching, or sodomy is 16 years of age or
19 older and:

20 (A) Released on conditional release from a juvenile correctional
21 facility under the supervision and control of the juvenile justice authority
22 or juvenile community supervision agency; or

23 (B) placed in the custody of the juvenile justice authority under the
24 supervision and control of the juvenile justice authority or juvenile
25 community supervision agency and the offender has knowledge that the
26 person with whom the offender is engaging in consensual sexual
27 intercourse, lewd fondling or touching, or sodomy is currently under
28 supervision;

29 (7) the offender is an employee of the department of social and
30 rehabilitation services or the employee of a contractor who is under
31 contract to provide services in a social and rehabilitation services
32 institution and the person with whom the offender is engaging in
33 consensual sexual intercourse, not otherwise subject to subsection (a)(2)
34 of section 67 of chapter 136 of the 2010 Session Laws of Kansas, and
35 amendments thereto, lewd fondling or touching, or sodomy, not otherwise
36 subject to subsection ~~(3)(b)(C)~~(b)(3)(C) of section 68 of chapter 136 of
37 the 2010 Session Laws of Kansas, and amendments thereto, is a person 16
38 years of age or older who is a patient in such institution;

39 (8) the offender is a teacher or a person in a position of authority and
40 the person with whom the offender is engaging in consensual sexual
41 intercourse, not otherwise subject to subsection (a)(3) of section 67 of
42 chapter 136 of the 2010 Session Laws of Kansas, or subsection (b)(1) of
43 section 70 of chapter 136 of the 2010 Session Laws of Kansas, and

1 amendments thereto, lewd fondling or touching, not otherwise subject to
2 subsection (a) of section 70 of chapter 136 of the 2010 Session Laws of
3 Kansas, or subsection (b)(2) or (b)(3) of section 70 of chapter 136 of the
4 2010 Session Laws of Kansas, and amendments thereto, or sodomy, not
5 otherwise subject to subsection (a) of section 68 of chapter 136 of the
6 2010 Session Laws of Kansas, or subsection (b)(1) or (b)(2) of section 68
7 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
8 thereto, is a student enrolled at the school where the offender is
9 employed. If the offender is the parent of the student, the provisions of
10 subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of
11 Kansas, and amendments thereto, shall apply, not this subsection;

12 (9) the offender is a court services officer or the employee of a
13 contractor who is under contract to provide supervision services for
14 persons under court services supervision and the person with whom the
15 offender is engaging in consensual sexual intercourse, lewd fondling or
16 touching, or sodomy is a person 16 years of age or older who has been
17 placed on probation under the supervision and control of court services
18 and the offender has knowledge that the person with whom the offender
19 is engaging in consensual sexual intercourse, lewd fondling or touching,
20 or sodomy is currently under the supervision of court services; or

21 (10) the offender is a community correctional services officer or the
22 employee of a contractor who is under contract to provide supervision
23 services for persons under community corrections supervision and the
24 person with whom the offender is engaging in consensual sexual
25 intercourse, lewd fondling or touching, or sodomy is a person 16 years of
26 age or older who has been assigned to a community correctional services
27 program under the supervision and control of community corrections and
28 the offender has knowledge that the person with whom the offender is
29 engaging in consensual sexual intercourse, lewd fondling or touching, or
30 sodomy is currently under *the* supervision of community corrections.

31 (b) Unlawful sexual relations is a severity level 10, person felony as
32 defined in:

33 (1) Subsection (a)(5) is a severity level 4, person felony; and

34 (2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)
35 (9), or (a)(10) is a severity level 5, person felony.

36 (c) As used in this section:

37 (1) "Correctional institution" means the same as in K.S.A. 75-5202,
38 and amendments thereto;

39 (2) "inmate" means the same as in K.S.A. 75-5202, and amendments
40 thereto;

41 (3) "parole officer" means the same as in K.S.A. 75-5202, and
42 amendments thereto;

43 (4) "postrelease supervision" means the same as in section 284 of

1 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
2 thereto;

3 (5) "juvenile detention facility" means the same as in K.S.A.
4 ~~2009~~2010 Supp. 38-2302, and amendments thereto;

5 (6) "juvenile correctional facility" means the same as in K.S.A.
6 ~~2009~~2010 Supp. 38-2302, and amendments thereto;

7 (7) "sanctions house" means the same as in K.S.A. ~~2009~~2010 Supp.
8 38-2302, and amendments thereto;

9 (8) "institution" means the same as in K.S.A. 76-12a01, and
10 amendments thereto;

11 (9) "teacher" means and includes teachers, supervisors, principals,
12 superintendents and any other professional employee in any public or
13 private school offering any of grades kindergarten through 12;

14 (10) "community corrections" means the entity responsible for
15 supervising adults and juvenile offenders for confinement, detention, care
16 or treatment, subject to conditions imposed by the court pursuant to the
17 community corrections act, K.S.A. 75-5290, and amendments thereto,
18 and the revised Kansas juvenile justice code, K.S.A. ~~2009~~2010 Supp. 38-
19 2301 et seq., and amendments thereto;

20 (11) "court services" means the entity appointed by the district court
21 that is responsible for supervising adults and juveniles placed on
22 probation and misdemeanants placed on parole by district courts of this
23 state; and

24 (12) "juvenile community supervision agency" means an entity that
25 receives grants for the purpose of providing direct supervision to
26 juveniles in the custody of the juvenile justice authority.

27 Sec. 34. Section 78 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 78. (a) Endangering a
29 child is knowingly and unreasonably causing or permitting a child under
30 the age of 18 years to be placed in a situation in which the child's life,
31 body or health may be endangered.

32 (b) Aggravated endangering a child is:

33 (1) Recklessly causing or permitting a child under the age of 18
34 years to be placed in a situation in which the child's life, body or health is
35 endangered;

36 (2) causing or permitting such child to be in an environment where
37 the person knows or reasonably should know that any person is
38 distributing, possessing with intent to distribute, manufacturing or
39 attempting to manufacture any methamphetamine, or analog thereof, as
40 defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and
41 amendments thereto; or

42 (3) causing or permitting such child to be in an environment where
43 the person knows or reasonably should know that drug paraphernalia or

1 volatile, toxic or flammable chemicals are stored for the purpose of
2 manufacturing or attempting to manufacture any methamphetamine, or
3 analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-
4 4107, and amendments thereto.

5 (c) (1) Endangering a child is a class A person misdemeanor.

6 (2) Aggravated endangering a child is a severity level 9, person
7 felony. *The sentence for a violation of aggravated endangering a child*
8 *shall be served consecutively to any other term or terms of imprisonment*
9 *imposed. Such sentence shall not be considered a departure and shall not*
10 *be subject to appeal.*

11 (d) Nothing in subsection (a) shall be construed to mean a child is
12 endangered for the sole reason the child's parent or guardian, in good
13 faith, selects and depends upon spiritual means alone through prayer, in
14 accordance with the tenets and practice of a recognized church or
15 religious denomination, for the treatment or cure of disease or remedial
16 care of such child.

17 (e) As used in this section:

18 (1) "Manufacture" means the same as in K.S.A. ~~2009~~2010 Supp. 21-
19 36a01, and amendments thereto; and

20 (2) "drug paraphernalia" means the same as in K.S.A. ~~2009~~2010
21 Supp. 21-36a01, and amendments thereto.

22 Sec. 35. Section 88 of chapter 136 of the 2010 Session Laws of
23 Kansas is hereby amended to read as follows: Sec. 88. (a) Theft of
24 property lost, mislaid or delivered by mistake is obtaining control of
25 property of another by a person who:

26 (1) Knows or learns the identity of the owner thereof;

27 (2) fails to take reasonable measures to restore to the owner lost
28 property, mislaid property or property delivered by a mistake; and

29 (3) intends to permanently deprive the owner of the possession, use
30 or benefit of the property.

31 (b) Theft of ~~lost or mislaid~~ property *lost, mislaid or delivered by*
32 *mistake* of the value of:

33 (1) \$100,000 or more is a severity level 5, nonperson felony;

34 (2) at least \$25,000 but less than \$100,000 is a severity level 7,
35 nonperson felony;

36 (3) at least \$1,000 but less than \$25,000 is a severity level 9,
37 nonperson felony; and

38 (4) less than \$1,000 is a class A nonperson misdemeanor.

39 (c) As used in this section, "property delivered by mistake" includes,
40 but is not limited to, a mistake as to the:

41 (1) Nature or amount of the property; or

42 (2) identity of the recipient of the property.

43 Sec. 36. Section 96 of chapter 136 of the 2010 Session Laws of

1 Kansas is hereby amended to read as follows: Sec. 96. (a) Criminal
2 hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird
3 or animal, or fishing:

4 (1) Upon any land or nonnavigable body of water of another,
5 without having first obtained permission of the owner or person in
6 possession of such premises;

7 (2) upon or from any public road, public road right-of-way or
8 railroad right-of-way that adjoins occupied or improved premises,
9 without having first obtained permission of the owner or person in
10 possession of such premises; or

11 (3) upon any land or nonnavigable body of water of another by a
12 person who knows such person is not authorized or privileged to do so,
13 and:

14 (A) Such person remains therein and continues to hunt, shoot, fur
15 harvest, pursue any bird or animal or fish in defiance of an order not to
16 enter or to leave such premises or property personally communicated to
17 such person by the owner thereof or other authorized person; or

18 (B) such premises or property are posted in a manner consistent with
19 K.S.A. 32-1013, and amendments thereto.

20 (b) Criminal hunting as defined in:

21 (1) Subsection (a)(1) or (a)(2) is a class C misdemeanor. Upon the
22 first conviction of subsection (a)(1) or (a)(2), in addition to any
23 authorized sentence imposed by the court, such court may require the
24 forfeiture of the convicted person's hunting, fishing or fur harvesting
25 license, or all, or, in any case where such person has a combination
26 license, the court may require forfeiture of a part or all of such license
27 and the court may order such person to refrain from hunting, fishing or
28 fur harvesting, or all, for up to one year from the date of such conviction.
29 Upon a second or subsequent conviction of subsection (a)(1) or (a)(2), in
30 addition to any authorized sentence imposed by the court, such court shall
31 require the forfeiture of the convicted person's hunting, fishing or fur
32 harvesting license, or all, or, in any case where such person has a
33 combination license, the court shall require the forfeiture of a part or all
34 of such license and the court shall order such person to refrain from
35 hunting, fishing or fur harvesting, or all, for one year from the date of
36 such conviction. A person licensed to hunt and following or pursuing a
37 wounded game bird or animal upon any land of another without
38 permission of the landowner or person in lawful possession thereof shall
39 not be deemed to be in violation of this provision while in such pursuit,
40 except that this provision shall not authorize a person to remain on such
41 land if instructed to leave by the owner thereof or other authorized
42 person. *For the purpose of determining whether a conviction is a first,*
43 *second or subsequent conviction of subsection (a)(1) or (a)(2),*

1 *"conviction" or "convicted" includes being convicted of a violation of*
2 *subsection (a) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(1)*
3 *or (a)(2); and*

4 (2) subsection (a)(3) is a class B misdemeanor. Upon the first
5 conviction or a diversion agreement of subsection (a)(3), in addition to
6 any authorized sentence imposed by the court, the court shall require
7 forfeiture of such person's hunting, fishing or fur harvesting license, or
8 all, or in the case where such person has a combination license, the court
9 shall require forfeiture of a part or all of such license for six months.
10 Upon the second conviction of subsection (a)(3), *in* addition to any
11 authorized sentence imposed by the court, such court shall require the
12 forfeiture of the convicted person's hunting, fishing or fur harvesting
13 license, or all, or in the case where such person has a combination
14 license, the court shall require forfeiture of a part or all of such license for
15 one year. Upon the third or subsequent conviction of subsection (a)(3), in
16 addition to any authorized sentence imposed by the court, such court shall
17 require forfeiture of the convicted person's hunting, fishing or fur
18 harvesting license, or all, or in the case where such person has a
19 combination license, the court shall require forfeiture of a part or all of
20 such license for five years. *For the purpose of determining whether a*
21 *conviction is a first, second, third or subsequent conviction of subsection*
22 *(a)(3), "conviction" or "convicted" includes being convicted of a*
23 *violation of subsection (b) of K.S.A. 21-3728, prior to its repeal, or*
24 *subsection (a)(3).*

25 (c) The court shall notify the department of wildlife and parks of any
26 conviction or diversion for a violation of this section.

27 Sec. 37. Section 98 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 98. (a) Arson is:

29 (1) Knowingly, by means of fire or explosive damaging any building
30 or property which:

31 (A) Is a dwelling in which another person has any interest without
32 the consent of such other person;

33 (B) is a dwelling with intent to injure or defraud an insurer or
34 lienholder;

35 (C) is not a dwelling in which another person has any interest
36 without the consent of such other person; or

37 (D) is not a dwelling with intent to injure or defraud an insurer or
38 lienholder;

39 (2) accidentally, by means of fire or explosive, as a result of
40 manufacturing or attempting to manufacture a controlled substance or
41 controlled substance analog in violation of K.S.A. ~~2009~~ 2010Supp. 21-
42 36a03, and amendments thereto, damaging any building or property
43 which is a dwelling; or

1 (3) accidentally, by means of fire or explosive as a result of
2 manufacturing or attempting to manufacture a controlled substance or
3 controlled substance analog in violation of K.S.A. ~~2009~~ 2010 Supp. 21-
4 36a03, and amendments thereto, damaging any building or property
5 which is not a dwelling.

6 (b) Aggravated arson is arson, as ~~described~~ defined in subsection (a):

7 (1) Committed upon a building or property in which there is a
8 human being; or

9 (2) which results in great bodily harm or disfigurement to a
10 firefighter or law enforcement officer in the course of fighting or
11 investigating the fire.

12 (c) (1) Arson as defined in:

13 (A) Subsection (a)(1)(A) or (a)(1)(B) is a severity level 6, person
14 felony;

15 (B) subsection (a)(1)(C) ~~or~~, (a)(1)(D) or (a)(3) is a severity level 7,
16 nonperson felony; and

17 (C) subsection (a)(2) is a severity level 7, person felony.

18 (2) Aggravated arson as defined in:

19 (A) Subsection (b)(1) is a:

20 (i) Severity level 3, person felony, if such crime results in a
21 substantial risk of bodily harm; and

22 (ii) severity level 6, person felony, if such crime results in no
23 substantial risk of bodily harm; and

24 (B) subsection (b)(2) is a severity level 3, person felony.

25 Sec. 38. Section 105 of chapter 136 of the 2010 Session Laws of
26 Kansas is hereby amended to read as follows: Sec. 105. (a) It is
27 unlawful for any person to:

28 (1) Recklessly throw, push, pitch or otherwise cast any rock, stone or
29 other object, matter or thing onto a street, road, highway, railroad right-
30 of-way, or upon any vehicle, engine or car or any train, locomotive,
31 railroad car, caboose, rail-mounted work equipment or rolling stock
32 thereon;

33 (2) violate subsection (a) and damage any vehicle, engine or car or
34 any train, locomotive, railroad car, caboose, rail-mounted work
35 equipment or rolling stock lawfully on the street, highway or railroad
36 right-of-way by the thrown or cast rock, stone or other object;

37 (3) violate subsection (a) and injure another person on the street,
38 road, highway or railroad right-of-way; or

39 (4) violate subsection (a), damage a vehicle, engine or car or any
40 train, locomotive, railroad car, caboose, rail-mounted work equipment or
41 rolling stock and a person is injured as a result of the cast or thrown
42 object or from injuries incurred as a result of damage to the vehicle in
43 which a person was a passenger when struck by such object.

1 (b) (1) Violation of subsection (a)(1) is a class B nonperson
2 misdemeanor.

3 (2) Violation of subsection (a)(2) is a class A nonperson
4 misdemeanor.

5 (3) Violation of subsection (a)(3) is a severity level 7, person felony.

6 (4) Violation of subsection (a)(4) is a severity level 6, person felony.

7 ~~(e)~~(c) In any case where a vehicle, engine or car or any train,
8 locomotive, railroad car, caboose, rail-mounted work equipment or
9 rolling stock is damaged as a result of a violation of subsection (a), the
10 provisions of this section shall not bar conviction of the accused under
11 any other offense in sections 87 through 125 of *chapter 136 of the 2010*
12 *Session Laws of Kansas*, and amendments thereto. An accused may be
13 convicted for a violation of any other offense in sections 87 through 125
14 of *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
15 thereto, or this section, but not under both.

16 ~~(f)~~(d) In any case where a person dies or sustains bodily injury as a
17 result of a violation of subsection (a), the provisions of this section shall
18 not bar conviction of the accused under any other offense in sections 36
19 through 64 of *chapter 136 of the 2010 Session Laws of Kansas*, and
20 amendments thereto. An accused may be convicted for a violation of any
21 other offense in sections 36 through 64 of *chapter 136 of the 2010*
22 *Session Laws of Kansas*, and amendments thereto, or this section, but not
23 under both.

24 Sec. 39. Section 136 of chapter 136 of the 2010 Session Laws of
25 Kansas is hereby amended to read as follows: Sec. 136. (a) Escape from
26 custody is escaping while held in custody on a: (1) Charge or
27 conviction of a misdemeanor;

28 (2) charge or adjudication as a juvenile offender where the act, if
29 committed by an adult, would constitute a misdemeanor; or

30 (3) commitment to the state security hospital as provided in K.S.A.
31 22-3428, and amendments thereto, based on a finding that the person
32 committed an act constituting a misdemeanor or by a person 18 years of
33 age or over who is being held in custody on a adjudication of a
34 misdemeanor.

35 (b) Aggravated escape from custody is:

36 (1) Escaping while held in custody:

37 (A) Upon a charge or conviction of a felony;

38 (B) upon a charge or adjudication as a juvenile offender where the
39 act, if committed by an adult, would constitute a felony;

40 (C) prior to or upon a finding of probable cause for evaluation as a
41 sexually violent predator as provided in K.S.A. 59-29a05, and
42 amendments thereto;

43 (D) upon commitment to a treatment facility as a sexually violent

- 1 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
- 2 (E) upon a commitment to the state security hospital as provided in
3 K.S.A. 22-3428, and amendments thereto, based on a finding that the
4 person committed an act constituting a felony;
- 5 (F) by a person 18 years of age or over who is being held on an
6 adjudication of a felony; or
- 7 (G) upon incarceration at a state correctional institution while in the
8 custody of the secretary of corrections.
- 9 (2) Escaping effected or facilitated by the use of violence or the
10 threat of violence against any person while held in custody:
- 11 (A) On a charge or conviction of any crime;
- 12 (B) on a charge or adjudication as a juvenile offender where the act,
13 if committed by an adult, would constitute a felony;
- 14 (C) prior to or upon a finding of probable cause for evaluation as a
15 sexually violent predator as provided in K.S.A. 59-29a05, and
16 amendments thereto;
- 17 (D) upon commitment to a treatment facility as a sexually violent
18 predator as provided in K.S.A. 59-29a01 et seq., and amendments thereto;
- 19 (E) upon a commitment to the state security hospital as provided in
20 K.S.A. 22-3428, and amendments thereto, based on a finding that the
21 person committed an act constituting any crime;
- 22 (F) by a person 18 years of age or over who is being held on a
23 charge or adjudication of a misdemeanor or felony; or
- 24 (G) upon incarceration at a state correctional institution while in the
25 custody of the secretary of corrections.
- 26 (c) (1) Escape from custody is a class A nonperson misdemeanor.
- 27 (2) Aggravated escape from custody as defined in:
- 28 (A) Subsection (b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(E) or (b)(1)(F)
29 is a severity level 8, nonperson felony;
- 30 (B) subsection (b)(1)(B); ~~or (b)(1)(G), (b)(2)(B) or (b)(2)(G)~~ is a
31 severity level 5, nonperson felony;
- 32 (C) subsection (b)(2)(A), (b)(2)(C), (b)(2)(D), (b)(2)(E) or (b)(2)(F)
33 is a severity level 6, ~~nonperson~~ person felony; and
- 34 (D) *subsection (b)(2)(B) or (b)(2)(G) is a severity level 5, person*
35 *felony.*
- 36 (d) As used in this section and section 137 of chapter 136 of the
37 2010 Session Laws of Kansas, and amendments thereto:
- 38 (1) "Custody" means arrest; detention in a facility for holding
39 persons charged with or convicted of crimes or charged or adjudicated as
40 a juvenile offender; detention for extradition or deportation; detention in a
41 hospital or other facility pursuant to court order, imposed as a specific
42 condition of probation or parole or imposed as a specific condition of
43 assignment to a community correctional services program; commitment

1 to the state security hospital as provided in K.S.A. 22-3428, and
2 amendments thereto; or any other detention for law enforcement
3 purposes. "Custody" does not include general supervision of a person on
4 probation or parole or constraint incidental to release on bail;

5 (2) "escape" means departure from custody without lawful authority
6 or failure to return to custody following temporary leave lawfully granted
7 pursuant to express authorization of law or order of a court;

8 (3) "juvenile offender" means the same as in K.S.A. 2009 2010
9 Supp. 38-2302, and amendments thereto; and

10 (4) "state correctional institution" means the same as in K.S.A. 75-
11 5202, and amendments thereto.

12 Sec. 40. Section 139 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 139. (a) Traffic in
14 contraband in a correctional institution or care and treatment facility is,
15 without the consent of the administrator of the correctional institution or
16 care and treatment facility:

17 (1) Introducing or attempting to introduce any item into or upon the
18 grounds of any correctional institution or care and treatment facility;

19 (2) taking, sending, attempting to take or attempting to send any
20 item from any correctional institution or care and treatment facility;

21 (3) any unauthorized possession of any item while in any
22 correctional institution or care and treatment facility;

23 (4) distributing any item within any correctional institution or care
24 and treatment facility;

25 (5) supplying to another who is in lawful custody any object or thing
26 adapted or designed for use in making an escape; or

27 (6) introducing into an institution in which a person is confined any
28 object or thing adapted or designed for use in making any escape.

29 (b) ~~(+) Traffic in contraband in a correctional institution or care
30 and treatment facility of firearms, ammunition, explosives or a controlled
31 substance as defined in K.S.A. 2009 2010 Supp. 21-36a01, and
32 amendments thereto, is a severity level 5, nonperson felony.~~

33 ~~(2) Traffic in any contraband, as defined by rules and regulations
34 adopted by the secretary, in a correctional institution by an employee of a
35 correctional institution is a severity level 5, nonperson felony, except a
36 violation of subsection (a)(5) or (a)(6) by an employee or volunteer of the
37 department of corrections, or the employee or volunteer of a contractor
38 who is under contract to provide services to the department of
39 corrections, is a severity level 4, nonperson felony.~~

40 ~~(3) Traffic in any contraband, as defined by rules and regulations
41 adopted by the secretary of social and rehabilitation services, in a care
42 and treatment facility by an employee of a care and treatment facility is a
43 severity level 5, nonperson felony.~~

1 ~~(4) Except as provided in subsections (b)(1) and (b)(2), traffic in~~
2 ~~contraband in a correctional institution or care and treatment facility is a~~
3 ~~severity level 6, nonperson felony.~~

4 *is a:*

5 (1) *Severity level 6, nonperson felony, except as provided in*
6 *subsection (b)(2) or (b)(3);*

7 (2) *severity level 5, nonperson felony if such items are:*

8 (A) *Firearms, ammunition, explosives or a controlled substance*
9 *which is defined in K.S.A. 2010 Supp. 21-36a01, and amendments*
10 *thereto, except as provided in subsection (b)(3);*

11 (B) *defined as contraband by rules and regulations adopted by the*
12 *secretary of corrections, in a state correctional institution or facility by*
13 *an employee of a state correctional institution or facility, except as*
14 *provided in subsection (b)(3);*

15 (C) *defined as contraband by rules and regulations adopted by the*
16 *secretary of social and rehabilitation services, in a care and treatment*
17 *facility by an employee of a care and treatment facility, except as*
18 *provided in subsection (b)(3); or*

19 (D) *defined as contraband by rules and regulations adopted by the*
20 *commissioner of the juvenile justice authority, in a juvenile correctional*
21 *facility by an employee of a juvenile correctional facility, except as*
22 *provided by subsection (b)(3); and*

23 (3) *severity level 4, nonperson felony if:*

24 (A) *Such items are firearms, ammunition or explosives, in a*
25 *correctional institution by an employee of a correctional institution or in*
26 *a care and treatment facility by an employee of a care and treatment*
27 *facility; or*

28 (B) *a violation of (a)(5) or (a)(6) by an employee or volunteer of the*
29 *department of corrections, or the employee or volunteer of a contractor*
30 *who is under contract to provide services to the department of*
31 *corrections.*

32 (c) *The provisions of subsection (b)(2)(A) shall not apply to the*
33 *possession of a firearm or ammunition by a person licensed under the*
34 *personal and family protection act, K.S.A. 75-7c01 et seq., and*
35 *amendments thereto, in a parking lot open to the public if the firearm or*
36 *ammunition is carried on the person while in a vehicle or while securing*
37 *the firearm or ammunition in the vehicle, or stored out of plain view in a*
38 *locked but unoccupied vehicle.*

39 ~~(e)~~(d) *As used in this section:*

40 (1) *"Correctional institution" means any state correctional institution*
41 *or facility, conservation camp, state security hospital, juvenile*
42 *correctional facility, community correction center or facility for detention*
43 *or confinement, juvenile detention facility or jail;*

1 (2) "care and treatment facility" means the state security hospital
2 provided for under K.S.A. 76-1305 et seq., and amendments thereto, and
3 a facility operated by the department of social and rehabilitation services
4 for the purposes provided for under K.S.A. 59-29a02 et seq., and
5 amendments thereto; and

6 (3) "lawful custody" means the same as in section 137 *of chapter*
7 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

8 Sec. 41. Section 141 of chapter 136 of the 2010 Session Laws of
9 Kansas is hereby amended to read as follows: Sec. 141. (a) False signing
10 of a petition is knowingly affixing any fictitious or unauthorized signature
11 to any petition, memorial or remonstrance, intended to be presented to the
12 legislature, or either house thereof, or to any agency or officer of the state
13 of Kansas or any of its political subdivisions.

14 (b) False signing of ~~an official~~ a petition is a class C misdemeanor.

15 Sec. 42. Section 147 of chapter 136 of the 2010 Session Laws of
16 Kansas is hereby amended to read as follows: Sec. 147. (a) Interference
17 with the conduct of public business in public buildings is:

18 (1) Conduct at or in any public building owned, operated or
19 controlled by the state or any of its political subdivisions so as to
20 knowingly deny to any public official, public employee or any invitee on
21 such premises, the lawful rights of such official, employee or invitee to
22 enter, to use the facilities or to leave any such public building;

23 (2) knowingly impeding any public official or employee in the
24 lawful performance of duties or activities through the use of restraint,
25 abduction, coercion or intimidation or by force and violence or threat
26 thereof;

27 (3) knowingly refusing or failing to leave any such public building
28 upon being requested to do so by the chief administrative officer, or such
29 officer's designee, charged with maintaining order in such public
30 building, if such person is committing, threatens to commit or incites
31 others to commit, any act which did or would if completed, disrupt,
32 impair, interfere with or obstruct the lawful missions, processes,
33 procedures or functions being carried on in such public building;

34 (4) knowingly impeding, disrupting or hindering the normal
35 proceedings of any meeting or session conducted by any judicial or
36 legislative body or official at any public building by any act of intrusion
37 into the chamber or other areas designated for the use of the body or
38 official conducting such meeting or session, or by any act designed to
39 intimidate, coerce or hinder any member of such body or any official
40 engaged in the performance of duties at such meeting or session; or

41 (5) knowingly impeding, disrupting or hindering, by any act of
42 intrusion into the chamber or other areas designed for the use of any
43 executive body or official, the normal proceedings of such body or

1 official.

2 (b) Aggravated interference with the conduct of public business is
3 interference with the conduct of public business *in public buildings*, as
4 defined in subsection (a), when in possession of any firearm or weapon as
5 described in section 186 or 187 *of chapter 136 of the 2010 Session Laws*
6 *of Kansas*, and amendments thereto.

7 (c) (1) Interference with the conduct of public business in public
8 buildings is a class A nonperson misdemeanor:

9 (2) Aggravated interference with the conduct of public business is a
10 level 6, person felony.

11 Sec. 43. Section 158 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 158. (a) There is
13 hereby created within the office of the attorney general a medicaid fraud
14 and abuse division.

15 (b) The medicaid fraud and abuse division shall be the same entity to
16 which all cases of suspected medicaid fraud shall be referred by the
17 department of social and rehabilitation services, or its fiscal agent, for the
18 purpose of investigation, criminal prosecution or referral to the district or
19 county attorney for criminal prosecution.

20 (c) In carrying out these responsibilities, the attorney general shall
21 have:

22 (1) All the powers necessary to comply with the federal laws and
23 regulations relative to the operation of the medicaid fraud and abuse
24 division;

25 (2) the power to investigate and criminally prosecute violations of
26 sections 150 through 161 *of chapter 136 of the 2010 Session Laws of*
27 *Kansas*, and amendments thereto;

28 (3) the power to cross-designate assistant United States attorneys as
29 assistant attorneys general;

30 (4) the power to issue, serve or cause to be issued or served
31 subpoenas or other process in aid of investigations and prosecutions;

32 (5) the power to administer oaths and take sworn statements under
33 penalty of perjury;

34 (6) the power to serve and execute in any county, search warrants
35 which relate to investigations authorized by ~~this act~~ *sections 150 through*
36 *161 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
37 *thereto*; and

38 (7) the powers of a district or county attorney.

39 Sec. 44. Section 159 of chapter 136 of the 2010 Session Laws of
40 Kansas is hereby amended to read as follows: Sec. 159. (a) The attorney
41 general shall be allowed access to all records held by a provider:

42 (1) That are directly related to an alleged violation of ~~this act~~
43 *sections 150 through 161 of chapter 136 of the 2010 Session Laws of*

1 *Kansas. and amendments thereto*, and which are necessary for the
2 purpose of investigating whether any person may have violated ~~sections~~
3 ~~150 through 161, and amendments thereto~~ *such statutes*; or

4 (2) for use or potential use in any legal, administrative or judicial
5 proceeding pursuant to sections 150 through 161 *of chapter 136 of the*
6 *2010 Session Laws of Kansas*, and amendments thereto.

7 (b) No person holding such records may refuse to provide the
8 attorney general with access to such records on the basis that release
9 would violate any:

10 (1) ~~Any~~ Recipient's right of privacy;

11 (2) ~~any~~ recipient's privilege against disclosure or use; or

12 (3) ~~any~~ professional or other privilege or right.

13 (c) The disclosure of patient information as required by sections 150
14 through 161 *of chapter 136 of the 2010 Session Laws of Kansas*, and
15 amendments thereto, shall not subject any provider to liability for breach
16 of any confidential relationship between a patient and a provider.

17 (d) Notwithstanding K.S.A. 60-427, and amendments thereto, there
18 shall be no privilege preventing the furnishing of such information or
19 reports as required by sections 150 through 161 *of chapter 136 of the*
20 *2010 Session Laws of Kansas*, and amendments thereto, by any person.

21 Sec. 45. Section 164 of chapter 136 of the 2010 Session Laws of
22 Kansas is hereby amended to read as follows: Sec. 164. (a) Fraudulent
23 acts relating to aircraft identification numbers is knowingly:

24 (1) Buying, receiving, disposing of, distributing, concealing,
25 operating, or having in possession or attempting to buy, receive, dispose
26 of, distribute, conceal, operate, or possess, by any person, firm, business
27 or corporation of any aircraft or part thereof on which the identification
28 numbers do not meet the requirements of the federal aviation regulations;
29 or

30 (2) possessing, manufacturing, *or* distributing any counterfeit
31 manufacturer's aircraft identification number plate or decal used for the
32 purpose of identification of any aircraft or authorizing, directing, aiding
33 in exchange or giving away any such counterfeit manufacturer's aircraft
34 identification number plate or decal.

35 (b) Fraudulent acts relating to aircraft identification numbers is a
36 severity level 8, nonperson felony.

37 (c) The failure to have aircraft identification numbers clearly
38 displayed on the aircraft and in compliance with federal aviation
39 regulations is probable cause for any law enforcement officer in this state
40 to make further inspection of the aircraft in question to ascertain its true
41 identity. A law enforcement officer is authorized to inspect an aircraft for
42 identification numbers:

43 (1) When it is located on public property;

1 (2) upon consent of the owner of the private property on which the
2 aircraft is stored; or

3 (3) when otherwise authorized by law.

4 Sec. 46. Section 177 of chapter 136 of the 2010 Session Laws of
5 Kansas is hereby amended to read as follows: Sec. 177. (a) Identity theft
6 is obtaining, possessing, transferring, using, selling or purchasing any
7 personal identifying information, or document containing the same,
8 belonging to or issued to another person, with the intent to defraud that
9 person, or any one else, in order to receive any benefit.

10 (b) Identity fraud is:

11 (1) Using or supplying information the person knows to be false in
12 order to obtain a document containing any personal identifying
13 information; or

14 (2) altering, amending, counterfeiting, making, manufacturing or
15 otherwise replicating any document containing personal identifying
16 information with the intent to deceive;

17 (c) (1) Identity theft is a:

18 (A) Severity level 8, nonperson felony, except as provided in
19 subsection (c)(1)(B); and

20 (B) ~~is a~~ severity level 5, nonperson felony if the monetary loss to the
21 victim or victims is more than \$100,000.

22 (2) Identity fraud is a severity level 8, nonperson felony.

23 (d) It is not a defense that the person did not know that such personal
24 identifying information belongs to another person, or that the person to
25 whom such personal identifying information belongs or was issued is
26 deceased.

27 (e) As used in this section "personal identifying information"
28 includes, but is not limited to, the following:

29 (1) Name;

30 (2) birth date;

31 (3) address;

32 (4) telephone number;

33 (5) driver's license number or card or nondriver's identification
34 number or card;

35 (6) social security number or card;

36 (7) place of employment;

37 (8) employee identification numbers or other personal identification
38 numbers or cards;

39 (9) mother's maiden name;

40 (10) birth, death or marriage certificates;

41 (11) electronic identification numbers;

42 (12) electronic signatures; and

43 (13) any financial number, or password that can be used to access a

1 person's financial resources, including, but not limited to, checking or
2 savings accounts, credit or debit card information, demand deposit or
3 medical information.

4 Sec. 47. Section 183 of chapter 136 of the 2010 Session Laws of
5 Kansas is hereby amended to read as follows: Sec. 183. (a) Criminal
6 desecration is:

7 (1) Knowingly obtaining or attempting to obtain unauthorized
8 control of a dead body or remains of any human being or the coffin, urn
9 or other article containing a dead body or remains of any human being; or

10 (2) recklessly, by means other than by fire or explosive:

11 (A) Damaging, defacing or destroying the flag, ensign or other
12 symbol of the United States or this state in which another has a property
13 interest without the consent of such other person;

14 (B) damaging, defacing or destroying any public monument or
15 structure;

16 (C) damaging, defacing or destroying any tomb, monument,
17 memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other
18 property in a cemetery; or

19 (D) damaging, defacing or destroying any place of worship.

20 (b) ~~(+)~~ Criminal desecration as defined in:

21 (1) Subsections (a)(2)(B), (a)(2)(C) ~~and~~ (a)(2)(D) if the property
22 is damaged to the extent of:

23 (A) \$25,000 or more is a severity level 7, nonperson felony;

24 (B) at least \$1,000 but less than \$25,000 is a severity level 9,
25 nonperson felony; and

26 (C) ~~if the property is damaged to the extent of less than \$1,000 is a~~
27 ~~class A nonperson misdemeanor; and~~

28 (2) ~~Criminal desecration as defined in~~ subsections (a)(1) ~~and~~ (a)
29 (2)(A) is a class A nonperson misdemeanor.

30 Sec. 48. Section 186 of chapter 136 of the 2010 Session Laws of
31 Kansas is hereby amended to read as follows: Sec. 186. (a) Criminal use
32 of weapons is knowingly:

33 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
34 sand club, metal knuckles or throwing star, or any knife, commonly
35 referred to as a switch-blade, which has a blade that opens automatically
36 by hand pressure applied to a button, spring or other device in the handle
37 of the knife, or any knife having a blade that opens or falls or is ejected
38 into position by the force of gravity or by an outward, downward or
39 centrifugal thrust or movement;

40 (2) possessing with intent to use the same unlawfully against
41 another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife,
42 straight-edged razor, stiletto or any other dangerous or deadly weapon or
43 instrument of like character, except that an ordinary pocket knife with no

1 blade more than four inches in length shall not be construed to be a
2 dangerous knife, or a dangerous or deadly weapon or instrument;

3 (3) setting a spring gun;

4 (4) possessing any device or attachment of any kind designed, used
5 or intended for use in suppressing the report of any firearm;

6 (5) selling, manufacturing, purchasing or possessing a shotgun with
7 a barrel less than 18 inches in length, or any firearm designed to
8 discharge or capable of discharging automatically more than once by a
9 single function of the trigger, whether the person knows or has reason to
10 know the length of the barrel or that the firearm is designed or capable of
11 discharging automatically;

12 (6) possessing, manufacturing, causing to be manufactured, selling,
13 offering for sale, lending, purchasing or giving away any cartridge which
14 can be fired by a handgun and which has a plastic-coated bullet that has a
15 core of less than 60% lead by weight, whether the person knows or has
16 reason to know that the plastic-coated bullet has a core of less than 60%
17 lead by weight;

18 (7) selling, giving or otherwise transferring any firearm with a barrel
19 less than 12 inches long to any person under 18 years of age whether the
20 person knows or has reason to know the length of the barrel;

21 (8) selling, giving or otherwise transferring any firearms to any
22 person who is both addicted to and an unlawful user of a controlled
23 substance;

24 (9) selling, giving or otherwise transferring any firearm to any
25 person who is or has been a mentally ill person subject to involuntary
26 commitment for care and treatment, as defined in K.S.A. 59-2946, and
27 amendments thereto, or a person with an alcohol or substance abuse
28 problem subject to involuntary commitment for care and treatment as
29 defined in K.S.A. 59-29b46, and amendments thereto;

30 (10) possession of any firearm by a person who is both addicted to
31 and an unlawful user of a controlled substance;

32 (11) possession of any firearm by any person, other than a law
33 enforcement officer, in or on any school property or grounds upon which
34 is located a building or structure used by a unified school district or an
35 accredited nonpublic school for student instruction or attendance or
36 extracurricular activities of pupils enrolled in kindergarten or any of the
37 grades 1 through 12 or at any regularly scheduled school sponsored
38 activity or event whether the person knows or has reason to know that
39 such person was in or on any such property or grounds;

40 (12) refusal to surrender or immediately remove from school
41 property or grounds or at any regularly scheduled school sponsored
42 activity or event any firearm in the possession of any person, other than a
43 law enforcement officer, when so requested or directed by any duly

- 1 authorized school employee or any law enforcement officer;
- 2 (13) possession of any firearm by a person who is or has been a
3 mentally ill person subject to involuntary commitment for care and
4 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
5 persons with an alcohol or substance abuse problem subject to
6 involuntary commitment for care and treatment as defined in K.S.A. 59-
7 29b46, and amendments thereto; or
- 8 (14) possessing a firearm with a barrel less than 12 inches long by
9 any person less than 18 years of age whether the person knows or has
10 reason to know the length of the barrel.
- 11 (b) Criminal use of weapons as defined in:
- 12 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is
13 a class A nonperson misdemeanor;
- 14 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
15 felony;
- 16 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
17 misdemeanor;
- 18 (4) subsection (a)(13) is a severity level 8, nonperson felony; and
- 19 (5) subsection (a)(14) is a:
- 20 (A) Class A nonperson misdemeanor except as provided in
21 subsection (b)(5)(B);
- 22 (B) severity level 8, nonperson felony upon a second or subsequent
23 conviction.
- 24 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:
- 25 (1) Law enforcement officers, or any person summoned by any such
26 officers to assist in making arrests or preserving the peace while actually
27 engaged in assisting such officer;
- 28 (2) wardens, superintendents, directors, security personnel and
29 keepers of prisons, penitentiaries, jails and other institutions for the
30 detention of persons accused or convicted of crime, while acting within
31 the scope of their authority;
- 32 (3) members of the armed services or reserve forces of the United
33 States or the Kansas national guard while in the performance of their
34 official duty; or
- 35 (4) the manufacture of, transportation to, or sale of weapons to a
36 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
37 such weapons.
- 38 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
39 sells, purchases, possesses or carries a firearm, device or attachment
40 which has been rendered unserviceable by steel weld in the chamber and
41 marriage weld of the barrel to the receiver and which has been registered
42 in the national firearms registration and transfer record in compliance
43 with 26 U.S.C. § 5841 et seq. in the name of such person and, if such

1 person transfers such firearm, device or attachment to another person, has
2 been so registered in the transferee's name by the transferor.

3 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
4 solid plastic bullets.

5 (f) Subsection (a)(4) shall not apply to a law enforcement officer
6 who is:

7 (1) Assigned by the head of such officer's law enforcement agency
8 to a tactical unit which receives specialized, regular training;

9 (2) designated by the head of such officer's law enforcement agency
10 to possess devices described in subsection (a)(4); and

11 (3) in possession of commercially manufactured devices which are:

12 (A) Owned by the law enforcement agency;

13 (B) in such officer's possession only during specific operations; and

14 (C) approved by the bureau of alcohol, tobacco, firearms and
15 explosives of the United States department of justice.

16 (g) Subsections (a)(4), (a)(5) and (a)(6) shall not apply to any person
17 employed by a laboratory which is certified by the United States
18 department of justice, national institute of justice, while actually engaged
19 in the duties of their employment and on the premises of such certified
20 laboratory. Subsections (a)(4), (a)(5) and (a)(6) shall not affect the
21 manufacture of, transportation to or sale of weapons to such certified
22 laboratory.

23 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
24 person or entity in compliance with the national firearms act, 26 U.S.C. §
25 5801 et seq.

26 (i) Subsection (a)(11) shall not apply to:

27 (1) Possession of any firearm in connection with a firearms safety
28 course of instruction or firearms education course approved and
29 authorized by the school;

30 (2) any possession of any firearm specifically authorized in writing
31 by the superintendent of any unified school district or the chief
32 administrator of any accredited nonpublic school;

33 (3) possession of a firearm secured in a motor vehicle by a parent,
34 guardian, custodian or someone authorized to act in such person's behalf
35 who is delivering or collecting a student; ~~or~~

36 (4) possession of a firearm secured in a motor vehicle by a registered
37 voter who is on the school grounds, which contain a polling place for the
38 purpose of voting during polling hours on an election day; *or*

39 (5) *possession of a handgun by an individual who is licensed by the*
40 *attorney general to carry a concealed handgun under K.S.A. 2010 Supp.*
41 *75-7c01 et seq., and amendments thereto.*

42 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
43 received a certificate of restoration pursuant to K.S.A. ~~2009~~2010 Supp.

1 75-7c26, and amendments thereto.

2 (k) Subsection (a)(14) shall not apply if such person, less than 18
3 years of age, was:

4 (1) In attendance at a hunter's safety course or a firearms safety
5 course;

6 (2) engaging in practice in the use of such firearm or target shooting
7 at an established range authorized by the governing body of the
8 jurisdiction in which such range is located;

9 (3) engaging in an organized competition involving the use of such
10 firearm, or participating in or practicing for a performance by an
11 organization exempt from federal income tax pursuant to section 501(c)
12 (3) of the internal revenue code of 1986 which uses firearms as a part of
13 such performance;

14 (4) hunting or trapping pursuant to a valid license issued to such
15 person pursuant to article 9 of chapter 32 of the Kansas Statutes
16 Annotated, and amendments thereto;

17 (5) traveling with any such firearm in such person's possession being
18 unloaded to or from any activity described in subsections (k)(1) through
19 (k)(4), only if such firearm is secured, unloaded and outside the
20 immediate access of such person;

21 (6) on real property under the control of such person's parent, legal
22 guardian or grandparent and who has the permission of such parent, legal
23 guardian or grandparent to possess such firearm; or

24 (7) at such person's residence and who, with the permission of such
25 person's parent or legal guardian, possesses such firearm for the purpose
26 of exercising the rights contained in sections 21, 22 or 23 of chapter 136
27 of the 2010 Session Laws of Kansas, and amendments thereto.

28 *(l) Subsection (a)(1) shall not apply to any ordinary pocket knife*
29 *which has a spring, detent or other device which creates a bias towards*
30 *closure of the blade and which requires hand pressure applied to such*
31 *spring, detent or device through the blade of the knife to overcome the*
32 *bias towards closure to assist in the opening of the knife.*

33 \oplus (m) As used in this section, "throwing star" means any instrument,
34 without handles, consisting of a metal plate having three or more
35 radiating points with one or more sharp edges and designed in the shape
36 of a polygon, trefoil, cross, star, diamond or other geometric shape,
37 manufactured for use as a weapon for throwing.

38 Sec. 49. Section 187 of chapter 136 of the 2010 Session Laws of
39 Kansas is hereby amended to read as follows: Sec. 187. (a) Criminal
40 carrying of a weapon is knowingly carrying:

41 (1) Any bludgeon, sandclub, metal knuckles or throwing star, or any
42 knife, commonly referred to as a switch-blade, which has a blade that
43 opens automatically by hand pressure applied to a button, spring or other

1 device in the handle of the knife, or any knife having a blade that opens
2 or falls or is ejected into position by the force of gravity or by an
3 outward, downward or centrifugal thrust or movement;

4 (2) concealed on one's person, a dagger, dirk, billy, blackjack,
5 slungshot, dangerous knife, straight-edged razor, stiletto or any other
6 dangerous or deadly weapon or instrument of like character, except that
7 an ordinary pocket knife with no blade more than four inches in length
8 shall not be construed to be a dangerous knife, or a dangerous or deadly
9 weapon or instrument;

10 (3) on one's person or in any land, water or air vehicle, with intent to
11 use the same unlawfully, a tear gas or smoke bomb or projector or any
12 object containing a noxious liquid, gas or substance;

13 (4) any pistol, revolver or other firearm concealed on one's person
14 except when on the person's land or in the person's abode or fixed place
15 of business; or

16 (5) a shotgun with a barrel less than 18 inches in length or any other
17 firearm designed to discharge or capable of discharging automatically
18 more than once by a single function of the trigger whether the person
19 knows or has reason to know the length of the barrel or that the firearm is
20 designed or capable of discharging automatically.

21 (b) Criminal carrying of a weapon as defined in:

22 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson
23 misdemeanor; and

24 (2) subsection (a)(5) is a severity level 9, nonperson felony.

25 (c) Subsection (a) shall not apply to:

26 (1) Law enforcement officers, or any person summoned by any such
27 officers to assist in making arrests or preserving the peace while actually
28 engaged in assisting such officer;

29 (2) wardens, superintendents, directors, security personnel and
30 keepers of prisons, penitentiaries, jails and other institutions for the
31 detention of persons accused or convicted of crime, while acting within
32 the scope of their authority;

33 (3) members of the armed services or reserve forces of the United
34 States or the Kansas national guard while in the performance of their
35 official duty; or

36 (4) the manufacture of, transportation to, or sale of weapons to a
37 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
38 such weapons.

39 (d) Subsection (a)(4) shall not apply to:

40 (1) Watchmen, while actually engaged in the performance of the
41 duties of their employment;

42 (2) licensed hunters or fishermen, while engaged in hunting or
43 fishing;

1 (3) private detectives licensed by the state to carry the firearm
2 involved, while actually engaged in the duties of their employment;

3 (4) detectives or special agents regularly employed by railroad
4 companies or other corporations to perform full-time security or
5 investigative service, while actually engaged in the duties of their
6 employment;

7 (5) the state fire marshal, the state fire marshal's deputies or any
8 member of a fire department authorized to carry a firearm pursuant to
9 K.S.A. 31-157, and amendments thereto, while engaged in an
10 investigation in which such fire marshal, deputy or member is authorized
11 to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;

12 (6) special deputy sheriffs described in K.S.A. 19-827, and
13 amendments thereto, who have satisfactorily completed the basic course
14 of instruction required for permanent appointment as a part-time law
15 enforcement officer under K.S.A. 74-5607a, and amendments thereto;

16 (7) the United States attorney for the district of Kansas, the attorney
17 general, any district attorney or county attorney, any assistant United
18 States attorney if authorized by the United States attorney for the district
19 of Kansas, any assistant attorney general if authorized by the attorney
20 general, or any assistant district attorney or assistant county attorney if
21 authorized by the district attorney or county attorney by whom such
22 assistant is employed. The provisions of this paragraph shall not apply to
23 any person not in compliance with K.S.A. 75-7c19, and amendments
24 thereto; or

25 (8) any person carrying a concealed ~~weapon~~ handgun as authorized
26 by K.S.A. ~~2009~~2010 Supp. 75-7c01 through 75-7c17, and amendments
27 thereto.

28 (e) Subsection (a)(5) shall not apply to:

29 (1) Any person who sells, purchases, possesses or carries a firearm,
30 device or attachment which has been rendered unserviceable by steel
31 weld in the chamber and marriage weld of the barrel to the receiver and
32 which has been registered in the national firearms registration and
33 transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name
34 of such person and, if such person transfers such firearm, device or
35 attachment to another person, has been so registered in the transferee's
36 name by the transferor;

37 (2) any person employed by a laboratory which is certified by the
38 United States department of justice, national institute of justice, while
39 actually engaged in the duties of their employment and on the premises of
40 such certified laboratory. Subsection (a)(5) shall not affect the
41 manufacture of, transportation to or sale of weapons to such certified
42 laboratory; or

43 (3) any person or entity in compliance with the national firearms act,

1 26 U.S.C. § 5801 et seq.

2 (f) *Subsection (a)(1) shall not apply to any ordinary pocket knife*
3 *which has a spring, detent or other device which creates a bias towards*
4 *closure of the blade and which requires hand pressure applied to such*
5 *spring, detent or device through the blade of the knife to overcome the*
6 *bias towards closure to assist in the opening of the knife.*

7 (g) *It shall not be a violation of this section if a person violates the*
8 *provisions of K.S.A. 2010 Supp. 75-7c03, and amendments thereto, but*
9 *has an otherwise valid license to carry a concealed handgun which is*
10 *issued or recognized by this state.*

11 (h) *As used in this section, "throwing star" means the same as*
12 *prescribed by section 186 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto.*

14 Sec. 50. Section 188 of chapter 136 of the 2010 Session Laws of
15 Kansas is hereby amended to read as follows: Sec. 188. (a) Criminal
16 distribution of firearms to a felon is knowingly:

17 (1) Selling, giving or otherwise transferring any firearm to any
18 person who, within the preceding five years, has been convicted of a
19 felony, other than those specified in subsection (c), under the laws of this
20 or any other jurisdiction or has been released from imprisonment for a
21 felony and was not found to have been in possession of a firearm at the
22 time of the commission of the felony;

23 (2) selling, giving or otherwise transferring any firearm to any
24 person who, within the preceding 10 years, has been convicted of a
25 felony to which this subsection applies, but was not found to have been in
26 possession of a firearm at the time of the commission of the felony, or has
27 been released from imprisonment for such a felony, and has not had the
28 conviction of such felony expunged or been pardoned for such felony; or

29 (3) selling, giving or otherwise transferring any firearm to any
30 person who has been convicted of a felony under the laws of this or any
31 other jurisdiction and was found to have been in possession of a firearm
32 at the time of the commission of the felony.

33 (b) Criminal distribution of firearms to a felon is a class A nonperson
34 misdemeanor.

35 (c) Subsection (a)(2) shall apply to a felony under section 37, section
36 38, section 39, section 40, section 43, subsection (b) or (d) of section 47,
37 subsection (b) or (d) of section 48, subsection (a) or (b) of section 50,
38 subsection (b) of section 55, section 67, subsection (b) of section 68,
39 subsection (b) of section 69, and subsection (b) of section 93 of chapter
40 136 of the 2010 Session Laws of Kansas, and amendments thereto, K.S.A.
41 ~~2009~~2010 Supp. 21-36a05 or 21-36a06, and amendments thereto, or
42 K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414,
43 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-

1 3506, 21-3518, 21-3716, 65-4127a, 65-4127b or 65-4160 through ~~65-~~
2 ~~4164~~ 65-4165, prior to their repeal, or a crime under a law of another
3 jurisdiction which is substantially the same as such felony.

4 (d) It is not a defense that the distributor did not know or have
5 reason to know:

6 (1) The precise felony the recipient committed;

7 (2) that the recipient was in possession of a firearm at the time of the
8 commission of the recipient's prior felony; or

9 (3) that the convictions for such felony have not been expunged or
10 pardoned.

11 Sec. 51. Section 189 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 189. (a) Criminal
13 possession of a firearm by a convicted felon is possession of any firearm
14 by a person who:

15 (1) Has been convicted of a person felony or a violation of K.S.A.
16 ~~2009~~ 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
17 *or any violation of any provision of the uniform controlled substances act*
18 *prior to July 1, 2009*, or a crime under a law of another jurisdiction which
19 is substantially the same as such felony or violation, or was adjudicated a
20 juvenile offender because of the commission of an act which if done by
21 an adult would constitute the commission of a person felony or a
22 violation of K.S.A. ~~2009~~ 2010 Supp. 21-36a01 through 21-36a17, and
23 amendments thereto, *or any violation of any provision of the uniform*
24 *controlled substances act prior to July 1, 2009*, and was found to have
25 been in possession of a firearm at the time of the commission of the
26 crime;

27 (2) ~~possession of any firearm by a person who~~, within the preceding
28 five years has been convicted of a felony, other than those specified in
29 subsection (a)(3)(A), under the laws of Kansas or a crime under a law of
30 another jurisdiction which is substantially the same as such felony, has
31 been released from imprisonment for a felony or was adjudicated as a
32 juvenile offender because of the commission of an act which if done by
33 an adult would constitute the commission of a felony, and was not found
34 to have been in possession of a firearm at the time of the commission of
35 the crime; or

36 (3) ~~possession of any firearm by a person who~~, within the preceding
37 10 years, has been convicted of a:

38 (A) Felony under section 37, section 38, section 39, section 40,
39 section 43, subsection (b) or (d) of section 47, subsection (b) or (d) of
40 section 48, subsection (a) of section 50, subsection (b) of section 55,
41 section 67, subsection (b) of section 68, subsection (b) of section 69,
42 subsection (b) of section 93 *of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto; ~~K.S.A. 2009 Supp. 21-36a05 or 21-~~

1 ~~36a06, and amendments thereto, or K.S.A. 65-4127a, 65-4127b or 65-~~
2 ~~4160 through 65-4164, prior to their repeal~~2010 *Supp. 21-36a03, 21-*
3 *36a05, 21-36a06, 21-36a07 or 21-36a09, and amendments thereto;*
4 *K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414,*
5 *21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-*
6 *3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165*
7 *or 65-7006, prior to their repeal;*; or a crime under a law of another
8 jurisdiction which is substantially the same as such felony, has been
9 released from imprisonment for such felony, or was adjudicated as a
10 juvenile offender because of the commission of an act which if done by
11 an adult would constitute the commission of such felony, was not found
12 to have been in possession of a firearm at the time of the commission of
13 the crime, and has not had the conviction of such crime expunged or been
14 pardoned for such crime; or

15 (B) nonperson felony under the laws of Kansas or a crime under the
16 laws of another jurisdiction which is substantially the same as such
17 nonperson felony, has been released from imprisonment for such
18 nonperson felony or was adjudicated as a juvenile offender because of the
19 commission of an act which if done by an adult would constitute the
20 commission of a nonperson felony, and was found to have been in
21 possession of a firearm at the time of the commission of the crime.

22 (b) Criminal possession of a firearm by a convicted felon is a
23 severity level 8, nonperson felony.

24 Sec. 52. Section 190 of chapter 136 of the 2010 Session Laws of
25 Kansas is hereby amended to read as follows: Sec. 190. (a) Aggravated
26 weapons violation by a convicted felon is a violation of any of the
27 provisions of subsections (a)(1) through (a)(6) of section 186 or section
28 187 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
29 thereto, by a person who:

30 (1) Within five years preceding such violation has been convicted of
31 a nonperson felony under the laws of Kansas or in any other jurisdiction
32 which is substantially the same as such crime or has been released from
33 imprisonment for such nonperson felony; or

34 (2) has been convicted of a person felony under the laws of Kansas
35 or in any other jurisdiction which is substantially the same as such crime
36 or has been released from imprisonment for such crime, and has not had
37 the conviction of such crime expunged or been pardoned for such crime.

38 (b) (1) Aggravated weapons violation *by a convicted felon* is a
39 severity level 9, nonperson felony for a violation of subsections (a)(1)
40 through (a)(5) or subsection (a)(9) of K.S.A. 21-4201, prior to its repeal,
41 or subsection (a)(1) through (a)(3) of section 186 or subsection (a)(1)
42 through (a)(4) of section 187 of chapter 136 of the 2010 Session Laws of
43 Kansas, and amendments thereto.

1 (2) Aggravated weapons violation *by a convicted felon* is a severity
2 level 8, nonperson felony for a violation of subsections (a)(6), (a)(7) and
3 (a)(8) of K.S.A. 21-4201, prior to its repeal, or subsection (a)(4) through
4 (a)(6) of section 186 or subsection (a)(5) of section 187 *of chapter 136 of*
5 *the 2010 Session Laws of Kansas*, and amendments thereto.

6 Sec. 53. Section 192 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 192. (a) Upon
8 conviction of a violation or upon adjudication as a juvenile offender for a
9 violation of *subsections (a)(1) through (a)(6) or (a)(10) through (a)(14)*
10 *of section 186, section 187, section 189, section 190 or subsection (a)(1)*
11 *or (a)(2) of section 193 of chapter 136 of the 2010 Session Laws of*
12 *Kansas*, and amendments thereto, any weapon seized in connection
13 therewith shall remain in the custody of the trial court.

14 (b) Any stolen weapon so seized and detained, when no longer
15 needed for evidentiary purposes, shall be returned to the person entitled
16 to possession, if known. All other confiscated weapons when no longer
17 needed for evidentiary purposes, shall in the discretion of the trial court,
18 be:

19 (1) Destroyed;

20 (2) forfeited to the law enforcement agency seizing the weapon for
21 use within such agency, for sale to a properly licensed federal firearms
22 dealer, for trading to a properly licensed federal firearms dealer for other
23 new or used firearms or accessories for use within such agency or for
24 trading to another law enforcement agency for that agency's use; or

25 (3) forfeited to the Kansas bureau of investigation for law
26 enforcement, testing, comparison or destruction by the Kansas bureau of
27 investigation forensic laboratory.

28 (c) If weapons are sold as authorized by subsection ~~(2)~~(b), the
29 proceeds of the sale shall be credited to the asset seizure and forfeiture
30 fund of the seizing agency.

31 Sec. 54. Section 194 of chapter 136 of the 2010 Session Laws of
32 Kansas is hereby amended to read as follows: Sec. 194. (a) It shall be
33 unlawful to possess, with no requirement of a culpable mental state, a
34 firearm on the grounds ~~of or~~ *in any of the following places*:

35 (1) *Within* any building located within the capitol complex;

36 (2) *within* the governor's residence;

37 (3) *on the grounds of or in* any building on the grounds of the
38 governor's residence;

39 (4) *within* any other state-owned or leased building if the secretary
40 of administration has so designated by rules and regulations and
41 conspicuously placed signs clearly stating that firearms are prohibited
42 within such building; or

43 (5) *within* any county courthouse, unless, by county resolution, the

1 board of county commissioners authorize the possession of a firearm
2 within such courthouse.

3 (b) Violation of this section is a class A misdemeanor.

4 (c) This section shall not apply to:

5 (1) A commissioned law enforcement officer;

6 (2) a full-time salaried law enforcement officer of another state or
7 the federal government who is carrying out official duties while in this
8 state;

9 (3) any person summoned by any such officer to assist in making
10 arrests or preserving the peace while actually engaged in assisting such
11 officer; or

12 (4) a member of the military of this state or the United States
13 engaged in the performance of duties.

14 (d) It is not a violation of this section for the:

15 (1) Governor, the governor's immediate family, or specifically
16 authorized guest of the governor to possess a firearm within the
17 governor's residence or on the grounds of or in any building on the
18 grounds of the governor's residence; or

19 (2) United States attorney for the district of Kansas, the attorney
20 general, any district attorney or county attorney, any assistant United
21 States attorney if authorized by the United States attorney for the district
22 of Kansas, any assistant attorney general if authorized by the attorney
23 general, or any assistant district attorney or assistant county attorney if
24 authorized by the district attorney or county attorney by whom such
25 assistant is employed, to possess a firearm within any county courthouse
26 and court-related facility, subject to any restrictions or prohibitions
27 imposed in any courtroom by the chief judge of the judicial district. The
28 provisions of this paragraph shall not apply to any person not in
29 compliance with K.S.A. ~~2009~~2010 Supp. 75-7c19, and amendments
30 thereto.

31 (e) Notwithstanding the provisions of this section, any county may
32 elect by passage of a resolution that the provisions of subsection (d)(2)
33 shall not apply to such county's courthouse or court-related facilities if
34 such:

35 (1) Facilities have adequate security measures to ensure that no
36 weapons are permitted to be carried into such facilities;

37 (2) facilities have adequate measures for storing and securing
38 lawfully carried weapons, including, but not limited to, the use of gun
39 lockers or other similar storage options;

40 (3) county also has a policy or regulation requiring all law
41 enforcement officers to secure and store such officer's firearm upon
42 entering the courthouse or court-related facility. Such policy or regulation
43 may provide that it does not apply to court security or sheriff's office

1 personnel for such county; and

2 (4) facilities have a sign conspicuously posted at each entryway into
3 such facility stating that the provisions of subsection (d)(2) do not apply
4 to such facility.

5 (f) As used in this section:

6 (1) "Adequate security measures" means the use of electronic
7 equipment and personnel to detect and restrict the carrying of any
8 weapons into the facility, including, but not limited to, metal detectors,
9 metal detector wands or any other equipment used for similar purposes;

10 (2) "possession" means having joint or exclusive control over a
11 firearm or having a firearm in a place where the person has some measure
12 of access and right of control; and

13 (3) "capitol complex" means the same as in K.S.A. 75-4514, and
14 amendments thereto.

15 (g) *For the purposes of subsection (a)(1), (a)(4) and (a)(5),*
16 *"building" and "courthouse" shall not include any structure, or any area*
17 *of any structure, designated for the parking of motor vehicles.*

18 Sec. 55. Section 198 of chapter 136 of the 2010 Session Laws of
19 Kansas is hereby amended to read as follows: Sec. 198. As used in
20 sections 198 through 201 *of chapter 136 of the 2010 Session Laws of*
21 *Kansas*, and amendments thereto:

22 (a) "Criminal street gang" means any organization, association or
23 group, whether formal or informal:

24 (1) Consisting of three or more persons;

25 (2) having as one of its primary activities the commission of one or
26 more person felonies, person misdemeanors, felony violations of K.S.A.
27 ~~2009~~2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
28 *any felony violation of any provision of the uniform controlled substances*
29 *act prior to July 1, 2009*, or the comparable juvenile offenses, which if
30 committed by an adult would constitute the commission of such felonies
31 or misdemeanors;

32 (3) which has a common name or common identifying sign or
33 symbol; and

34 (4) whose members, individually or collectively, engage in or have
35 engaged in the commission, attempted commission, conspiracy to commit
36 or solicitation of two or more person felonies, person misdemeanors,
37 felony violations of K.S.A. ~~2009~~2010 Supp. 21-36a01 through 21-36a17,
38 and amendments thereto, *any felony violation of any provision of the*
39 *uniform controlled substances act prior to July 1, 2009*, or the
40 comparable juvenile offenses, which if committed by an adult would
41 constitute the commission of such felonies or misdemeanors or any
42 substantially similar offense from another jurisdiction;

43 (b) "criminal street gang member" is a person who:

- 1 (1) Admits to criminal street gang membership; or
2 (2) meets three or more of the following criteria:
3 (A) Is identified as a criminal street gang member by a parent or
4 guardian;
5 (B) is identified as a criminal street gang member by a state, county
6 or city law enforcement officer or correctional officer or documented
7 reliable informant;
8 (C) is identified as a criminal street gang member by an informant of
9 previously untested reliability and such identification is corroborated by
10 independent information;
11 (D) resides in or frequents a particular criminal street gang's area
12 and adopts such gang's style of dress, color, use of hand signs or tattoos,
13 and associates with known criminal street gang members;
14 (E) has been arrested more than once in the company of identified
15 criminal street gang members for offenses which are consistent with usual
16 criminal street gang activity;
17 (F) is identified as a criminal street gang member by physical
18 evidence including, but not limited to, photographs or other
19 documentation;
20 (G) has been stopped in the company of known criminal street gang
21 members two or more times; or
22 (H) has participated in or undergone activities self-identified or
23 identified by a reliable informant as a criminal street gang initiation
24 ritual;
25 (c) "criminal street gang activity" means the commission or
26 attempted commission of, or solicitation or conspiracy to commit, one or
27 more person felonies, person misdemeanors, felony violations of K.S.A.
28 ~~20092010~~ Supp. 21-36a01 through 21-36a17, and amendments thereto,
29 *any felony violation of any provision of the uniform controlled substances*
30 *act prior to July 1, 2009*, or the comparable juvenile offenses, which if
31 committed by an adult would constitute the commission of such felonies
32 or misdemeanors on separate occasions;
33 (d) "criminal street gang associate" means a person who:
34 (1) Admits to criminal street gang association; or
35 (2) meets two or more defining criteria for criminal street gang
36 membership described in subsection (b)(2); and
37 (e) for purposes of law enforcement identification and tracking only
38 "gang-related incident" means an incident that, upon investigation, meets
39 any of the following conditions:
40 (1) The participants are identified as criminal street gang members
41 or criminal street gang associates, acting, individually or collectively, to
42 further any criminal purpose of the gang;
43 (2) a state, county or city law enforcement officer or correctional

1 officer or reliable informant identifies an incident as criminal street gang
2 activity; or

3 (3) an informant of previously untested reliability identifies an
4 incident as criminal street gang activity and it is corroborated by
5 independent information.

6 Sec. 56. Section 209 of chapter 136 of the 2010 Session Laws of
7 Kansas is hereby amended to read as follows: Sec. 209. (a) Unlawful
8 possession or use of a traffic control signal preemption device is
9 knowingly:

10 (1) Possessing a traffic control signal preemption device;

11 (2) using a traffic control signal preemption device;

12 (3) selling a traffic control signal preemption device; or

13 (4) purchasing a traffic control signal preemption device.

14 (b) ~~A person convicted of violating subsection (a)(1) shall be guilty~~
15 ~~of a class B misdemeanor.~~ *Unlawful possession or use of a traffic control*
16 *signal preemption device as defined in:*

17 (1) *Subsection (a)(1) is a class B misdemeanor;*

18 (2) *subsection (a)(2):*

19 (A) *Is a severity level 9, nonperson felony, except as provided in*
20 *subsection (b)(2)(B) or (b)(2)(C);*

21 (B) *which results in a traffic accident causing injury to any person*
22 *or damage to any vehicle or other property is a severity level 7, person*
23 *felony; and*

24 (C) *which results in a traffic accident causing the death of any*
25 *person is a severity level 5, person felony.*

26 (3) *Subsection (a)(3) or (a)(4) is a severity level 9, nonperson*
27 *felony.*

28 (c) The provisions of this section shall not apply to the operator,
29 passenger or owner of any of the following authorized emergency
30 vehicles, in the course of such person's emergency duties:

31 (1) Publicly owned fire department vehicles;

32 (2) publicly owned police vehicles; or

33 (3) motor vehicles operated by ambulance services permitted by the
34 emergency medical services board under the provisions of K.S.A. 65-
35 6101 et seq., and amendments thereto.

36 (d) As used in this section, "traffic control signal preemption device"
37 means any device, instrument or mechanism designed, intended or used
38 to interfere with the operation or cycle of a traffic-control signal, as
39 defined in K.S.A. 8-1478, and amendments thereto.

40 (e) A person who violates the provisions of this section may also be
41 prosecuted for, convicted of, and punished for battery or any homicide.

42 Sec. 57. Section 212 of chapter 136 of the 2010 Session Laws of
43 Kansas is hereby amended to read as follows: Sec. 212. (a) Promoting

1 obscenity is recklessly:

2 (1) Manufacturing, mailing, transmitting, publishing, distributing,
3 presenting, exhibiting or advertising any obscene material or obscene
4 device;

5 (2) possessing any obscene material or obscene device with intent to
6 mail, transmit, publish, distribute, present, exhibit or advertise such
7 material or device;

8 (3) offering or agreeing to manufacture, mail, transmit, publish,
9 distribute, present, exhibit or advertise any obscene material or obscene
10 device; or

11 (4) producing, presenting or directing an obscene performance or
12 participating in a portion thereof which is obscene or which contributes to
13 its obscenity.

14 (b) Promoting obscenity to minors is promoting obscenity, as
15 defined in subsection (a), where a recipient of the obscene material or
16 obscene device or a member of the audience of an obscene performance
17 is a child under the age of 18 years.

18 (c) (1) Promoting obscenity is a:

19 (A) Class A nonperson misdemeanor, except as provided in (c)(1)
20 (B); and

21 (B) severity level 9, person felony upon a second or subsequent
22 conviction.

23 (2) Promoting obscenity to minors is a:

24 (A) Class A nonperson misdemeanor, except as provided in (c)(2)
25 (B); and

26 (B) severity level 8, person felony upon a second or subsequent
27 conviction.

28 (3) Conviction of a violation of a municipal ordinance prohibiting
29 acts which constitute promoting obscenity or promoting obscenity to
30 minors shall be considered a conviction of promoting obscenity or
31 promoting obscenity to minors for the purpose of determining the number
32 of prior convictions and the classification of the crime under this section.

33 (d) Upon any conviction of promoting obscenity or promoting
34 obscenity to minors, the court may require, in addition to any fine or
35 imprisonment imposed, that the defendant enter into a reasonable
36 recognizance with good and sufficient surety, in such sum as the court
37 may direct, but not to exceed \$50,000, conditioned that, in the event the
38 defendant is convicted of a subsequent offense of promoting obscenity *or*
39 *promoting obscenity to minors* within two years after such conviction, the
40 defendant shall forfeit the recognizance.

41 (e) Evidence that materials or devices were promoted to emphasize
42 their prurient appeal shall be relevant in determining the question of the
43 obscenity of such materials or devices. There shall be a rebuttable

1 presumption that a person promoting obscene materials or obscene
2 devices did so knowingly or recklessly if:

3 (1) The materials or devices were promoted to emphasize their
4 prurient appeal; or

5 (2) the person is not a wholesaler and promotes the materials or
6 devices in the course of the person's business.

7 (f) As used in this section:

8 (1) Any material or performance is "obscene" if:

9 (A) The average person applying contemporary community
10 standards would find that the material or performance, taken as a whole,
11 appeals to the prurient interest;

12 (B) the average person applying contemporary community standards
13 would find that the material or performance has patently offensive
14 representations or descriptions of:

15 (i) Ultimate sexual acts, normal or perverted, actual or simulated,
16 including sexual intercourse or sodomy; or

17 (ii) masturbation, excretory functions, sadomasochistic abuse or
18 lewd exhibition of the genitals; and

19 (C) taken as a whole, a reasonable person would find that the
20 material or performance lacks serious literary, educational, artistic,
21 political or scientific value;

22 (2) "material" means any tangible thing which is capable of being
23 used or adapted to arouse interest, whether through the medium of
24 reading, observation, sound or other manner;

25 (3) "obscene device" means a device, including a dildo or artificial
26 vagina, designed or marketed as useful primarily for the stimulation of
27 human genital organs, except such devices disseminated or promoted for
28 the purpose of medical or psychological therapy;

29 (4) "performance" means any play, motion picture, dance or other
30 exhibition performed before an audience;

31 (5) "sexual intercourse" and "sodomy" mean the same as in section
32 *65 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
33 thereto; and

34 (6) "wholesaler" means a person who distributes or offers for
35 distribution obscene materials or devices only for resale and not to the
36 consumer and who does not manufacture, publish or produce such
37 materials or devices.

38 (g) It shall be a defense to a prosecution for promoting obscenity and
39 promoting obscenity to minors that the:

40 (1) Persons to whom the allegedly obscene material or obscene
41 device was disseminated, or the audience to an allegedly obscene
42 performance, consisted of persons or institutions having scientific,
43 educational or governmental justification for possessing or viewing the

1 same;

2 (2) defendant is an officer, director, trustee or employee of a public
3 library and the allegedly obscene material was acquired by such library
4 and was disseminated in accordance with regular library policies
5 approved by its governing body; or

6 (3) allegedly obscene material or obscene device was purchased,
7 leased or otherwise acquired by a public, private or parochial school,
8 college or university, and that such material or device was either sold,
9 leased, distributed or disseminated by a teacher, instructor, professor or
10 other faculty member or administrator of such school as part of or
11 incidental to an approved course or program of instruction at such school.

12 (h) Notwithstanding the provisions of section 15 of *chapter 136 of*
13 *the 2010 Session Laws of Kansas*, and amendments thereto, to the
14 contrary, it shall be an affirmative defense to any prosecution for
15 promoting obscenity to minors that:

16 (1) The defendant had reasonable cause to believe that the minor
17 involved was 18 years old or over, and such minor exhibited to the
18 defendant a draft card, driver's license, birth certificate or other official or
19 apparently official document purporting to establish that such minor was
20 18 years old or more; or

21 (2) an exhibition in a state of nudity is for a bona fide scientific or
22 medical purpose, or for an educational or cultural purpose for a bona fide
23 school, museum or library.

24 (i) The provisions of this section and the provisions of ordinances of
25 any city prescribing a criminal penalty for exhibit of any obscene motion
26 picture shown in a commercial showing to the general public shall not
27 apply to a projectionist, or assistant projectionist, if such projectionist or
28 assistant projectionist has no financial interest in the show or in its place
29 of presentation other than regular employment as a projectionist or
30 assistant projectionist and no personal knowledge of the contents of the
31 motion picture. The provisions of this section shall not exempt any
32 projectionist or assistant projectionist from criminal liability for any act
33 unrelated to projection of motion pictures in commercial showings to the
34 general public.

35 Sec. 58. Section 223 of chapter 136 of the 2010 Session Laws of
36 Kansas is hereby amended to read as follows: Sec. 223. (a) Cruelty to
37 animals is:

38 (1) Knowingly and maliciously killing, injuring, maiming, torturing,
39 burning or mutilating any animal;

40 (2) knowingly abandoning any animal in any place without making
41 provisions for its proper care;

42 (3) having physical custody of any animal and knowingly failing to
43 provide such food, potable water, protection from the elements,

1 opportunity for exercise and other care as is needed for the health or well-
2 being of such kind of animal;

3 (4) intentionally using a wire, pole, stick, rope or any other object to
4 cause an equine to lose its balance or fall, for the purpose of sport or
5 entertainment;

6 (5) knowingly but not maliciously killing or injuring any animal; or

7 (6) administering any poison to any domestic animal.

8 (b) Cruelty to animals as defined in:

9 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon
10 conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to
11 not less than 30 days or more than one year's imprisonment and be fined
12 not less than \$500 nor more than \$5,000. The person convicted shall not
13 be eligible for release on probation, suspension or reduction of sentence
14 or parole until the person has served the minimum mandatory sentence as
15 provided herein. During the mandatory 30 days imprisonment, such
16 offender shall have a psychological evaluation prepared for the court to
17 assist the court in determining conditions of probation. Such conditions
18 shall include, but not be limited to, the completion of an anger
19 management program; and

20 (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) ~~are~~ is a:

21 (A) Class A nonperson misdemeanor, except as provided in
22 subsection (b)(2)(B); and

23 (B) nonperson felony upon the second or subsequent conviction of
24 cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5).
25 Upon such conviction, a person shall be sentenced to not less than five
26 days or more than one year's imprisonment and be fined not less than
27 \$500 nor more than \$2,500. The person convicted shall not be eligible for
28 release on probation, suspension or reduction of sentence or parole until
29 the person has served the minimum mandatory sentence as provided
30 herein.

31 (c) The provisions of this section shall not apply to:

32 (1) Normal or accepted veterinary practices;

33 (2) bona fide experiments carried on by commonly recognized
34 research facilities;

35 (3) killing, attempting to kill, trapping, catching or taking of any
36 animal in accordance with the provisions of chapter 32 or chapter 47 of
37 the Kansas Statutes Annotated, and amendments thereto;

38 (4) rodeo practices accepted by the rodeo cowboys' association;

39 (5) the humane killing of an animal which is diseased or disabled
40 beyond recovery for any useful purpose, or the humane killing of animals
41 for population control, by the owner thereof or the agent of such owner
42 residing outside of a city or the owner thereof within a city if no animal
43 shelter, pound or licensed veterinarian is within the city, or by a licensed

1 veterinarian at the request of the owner thereof, or by any officer or agent
2 of an incorporated humane society, the operator of an animal shelter or
3 pound, a local or state health officer or a licensed veterinarian three
4 business days following the receipt of any such animal at such society,
5 shelter or pound;

6 (6) with respect to farm animals, normal or accepted practices of
7 animal husbandry, including the normal and accepted practices for the
8 slaughter of such animals for food or by-products and the careful or
9 thrifty management of one's herd or animals, including animal care
10 practices common in the industry or region;

11 (7) the killing of any animal by any person at any time which may
12 be found outside of the owned or rented property of the owner or
13 custodian of such animal and which is found injuring or posing a threat to
14 any person, farm animal or property;

15 (8) an animal control officer trained by a licensed veterinarian in the
16 use of a tranquilizer gun, using such gun with the appropriate dosage for
17 the size of the animal, when such animal is vicious or could not be
18 captured after reasonable attempts using other methods;

19 (9) laying an equine down for medical or identification purposes;

20 (10) normal or accepted practices of pest control, as defined in
21 subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

22 (11) accepted practices of animal husbandry pursuant to regulations
23 promulgated by the United States department of agriculture for domestic
24 pet animals under the animal welfare act, public law 89-544, as amended
25 and in effect on July 1, 2006.

26 (d) The provisions of subsection (a)(6) shall not apply to any person
27 exposing poison upon their premises for the purpose of destroying
28 wolves, coyotes or other predatory animals.

29 (e) Any public health officer, law enforcement officer, licensed
30 veterinarian or officer or agent of any incorporated humane society,
31 animal shelter or other appropriate facility may take into custody any
32 animal, upon either private or public property, which clearly shows
33 evidence of cruelty to animals, ~~as defined in this section~~. Such officer,
34 agent or veterinarian may inspect, care for or treat such animal or place
35 such animal in the care of a duly incorporated humane society or licensed
36 veterinarian for treatment, boarding or other care or, if an officer of such
37 humane society or such veterinarian determines that the animal appears to
38 be diseased or disabled beyond recovery for any useful purpose, for
39 humane killing. If the animal is placed in the care of an animal shelter,
40 the animal shelter shall notify the owner or custodian, if known or
41 reasonably ascertainable. If the owner or custodian is charged with a
42 violation of this section, the board of county commissioners in the county
43 where the animal was taken into custody shall establish and approve

1 procedures whereby the animal shelter may petition the district court to
2 be allowed to place the animal for adoption or euthanize the animal at any
3 time after ~~20~~21 days after the owner or custodian is notified or, if the
4 owner or custodian is not known or reasonably ascertainable after ~~20~~21
5 days after the animal is taken into custody, unless the owner or custodian
6 of the animal files a renewable cash or performance bond with the county
7 clerk of the county where the animal is being held, in an amount equal to
8 not less than the cost of care and treatment of the animal for 30 days.
9 Upon receiving such petition, the court shall determine whether the
10 animal may be placed for adoption or euthanized. The board of county
11 commissioners in the county where the animal was taken into custody
12 shall review the cost of care and treatment being charged by the animal
13 shelter maintaining the animal.

14 (f) The owner or custodian of an animal placed for adoption or killed
15 pursuant to subsection (e) shall not be entitled to recover damages for the
16 placement or killing of such animal unless the owner proves that such
17 placement or killing was unwarranted.

18 (g) Expenses incurred for the care, treatment or boarding of any
19 animal, taken into custody pursuant to subsection (e), pending
20 prosecution of the owner or custodian of such animal for the crime of
21 cruelty to animals, shall be assessed to the owner or custodian as a cost of
22 the case if the owner or custodian is adjudicated guilty of such crime.

23 (h) Upon the filing of a sworn complaint by any public health
24 officer, law enforcement officer, licensed veterinarian or officer or agent
25 of any incorporated humane society, animal shelter or other appropriate
26 facility alleging the commission of cruelty to animals, the county or
27 district attorney shall determine the validity of the complaint and shall
28 forthwith file charges for the crime if the complaint appears to be valid.

29 (i) If a person is adjudicated guilty of the crime of cruelty to
30 animals, and the court having jurisdiction is satisfied that an animal
31 owned or possessed by such person would be in the future subjected to
32 such crime, such animal shall not be returned to or remain with such
33 person. Such animal may be turned over to a duly incorporated humane
34 society or licensed veterinarian for sale or other disposition.

35 (j) As used in this section:

36 (1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

37 (2) "maliciously" means a state of mind characterized by actual evil-
38 mindedness or specific intent to do a harmful act without a reasonable
39 justification or excuse.

40 Sec. 59. Section 225 of chapter 136 of the 2010 Session Laws of
41 Kansas is hereby amended to read as follows: Sec. 225. (a) Unlawful
42 conduct of dog fighting is:

43 (1) Causing, for amusement or gain, any dog to fight with or injure

1 another dog;

2 (2) knowingly permitting such fighting or injuring on premises
3 under one's ownership, charge or control; or

4 (3) training, owning, keeping, transporting or selling any dog with
5 the intent of having it fight with or injure another dog.

6 (b) Unlawful possession of dog fighting paraphernalia is possession,
7 with the intent to use in the unlawful conduct of dog fighting, any
8 breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or
9 other paraphernalia.

10 (c) Unlawful attendance of dog fighting is, entering or remaining on
11 the premises where the unlawful conduct of dog fighting is occurring,
12 whether the person knows or has reason to know that dog fighting is
13 occurring on the premises.

14 (d) (1) Unlawful conduct of dog fighting is a severity level 10,
15 nonperson felony.

16 (2) Unlawful possession of dog fighting paraphernalia is a class A
17 nonperson misdemeanor.

18 (3) Unlawful attendance of dog fighting is a class B nonperson
19 misdemeanor.

20 (e) When a person is arrested under this section, a law enforcement
21 agency may take into custody any dog on the premises where the dog
22 fight is alleged to have occurred and any dog owned or kept on the
23 premises of any person arrested for unlawful conduct of dog fighting,
24 unlawful attendance of dog fighting, or unlawful possession of dog
25 fighting paraphernalia.

26 (f) When a law enforcement agency takes custody of a dog under
27 this section, such agency may place the dog in the care of a duly
28 incorporated humane society or licensed veterinarian for boarding,
29 treatment or other care. If it appears to a licensed veterinarian that the dog
30 is diseased or disabled beyond recovery for any useful purpose, such dog
31 may be humanely killed. The dog may be sedated, isolated or restrained if
32 such officer, agent or veterinarian determines it to be in the best interest
33 of the dog, other animals at the animal shelter or personnel of the animal
34 shelter. If the dog is placed in the care of an animal shelter, the board of
35 county commissioners in the county where the animal was taken into
36 custody shall establish and approve procedures whereby the animal
37 shelter may petition the district court to be allowed to place the dog for
38 adoption or euthanize the dog at any time after 2021 days after the dog is
39 taken into custody, unless the owner or custodian of the dog files a
40 renewable cash or performance bond with the county clerk of the county
41 where the dog is being held, in an amount equal to not less than the cost
42 of care and treatment of the dog for 30 days. Upon receiving such
43 petition, the court shall determine whether the dog may be placed for

1 adoption or euthanized. The board of county commissioners in the county
2 where the animal was taken into custody shall review the cost of care and
3 treatment being charged by the animal shelter maintaining the animal.
4 Except as provided in subsection (g), if it appears to the licensed
5 veterinarian by physical examination that the dog has not been trained for
6 aggressive conduct or is a type of dog that is not commonly bred or
7 trained for aggressive conduct, the district or county attorney shall order
8 that the dog be returned to its owner when the dog is not needed as
9 evidence in a case filed under this section or section 223 of chapter 136
10 of the 2010 Session Laws of Kansas, and amendments thereto. The owner
11 or keeper of a dog placed for adoption or humanely killed under this
12 subsection shall not be entitled to damages unless the owner or keeper
13 proves that such placement or killing was unwarranted.

14 (g) If a person is convicted of unlawful conduct of dog fighting,
15 unlawful attendance of dog fighting or unlawful possession of dog
16 fighting paraphernalia, a dog taken into custody pursuant to subsection

17 (e) shall not be returned to such person and the court shall order the
18 owner or keeper to pay to the animal shelter all expenses incurred for the
19 care, treatment and boarding of such dog, including any damages caused
20 by such dog, prior to conviction of the owner or keeper. Disposition of
21 such dog shall be in accordance with section 223 of chapter 136 of the
22 2010 Session Laws of Kansas, and amendments thereto. If no such
23 conviction results, the dog shall be returned to the owner or keeper and
24 the court shall order the county where the dog was taken into custody to
25 pay to the animal shelter all expenses incurred by the shelter for the care,
26 treatment and boarding of such dog, including any damages caused by
27 such dog, prior to its return.

28 (h) A person who violates the provisions of this section may also be
29 prosecuted for, convicted of, and punished for cruelty to animals.

30 Sec. 60. Section 230 of chapter 136 of the 2010 Session Laws of
31 Kansas is hereby amended to read as follows: Sec. 230. (a) Promoting
32 prostitution is knowingly:

33 (1) Establishing, owning, maintaining or managing a house of
34 prostitution, or participating in the establishment, ownership,
35 maintenance or management thereof;

36 (2) permitting any place partially or wholly owned or controlled by
37 the defendant to be used as a house of prostitution;

38 (3) procuring a prostitute for a house of prostitution;

39 (4) inducing another to become a prostitute;

40 (5) soliciting a patron for a prostitute or for a house of prostitution;

41 (6) procuring a prostitute for a patron;

42 (7) procuring transportation for, paying for the transportation of, or
43 transporting a person within this state with the intention of assisting or

1 promoting that person's engaging in prostitution; or

2 (8) being employed to perform any act which is prohibited by this
3 section.

4 (b) (1) Promoting prostitution is a:

5 ~~(1)(A)~~ Class A person misdemeanor when the prostitute is 16 or
6 more years of age, except as provided in subsection ~~(b)(2)(b)(1)(B)~~;

7 ~~(2)(B)~~ severity level 7, person felony when the prostitute is 16 or
8 more years of age and committed by a person who has, prior to the
9 commission of the crime, been convicted of promoting prostitution; *and*

10 ~~(3)(C)~~ severity level 6, person felony when the prostitute is under 16
11 years of age, except as provided in subsection ~~(b)(4); and (b)(2)~~.

12 ~~(4)(b)(2)~~ *Promoting prostitution or attempt, conspiracy or criminal*
13 *solicitation to commit promoting prostitution is an off-grid person felony*
14 *when the offender is 18 years of age or older and the prostitute is less*
15 *than 14 years of age.*

16 (c) *If the offender is 18 years of age or older and the victim is less*
17 *than 14 years of age, the provisions of:*

18 (1) *Subsection (c) of section 33 of chapter 136 of the 2010 Session*
19 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
20 *of attempting to commit the crime of promoting prostitution as described*
21 *in subsection (b)(2);*

22 (2) *subsection (c) of section 34 of chapter 136 of the 2010 Session*
23 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
24 *of conspiracy to commit the crime of promoting prostitution as described*
25 *in subsection (b)(2); and*

26 (3) *subsection (d) of section 35 of chapter 136 of the 2010 Session*
27 *Laws of Kansas, and amendments thereto, shall not apply to a violation*
28 *of criminal solicitation to commit the crime of promoting prostitution as*
29 *described in subsection (b)(2).*

30 Sec. 61. Section 232 of chapter 136 of the 2010 Session Laws of
31 Kansas is hereby amended to read as follows: Sec. 232. (a) Extortion is:

32 (1) Intentionally and wrongfully demanding, soliciting or receiving
33 anything of value from the owner, proprietor or other person having a
34 financial interest in a business; and

35 (2) by means of either a threat, express or implied, or a promise,
36 express or implied, that the person so demanding, soliciting or receiving
37 such thing of value will:

38 (A) Cause the competition of the person from whom the payment is
39 demanded, solicited or received to be diminished or eliminated;

40 (B) cause the price of goods or services purchased or sold in the
41 business to be increased, decreased or maintained at a stated level; or

42 (C) protect the property used in the business or the person or family
43 of the owner, proprietor or other interested person from injury by

1 violence or other unlawful means.

2 (b) ~~Racketeering~~Extortion is a severity level 7, nonperson felony.

3 Sec. 62. Section 242 of chapter 136 of the 2010 Session Laws of
4 Kansas is hereby amended to read as follows: Sec. 242. (a) For the
5 purpose of sentencing, the following classes of misdemeanors and the
6 punishment and the terms of confinement authorized for each class are
7 established:

8 (1) Class A, the sentence for which shall be a definite term of
9 confinement in the county jail which shall be fixed by the court and shall
10 not exceed one year;

11 (2) class B, the sentence for which shall be a definite term of
12 confinement in the county jail which shall be fixed by the court and shall
13 not exceed six months;

14 (3) class C, the sentence for which shall be a definite term of
15 confinement in the county jail which shall be fixed by the court and shall
16 not exceed one month; and

17 (4) unclassified misdemeanors, which shall include all crimes
18 declared to be misdemeanors without specification as to class, the
19 sentence for which shall be in accordance with the sentence specified in
20 the statute that defines the crime; if no penalty is provided in such law,
21 the sentence shall be the same penalty as provided herein for a class C
22 misdemeanor.

23 (b) Upon conviction of a misdemeanor, a person may be punished
24 by a fine, as provided in section ~~†251~~ of chapter 136 of the 2010 Session
25 Laws of Kansas, and amendments thereto, instead of or in addition to
26 confinement, as provided in this section.

27 (c) In addition to or in lieu of any other sentence authorized by law,
28 whenever there is evidence that the act constituting the misdemeanor was
29 substantially related to the possession, use or ingestion of cereal malt
30 beverage or alcoholic liquor by such person, the court may order such
31 person to attend and satisfactorily complete an alcohol or drug education
32 or training program certified by the chief judge of the judicial district or
33 licensed by the secretary of social and rehabilitation services.

34 (d) Except as provided in subsection (e), in addition to or in lieu of
35 any other sentence authorized by law, whenever a person is convicted of
36 having committed, while under 21 years of age, a misdemeanor under
37 K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. ~~2009~~2010 Supp. 21-36a01
38 through 21-36a17, and amendments thereto, the court shall order such
39 person to submit to and complete an alcohol and drug evaluation by a
40 community-based alcohol and drug safety action program certified
41 pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not
42 to exceed the fee established by that statute for such evaluation. If the
43 court finds that the person is indigent, the fee may be waived.

1 (e) If the person is 18 or more years of age but less than 21 years of
2 age and is convicted of a violation of K.S.A. 41-727, and amendments
3 thereto, involving cereal malt beverage, the provisions of subsection (d)
4 are permissive and not mandatory.

5 Sec. 63. Section 243 of chapter 136 of the 2010 Session Laws of
6 Kansas is hereby amended to read as follows: Sec. 243. As used in
7 sections 241 through 256, and sections 271 through 286 *of chapter 136 of*
8 *the 2010 Session Laws of Kansas*, and amendments thereto:

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

11 (b) "community correctional services program" means a program
12 which operates under the community corrections act and to which a
13 defendant is assigned for supervision, confinement, detention, care or
14 treatment, subject to conditions imposed by the court. A defendant
15 assigned to a community correctional services program shall be subject to
16 the continuing jurisdiction of the court and in no event shall be
17 considered to be in the custody of or under the supervision of the
18 secretary of corrections;

19 (c) "correctional institution" means any correctional institution
20 established by the state for the confinement of offenders, and under
21 control of the secretary of corrections;

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

26 (1) Electronic monitoring which requires a transmitter to be worn by
27 the defendant or inmate which broadcasts an encoded signal to the
28 receiver located in the defendant's or inmate's home. The receiver is
29 connected to a central office computer and is notified of any absence of
30 the defendant or inmate; or

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

36 (e) "parole" means the release of a prisoner to the community by the
37 Kansas parole board prior to the expiration of such prisoner's term,
38 subject to conditions imposed by the board and to the secretary of
39 correction's supervision. Parole also means the release by a court of
40 competent jurisdiction of a person confined in the county jail or other
41 local place of detention after conviction and prior to expiration of such
42 person's term, subject to conditions imposed by the court and its
43 supervision. Where a court or other authority has filed a warrant against

1 the prisoner, the Kansas parole board or paroling court may release the
2 prisoner on parole to answer the warrant of such court or authority;

3 (f) "postrelease supervision," for crimes committed on or after July
4 1, 1993, means the same as in section 284 of chapter 136 of the 2010
5 Session Laws of Kansas, and amendments thereto;

6 (g) "probation" means a procedure under which a defendant,
7 convicted of a crime, is released by the court after imposition of sentence,
8 without imprisonment except as provided in felony cases, subject to
9 conditions imposed by the court and subject to the supervision of the
10 probation service of the court or community corrections. In felony cases,
11 the court may include confinement in a county jail not to exceed 60 days,
12 which need not be served consecutively, as a condition of an original
13 probation sentence and up to 60 days in a county jail upon each
14 revocation of the probation sentence pursuant to subsection (b)(3) of
15 section 271 of chapter 136 of the 2010 Session Laws of Kansas, and
16 amendments thereto; and

17 (h) "suspension of sentence" means a procedure under which a
18 defendant, convicted of a crime, is released by the court without
19 imposition of sentence. The release may be with or without supervision in
20 the discretion of the court. In felony cases, the court may include
21 confinement in a county jail not to exceed 60 days, which need not be
22 served consecutively, as a condition of suspension of sentence pursuant to
23 subsection (b)(4) of ~~K.S.A. 21-4603~~ section 271 of chapter 136 of the
24 2010 Session Laws of Kansas, and amendments thereto.

25 Sec. 64. Section 247 of chapter 136 of the 2010 Session Laws of
26 Kansas is hereby amended to read as follows: Sec. 247. (a) Except as
27 required by subsection (c), nothing in this section shall be construed to
28 limit the authority of the court to impose or modify any general or
29 specific conditions of probation, suspension of sentence or assignment to
30 a community correctional services program. The court services officer or
31 community correctional services officer may recommend, and the court
32 may order, the imposition of any conditions of probation, suspension of
33 sentence or assignment to a community correctional services program.
34 For crimes committed on or after July 1, 1993, in presumptive nonprison
35 cases, the court services officer or community correctional services
36 officer may recommend, and the court may order, the imposition of any
37 conditions of probation or assignment to a community correctional
38 services program. The court may at any time order the modification of
39 such conditions, after notice to the court services officer or community
40 correctional services officer and an opportunity for such officer to be
41 heard thereon. The court shall cause a copy of any such order to be
42 delivered to the court services officer and the probationer or to the
43 community correctional services officer and the community corrections

1 participant, as the case may be. The provisions of K.S.A. 75-5291, and
2 amendments thereto, shall be applicable to any assignment to a
3 community correctional services program pursuant to this section.

4 (b) The court may impose any conditions of probation, suspension
5 of sentence or assignment to a community correctional services program
6 that the court deems proper, including, but not limited to, requiring that
7 the defendant:

8 (1) Avoid such injurious or vicious habits, as directed by the court,
9 court services officer or community correctional services officer;

10 (2) avoid such persons or places of disreputable or harmful
11 character, as directed by the court, court services officer or community
12 correctional services officer;

13 (3) report to the court services officer or community correctional
14 services officer as directed;

15 (4) permit the court services officer or community correctional
16 services officer to visit the defendant at home or elsewhere;

17 (5) work faithfully at suitable employment insofar as possible;

18 (6) remain within the state unless the court grants permission to
19 leave;

20 (7) pay a fine or costs, applicable to the offense, in one or several
21 sums and in the manner as directed by the court;

22 (8) support the defendant's dependents;

23 (9) reside in a residential facility located in the community and
24 participate in educational, counseling, work and other correctional or
25 rehabilitative programs;

26 (10) perform community or public service work for local
27 governmental agencies, private corporations organized not for profit, or
28 charitable or social service organizations performing services for the
29 community;

30 (11) perform services under a system of day fines whereby the
31 defendant is required to satisfy fines, costs or reparation or restitution
32 obligations by performing services for a period of days, determined by
33 the court on the basis of ability to pay, standard of living, support
34 obligations and other factors;

35 (12) participate in a house arrest program pursuant to section 249 *of*
36 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
37 thereto;

38 (13) order the defendant to pay the administrative fee authorized by
39 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

40 (14) in felony cases, except for violations of K.S.A. 8-1567, and
41 amendments thereto, be confined in a county jail not to exceed 60 days,
42 which need not be served consecutively.

43 (c) In addition to any other conditions of probation, suspension of

1 sentence or assignment to a community correctional services program, the
2 court shall order the defendant to comply with each of the following
3 conditions:

4 (1) The defendant shall obey all laws of the United States, the state
5 of Kansas and any other jurisdiction to the laws of which the defendant
6 may be subject;

7 (2) make reparation or restitution to the aggrieved party for the
8 damage or loss caused by the defendant's crime, in an amount and manner
9 determined by the court and to the person specified by the court, unless
10 the court finds compelling circumstances which would render a plan of
11 restitution unworkable. If the court finds a plan of restitution unworkable,
12 the court shall state on the record in detail the reasons therefore;

13 (3) (A) pay a ~~probation or community correctional~~
14 ~~services~~ *correctional supervision* fee of ~~\$25~~^{\$60} if the person was
15 convicted of a misdemeanor or a fee of ~~\$50~~^{\$120} if the person was
16 convicted of a felony. In any case the amount of the ~~probation or~~
17 ~~community correctional services~~ *correctional supervision* fee specified by
18 this paragraph may be reduced or waived by the judge if the person is
19 unable to pay that amount;

20 (B) the ~~probation or community correctional services~~ *correctional*
21 *supervision* fee imposed by this paragraph shall be charged and collected
22 by the district court. The clerk of the district court shall remit all revenues
23 received under this paragraph from ~~probation or community correctional~~
24 ~~services~~ *correctional supervision* fees to the state treasurer in accordance
25 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
26 receipt of each such remittance, the state treasurer shall deposit the entire
27 amount in the state treasury to the credit of the state general fund, *a sum*
28 *equal to 41.67% of such remittance, and to the correctional supervision*
29 *fund, a sum equal to 58.33% of such remittance;*

30 (C) *this paragraph shall apply to persons placed on felony or*
31 *misdemeanor probation or released on misdemeanor parole to reside in*
32 *Kansas and supervised by Kansas court services officers under the*
33 *interstate compact for offender supervision; and*

34 ~~(D)~~ (D) this paragraph shall not apply to persons placed on probation
35 or released on parole to reside in Kansas under the uniform act for out-of-
36 state parolee supervision; and

37 (4) reimburse the state general fund for all or a part of the
38 expenditures by the state board of indigents' defense services to provide
39 counsel and other defense services to the defendant. In determining the
40 amount and method of payment of such sum, the court shall take account
41 of the financial resources of the defendant and the nature of the burden
42 that payment of such sum will impose. A defendant who has been
43 required to pay such sum and who is not willfully in default in the

1 payment thereof may at any time petition the court which sentenced the
2 defendant to waive payment of such sum or of any unpaid portion
3 thereof. If it appears to the satisfaction of the court that payment of the
4 amount due will impose manifest hardship on the defendant or the
5 defendant's immediate family, the court may waive payment of all or part
6 of the amount due or modify the method of payment. The amount of
7 attorney fees to be included in the court order for reimbursement shall be
8 the amount claimed by appointed counsel on the payment voucher for
9 indigents' defense services or the amount prescribed by the board of
10 indigents' defense services reimbursement tables as provided in K.S.A.
11 22-4522, and amendments thereto, whichever is less.

12 *(d) There is hereby established in the state treasury the correctional*
13 *supervision fund. All moneys credited to the correctional supervision*
14 *fund shall be used for the implementation of and training for use of a*
15 *statewide, mandatory, standardized risk assessment tool or instrument as*
16 *specified by the Kansas sentencing commission, pursuant to K.S.A. 75-*
17 *5291, and amendments thereto, and for evidence-based offender*
18 *supervision programs by judicial branch personnel. If all expenditures*
19 *for the program have been paid and moneys remain in the correctional*
20 *supervision fund for a fiscal year, remaining moneys may be expended*
21 *from the correctional supervision fund to support offender supervision by*
22 *court services officers. All expenditures from the correctional supervision*
23 *fund shall be made in accordance with appropriation acts upon warrants*
24 *of the director of accounts and reports issued pursuant to vouchers*
25 *approved by the chief justice of the Kansas supreme court or by a person*
26 *or persons designated by the chief justice.*

27 Sec. 65. Section 248 of chapter 136 of the 2010 Session Laws of
28 Kansas is hereby amended to read as follows: Sec. 248. (a) The period of
29 suspension of sentence, probation or assignment to community
30 corrections fixed by the court shall not exceed two years in misdemeanor
31 cases, subject to renewal and extension for additional fixed periods of
32 two years. Probation, suspension of sentence or assignment to community
33 corrections may be terminated by the court at any time and upon such
34 termination or upon termination by expiration of the term of probation,
35 suspension of sentence or assignment to community corrections, an order
36 to this effect shall be entered by the court.

37 (b) The district court having jurisdiction of the offender may parole
38 any misdemeanant sentenced to confinement in the county jail. The
39 period of such parole shall be fixed by the court and shall not exceed two
40 years and shall be terminated in the manner provided for termination of
41 suspended sentence and probation.

42 (c) For all crimes committed on or after July 1, 1993, the duration of
43 probation in felony cases sentenced for the following severity levels on

1 the sentencing guidelines grid for nondrug crimes and the sentencing
2 guidelines grid for drug crimes is as follows:

3 (1) For nondrug crimes the recommended duration of probations is:

4 (A) 36 months for crimes in crime severity levels 1 through 5; and

5 (B) 24 months for crimes in crime severity levels 6 and 7;

6 (2) for drug crimes the recommended duration of probation is 36
7 months for crimes in crime severity levels 1 and 2-;

8 (3) *except as provided further*, in felony cases sentenced at severity
9 levels 9 and 10 on the sentencing guidelines grid for nondrug crimes and
10 severity level 4 on the sentencing guidelines grid for drug crimes, if a
11 nonprison sanction is imposed, the court shall order the defendant to
12 serve a period of probation, ~~or assignment to a community correctional~~
13 ~~services program as provided under K.S.A. 75-5291 et seq., and~~
14 ~~amendments thereto~~, of up to 12 months in length;

15 (4) in felony cases sentenced at severity level 8 on the sentencing
16 guidelines grid for nondrug crimes, ~~and~~ severity level 3 on the sentencing
17 guidelines grid for drug crimes *and felony cases sentenced pursuant to*
18 *section 305 of chapter 136 of the 2010 Session Laws of Kansas, and*
19 *amendments thereto*, if a nonprison sanction is imposed, the court shall
20 order the defendant to serve a period of probation, or assignment to a
21 community correctional services program, as provided under K.S.A. 75-
22 5291 et seq., and amendments thereto, of up to 18 months in length;

23 (5) if the court finds and sets forth with particularity the reasons for
24 finding that the safety of the members of the public will be jeopardized or
25 that the welfare of the inmate will not be served by the length of the
26 probation terms provided in subsections (c)(3) and (c)(4), the court may
27 impose a longer period of probation. Such an increase shall not be
28 considered a departure and shall not be subject to appeal;

29 (6) except as provided in subsections (c)(7) and (c)(8), the total
30 period in all cases shall not exceed 60 months, or the maximum period of
31 the prison sentence that could be imposed whichever is longer. Nonprison
32 sentences may be terminated by the court at any time;

33 (7) if the defendant is convicted of nonsupport of a child, the period
34 may be continued as long as the responsibility for support continues. If
35 the defendant is ordered to pay full or partial restitution, the period may
36 be continued as long as the amount of restitution ordered has not been
37 paid; and

38 (8) the court may modify or extend the offender's period of
39 supervision, pursuant to a modification hearing and a judicial finding of
40 necessity. Such extensions may be made for a maximum period of five
41 years or the maximum period of the prison sentence that could be
42 imposed, whichever is longer, inclusive of the original supervision term.

43 Sec. 66. Section 244 of chapter 136 of the 2010 Session Laws of

1 Kansas is hereby amended to read as follows: Sec. 244. (a) Whenever any
2 person has been found guilty of a crime, the court may adjudge any of the
3 following:

4 (1) Commit the defendant to the custody of the secretary of
5 corrections if the current crime of conviction is a felony and the sentence
6 presumes imprisonment, or the sentence imposed is a dispositional
7 departure to imprisonment; or, if confinement is for a misdemeanor, to
8 jail for the term provided by law;

9 (2) impose the fine applicable to the offense;

10 (3) release the defendant on probation if the current crime of
11 conviction and criminal history fall within a presumptive nonprison
12 category or through a departure for substantial and compelling reasons
13 subject to such conditions as the court may deem appropriate. In felony
14 cases except for violations of K.S.A. 8-1567, and amendments thereto,
15 the court may include confinement in a county jail not to exceed 60 days,
16 which need not be served consecutively, as a condition of an original
17 probation sentence and up to 60 days in a county jail upon each
18 revocation of the probation sentence, or community corrections
19 placement;

20 (4) assign the defendant to a community correctional services
21 program as provided in K.S.A. 75-5291, and amendments thereto, or
22 through a departure for substantial and compelling reasons subject to
23 such conditions as the court may deem appropriate, including orders
24 requiring full or partial restitution;

25 (5) assign the defendant to a conservation camp for a period not to
26 exceed six months as a condition of probation followed by a six-month
27 period of follow-up through adult intensive supervision by a community
28 correctional services program, if the offender successfully completes the
29 conservation camp program;

30 (6) assign the defendant to a house arrest program pursuant to
31 section 249 *of chapter 136 of the 2010 Session Laws of Kansas*, and
32 amendments thereto;

33 (7) order the defendant to attend and satisfactorily complete an
34 alcohol or drug education or training program as provided by subsection
35 (c) of section 242 *of chapter 136 of the 2010 Session Laws of Kansas*, and
36 amendments thereto;

37 (8) order the defendant to repay the amount of any reward paid by
38 any crime stoppers chapter, individual, corporation or public entity which
39 materially aided in the apprehension or conviction of the defendant; repay
40 the amount of any costs and expenses incurred by any law enforcement
41 agency in the apprehension of the defendant, if one of the current crimes
42 of conviction of the defendant includes escape *from custody* or
43 aggravated escape *from custody*, as defined in section 136 *of chapter 136*

1 *of the 2010 Session Laws of Kansas*, and amendments thereto; repay
2 expenses incurred by a fire district, fire department or fire company
3 responding to a fire which has been determined to be arson ~~under~~
4 *aggravated arson as defined in section 98 of chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto, if the defendant is
6 convicted of such crime; repay the amount of any public funds utilized by
7 a law enforcement agency to purchase controlled substances from the
8 defendant during the investigation which leads to the defendant's
9 conviction; or repay the amount of any medical costs and expenses
10 incurred by any law enforcement agency or county. Such repayment of
11 the amount of any such costs and expenses incurred by a county, law
12 enforcement agency, fire district, fire department or fire company or any
13 public funds utilized by a law enforcement agency shall be deposited and
14 credited to the same fund from which the public funds were credited to
15 prior to use by the county, law enforcement agency, fire district, fire
16 department or fire company;

17 (9) order the defendant to pay the administrative fee authorized by
18 K.S.A. 22-4529, and amendments thereto, unless waived by the court;

19 (10) order the defendant to pay a domestic violence special program
20 fee authorized by K.S.A. 20-369, and amendments thereto;

21 (11) *if the defendant is convicted of a misdemeanor or convicted of a*
22 *felony specified in subsection (i) of section 285 of chapter 136 of the*
23 *2010 Session Laws of Kansas, and amendments thereto, assign the*
24 *defendant to work release program, other than a program at a*
25 *correctional institution under the control of the secretary of corrections*
26 *as defined in K.S.A. 75-5202, and amendments thereto, provided such*
27 *work release program requires such defendant to return to confinement at*
28 *the end of each day in the work release program;*

29 ~~(11)~~(12) impose any appropriate combination of (1), (2), (3), (4), (5),
30 (6), (7), (8), (9) ~~and~~, (10) *and* (11); or

31 ~~(12)~~(13) suspend imposition of sentence in misdemeanor cases.

32 (b) (1) In addition to or in lieu of any of the above, the court shall
33 order the defendant to pay restitution, which shall include, but not be
34 limited to, damage or loss caused by the defendant's crime, unless the
35 court finds compelling circumstances which would render a plan of
36 restitution unworkable. In regard to a violation of section 177 *of chapter*
37 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, such
38 damage or loss shall include, but not be limited to, attorney fees and costs
39 incurred to repair the credit history or rating of the person whose personal
40 identification documents were obtained and used in violation of such
41 section, and to satisfy a debt, lien or other obligation incurred by the
42 person whose personal identification documents were obtained and used
43 in violation of such section. If the court finds a plan of restitution

1 unworkable, the court shall state on the record in detail the reasons
2 therefor.

3 (2) If the court orders restitution, the restitution shall be a judgment
4 against the defendant which may be collected by the court by
5 garnishment or other execution as on judgments in civil cases. If, after 60
6 days from the date restitution is ordered by the court, a defendant is found
7 to be in noncompliance with the plan established by the court for payment
8 of restitution, and the victim to whom restitution is ordered paid has not
9 initiated proceedings in accordance with K.S.A. 60-4301 et seq., and
10 amendments thereto, the court shall assign an agent procured by the
11 attorney general pursuant to K.S.A. 75-719, and amendments thereto, to
12 collect the restitution on behalf of the victim. The ~~administrative~~ chief
13 judge of each judicial district may assign such cases to an appropriate
14 division of the court for the conduct of civil collection proceedings.

15 (c) In addition to or in lieu of any of the above, the court shall order
16 the defendant to submit to and complete an alcohol and drug evaluation,
17 and pay a fee therefor, when required by subsection (d) of section 242 of
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto.

20 (d) In addition to any of the above, the court shall order the
21 defendant to reimburse the county general fund for all or a part of the
22 expenditures by the county to provide counsel and other defense services
23 to the defendant. Any such reimbursement to the county shall be paid
24 only after any order for restitution has been paid in full. In determining
25 the amount and method of payment of such sum, the court shall take
26 account of the financial resources of the defendant and the nature of the
27 burden that payment of such sum will impose. A defendant who has been
28 required to pay such sum and who is not willfully in default in the
29 payment thereof may at any time petition the court which sentenced the
30 defendant to waive payment of such sum or any unpaid portion thereof. If
31 it appears to the satisfaction of the court that payment of the amount due
32 will impose manifest hardship on the defendant or the defendant's
33 immediate family, the court may waive payment of all or part of the
34 amount due or modify the method of payment.

35 (e) In imposing a fine the court may authorize the payment thereof
36 in installments. In releasing a defendant on probation, the court shall
37 direct that the defendant be under the supervision of a court services
38 officer. If the court commits the defendant to the custody of the secretary
39 of corrections or to jail, the court may specify in its order the amount of
40 restitution to be paid and the person to whom it shall be paid if restitution
41 is later ordered as a condition of parole, conditional release or postrelease
42 supervision.

43 (f) (1) When a new felony is committed while the offender is

1 incarcerated and serving a sentence for a felony, or while the offender is
2 on probation, assignment to a community correctional services program,
3 parole, conditional release or postrelease supervision for a felony, a new
4 sentence shall be imposed pursuant to the consecutive sentencing
5 requirements of section 246 of chapter 136 of the 2010 Session Laws of
6 Kansas, and amendments thereto, and the court may sentence the
7 offender to imprisonment for the new conviction, even when the new
8 crime of conviction otherwise presumes a nonprison sentence. In this
9 event, imposition of a prison sentence for the new crime does not
10 constitute a departure.

11 (2) When a new felony is committed while the offender is
12 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-
13 1671, prior to its repeal, or K.S.A. ~~2009~~2010 Supp. 38-2373, and
14 amendments thereto, for an offense, which if committed by an adult
15 would constitute the commission of a felony, upon conviction, the court
16 shall sentence the offender to imprisonment for the new conviction, even
17 when the new crime of conviction otherwise presumes a nonprison
18 sentence. In this event, imposition of a prison sentence for the new crime
19 does not constitute a departure. The conviction shall operate as a full and
20 complete discharge from any obligations, except for an order of
21 restitution, imposed on the offender arising from the offense for which
22 the offender was committed to a juvenile correctional facility.

23 (3) When a new felony is committed while the offender is on release
24 for a felony pursuant to the provisions of article 28 of chapter 22 of the
25 Kansas Statutes Annotated, and amendments thereto, or similar
26 provisions of the laws of another jurisdiction, a new sentence may be
27 imposed pursuant to the consecutive sentencing requirements of section
28 246 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
29 thereto, and the court may sentence the offender to imprisonment for the
30 new conviction, even when the new crime of conviction otherwise
31 presumes a nonprison sentence. In this event, imposition of a prison
32 sentence for the new crime does not constitute a departure.

33 (g) Prior to imposing a dispositional departure for a defendant whose
34 offense is classified in the presumptive nonprison grid block of either
35 sentencing guideline grid, prior to sentencing a defendant to incarceration
36 whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
37 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,
38 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, prior to
39 sentencing a defendant to incarceration whose offense is classified in grid
40 blocks 4-E or 4-F of the sentencing guideline grid for drug crimes and
41 whose offense does not meet the requirements of section 305 of chapter
42 136 of the 2010 Session Laws of Kansas, and amendments thereto, prior
43 to revocation of a nonprison sanction of a defendant whose offense is

1 classified in grid blocks 4-E or 4-F of the sentencing guideline grid for
2 drug crimes and whose offense does not meet the requirements of section
3 305 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
4 thereto, or prior to revocation of a nonprison sanction of a defendant
5 whose offense is classified in the presumptive nonprison grid block of
6 either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the
7 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,
8 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes, the
9 court shall consider placement of the defendant in the Labette
10 correctional conservation camp, conservation camps established by the
11 secretary of corrections pursuant to K.S.A. 75-52,127, and amendment
12 thereto, or a community intermediate sanction center. Pursuant to this
13 paragraph the defendant shall not be sentenced to imprisonment if space
14 is available in a conservation camp or a community intermediate sanction
15 center and the defendant meets all of the conservation camp's or a
16 community intermediate sanction center's placement criteria unless the
17 court states on the record the reasons for not placing the defendant in a
18 conservation camp or a community intermediate sanction center.

19 (h) The court in committing a defendant to the custody of the
20 secretary of corrections shall fix a term of confinement within the limits
21 provided by law. In those cases where the law does not fix a term of
22 confinement for the crime for which the defendant was convicted, the
23 court shall fix the term of such confinement.

24 (i) In addition to any of the above, the court shall order the
25 defendant to reimburse the state general fund for all or a part of the
26 expenditures by the state board of indigents' defense services to provide
27 counsel and other defense services to the defendant. In determining the
28 amount and method of payment of such sum, the court shall take account
29 of the financial resources of the defendant and the nature of the burden
30 that payment of such sum will impose. A defendant who has been
31 required to pay such sum and who is not willfully in default in the
32 payment thereof may at any time petition the court which sentenced the
33 defendant to waive payment of such sum or any unpaid portion thereof. If
34 it appears to the satisfaction of the court that payment of the amount due
35 will impose manifest hardship on the defendant or the defendant's
36 immediate family, the court may waive payment of all or part of the
37 amount due or modify the method of payment. The amount of attorney
38 fees to be included in the court order for reimbursement shall be the
39 amount claimed by appointed counsel on the payment voucher for
40 indigents' defense services or the amount prescribed by the board of
41 indigents' defense services reimbursement tables as provided in K.S.A.
42 22-4522, and amendments thereto, whichever is less.

43 (j) This section shall not deprive the court of any authority conferred

1 by any other Kansas statute to decree a forfeiture of property, suspend or
2 cancel a license, remove a person from office or impose any other civil
3 penalty as a result of conviction of crime.

4 (k) An application for or acceptance of probation or assignment to a
5 community correctional services program shall not constitute an
6 acquiescence in the judgment for purpose of appeal, and any convicted
7 person may appeal from such conviction, as provided by law, without
8 regard to whether such person has applied for probation, suspended
9 sentence or assignment to a community correctional services program.

10 (l) The secretary of corrections is authorized to make direct
11 placement to the Labette correctional conservation camp or a
12 conservation camp established by the secretary pursuant to K.S.A. 75-
13 52,127, and amendments thereto, of an inmate sentenced to the secretary's
14 custody if the inmate:

15 (1) Has been sentenced to the secretary for a probation revocation,
16 as a departure from the presumptive nonimprisonment grid block of
17 either sentencing grid, for an offense which is classified in grid blocks 5-
18 H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in
19 grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for
20 drug crimes, or for an offense which is classified in grid blocks 4-E or 4-
21 F of the sentencing guidelines grid for drug crimes and such offense does
22 not meet the requirements of section 305 of *chapter 136 of the 2010*
23 *Session Laws of Kansas*, and amendments thereto; and

24 (2) otherwise meets admission criteria of the camp.

25 If the inmate successfully completes a conservation camp program,
26 the secretary of corrections shall report such completion to the sentencing
27 court and the county or district attorney. The inmate shall then be
28 assigned by the court to six months of follow-up supervision conducted
29 by the appropriate community corrections services program. The court
30 may also order that supervision continue thereafter for the length of time
31 authorized by section ~~305~~*248 of chapter 136 of the 2010 Session Laws of*
32 *Kansas*, and amendments thereto.

33 (m) When it is provided by law that a person shall be sentenced
34 pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions
35 of this section shall not apply.

36 (n) Except as provided by subsection (f) of section 286 of *chapter*
37 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, in
38 addition to any of the above, for felony violations of K.S.A. ~~2009~~*2010*
39 Supp. 21-36a06, and amendments thereto, the court shall require the
40 defendant who meets the requirements established in section 305 of
41 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
42 thereto, to participate in a certified drug abuse treatment program, as
43 provided in K.S.A. ~~2009~~*2010* Supp. 75-52,144, and amendments thereto,

1 including, but not limited to, an approved after-care plan. If the defendant
2 fails to participate in or has a pattern of intentional conduct that
3 demonstrates the offender's refusal to comply with or participate in the
4 treatment program, as established by judicial finding, the defendant shall
5 be subject to revocation of probation and the defendant shall serve the
6 underlying prison sentence as established in section ~~305286~~ *of chapter*
7 *136 of the 2010 Session Laws of Kansas*, and amendments thereto. For
8 those offenders who are convicted on or after ~~the effective date of this~~
9 ~~act~~ *July 1, 2003*, upon completion of the underlying prison sentence, the
10 defendant shall not be subject to a period of postrelease supervision. The
11 amount of time spent participating in such program shall not be credited
12 as service on the underlying prison sentence.

13 (o) (1) Except as provided in paragraph (3), in addition to any
14 other penalty or disposition imposed by law, upon a conviction for
15 unlawful possession of a controlled substance or controlled substance
16 analog in violation of K.S.A. ~~2009~~ *2010* Supp. 21-36a06, and
17 amendments thereto, in which the trier of fact makes a finding that the
18 unlawful possession occurred while transporting the controlled substance
19 or controlled substance analog in any vehicle upon a highway or street,
20 the offender's driver's license or privilege to operate a motor vehicle on
21 the streets and highways of this state shall be suspended for one year.

22 (2) Upon suspension of a license pursuant to this subsection, the
23 court shall require the person to surrender the license to the court, which
24 shall transmit the license to the division of motor vehicles of the
25 department of revenue, to be retained until the period of suspension
26 expires. At that time, the licensee may apply to the division for return of
27 the license. If the license has expired, the person may apply for a new
28 license, which shall be issued promptly upon payment of the proper fee
29 and satisfaction of other conditions established by law for obtaining a
30 license unless another suspension or revocation of the person's privilege
31 to operate a motor vehicle is in effect.

32 (3) (A) In lieu of suspending the driver's license or privilege to
33 operate a motor vehicle on the highways of this state of any person as
34 provided in paragraph (1), the judge of the court in which such person
35 was convicted may enter an order which places conditions on such
36 person's privilege of operating a motor vehicle on the highways of this
37 state, a certified copy of which such person shall be required to carry any
38 time such person is operating a motor vehicle on the highways of this
39 state. Any such order shall prescribe the duration of the conditions
40 imposed, which in no event shall be for a period of more than one year.

41 (B) Upon entering an order restricting a person's license hereunder,
42 the judge shall require such person to surrender such person's driver's
43 license to the judge who shall cause it to be transmitted to the division of

1 vehicles, together with a copy of the order. Upon receipt thereof, the
2 division of vehicles shall issue without charge a driver's license which
3 shall indicate on its face that conditions have been imposed on such
4 person's privilege of operating a motor vehicle and that a certified copy of
5 the order imposing such conditions is required to be carried by the person
6 for whom the license was issued any time such person is operating a
7 motor vehicle on the highways of this state. If the person convicted is a
8 nonresident, the judge shall cause a copy of the order to be transmitted to
9 the division and the division shall forward a copy of it to the motor
10 vehicle administrator, of such person's state of residence. Such judge shall
11 furnish to any person whose driver's license has had conditions imposed
12 on it under this paragraph a copy of the order, which shall be recognized
13 as a valid Kansas driver's license until such time as the division shall
14 issue the restricted license provided for in this paragraph.

15 (C) Upon expiration of the period of time for which conditions are
16 imposed pursuant to this subsection, the licensee may apply to the
17 division for the return of the license previously surrendered by such
18 licensee. In the event such license has expired, such person may apply to
19 the division for a new license, which shall be issued immediately by the
20 division upon payment of the proper fee and satisfaction of the other
21 conditions established by law, unless such person's privilege to operate a
22 motor vehicle on the highways of this state has been suspended or
23 revoked prior thereto. If any person shall violate any of the conditions
24 imposed under this paragraph, such person's driver's license or privilege
25 to operate a motor vehicle on the highways of this state shall be revoked
26 for a period of not less than 60 days nor more than one year by the judge
27 of the court in which such person is convicted of violating such
28 conditions.

29 (4) As used in this subsection, "highway" and "street" ~~have the~~
30 ~~meanings provided by~~ means the same as in K.S.A. 8-1424 and 8-1473,
31 and amendments thereto.

32 (p) *In addition to any of the above, for any criminal offense that*
33 *includes the domestic violence designation pursuant to section 1 of*
34 *chapter 101 of the 2010 Session Laws of Kansas, and amendments*
35 *thereto, the court shall require the defendant to undergo a domestic*
36 *violence offender assessment and follow all recommendations unless*
37 *otherwise ordered by the court or the department of corrections. The*
38 *court may order a domestic violence offender assessment and any other*
39 *evaluation prior to sentencing if the assessment or evaluation would*
40 *assist the court in determining an appropriate sentence. The entity*
41 *completing the assessment or evaluation shall provide the assessment or*
42 *evaluation and recommendations to the court and the court shall provide*
43 *the domestic violence assessment and any other evaluation to any entity*

1 *responsible for supervising such defendant. A defendant ordered to*
2 *undergo a domestic violence offender assessment shall be required to pay*
3 *for the assessment and, unless otherwise ordered by the court or the*
4 *department of corrections, for completion of all recommendations.*

5 Sec. 67. Section 254 of chapter 136 of the 2010 Session Laws of
6 Kansas is hereby amended to read as follows: Sec. 254. (a) (1) Except as
7 provided in subsections (b) and (c), any person convicted in this state of a
8 traffic infraction, cigarette or tobacco infraction, misdemeanor or a class
9 D or E felony, or for crimes committed on or after July 1, 1993, nondrug
10 crimes ranked in severity levels 6 through 10 or any felony ranked in
11 severity level 4 of the drug grid, may petition the convicting court for the
12 expungement of such conviction or related arrest records if three or more
13 years have elapsed since the person: (A) Satisfied the sentence imposed;
14 or (B) was discharged from probation, a community correctional services
15 program, parole, postrelease supervision, conditional release or a
16 suspended sentence.

17 (2) Except as provided in subsections (b) and (c), any person who
18 has fulfilled the terms of a diversion agreement may petition the district
19 court for the expungement of such diversion agreement and related arrest
20 records if three or more years have elapsed since the terms of the
21 diversion agreement were fulfilled.

22 (b) Except as provided in subsection (c), no person may petition for
23 expungement until five or more years have elapsed since the person
24 satisfied the sentence imposed, the terms of a diversion agreement or was
25 discharged from probation, a community correctional services program,
26 parole, postrelease supervision, conditional release or a suspended
27 sentence, if such person was convicted of a class A, B or C felony, or for
28 crimes committed on or after July 1, 1993, if convicted of an off-grid
29 felony or any nondrug crime ranked in severity levels 1 through 5 or any
30 felony ranked in severity levels 1 through 3 of the drug grid, or:

31 (1) Vehicular homicide, as defined ~~by~~ *in K.S.A. 21-3405, prior to its*
32 *repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas,*
33 *and amendments thereto, or as prohibited by any law of another state*
34 *which is in substantial conformity with that statute;*

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

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

43 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and

1 amendments thereto, relating to fraudulent applications or violating the
2 provisions of a law of another state which is in substantial conformity
3 with that statute;

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

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

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

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

13 (c) There shall be no expungement of convictions for the following
14 offenses or of convictions for an attempt to commit any of the following
15 offenses:

16 (1) Rape as defined in *K.S.A. 21-3502, prior to its repeal, or section*
17 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
18 thereto;

19 (2) indecent liberties with a child or aggravated indecent liberties
20 with a child as defined in *K.S.A. 21-3503 or 21-3504, prior to their*
21 *repeal, or section 70 of chapter 136 of the 2010 Session Laws of Kansas*,
22 and amendments thereto;

23 (3) criminal sodomy as defined in *subsection (a)(2) or (a)(3) of*
24 *K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of*
25 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
26 amendments thereto;

27 (4) aggravated criminal sodomy as defined in *K.S.A. 21-3506, prior*
28 *to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto;

30 (5) indecent solicitation of a child or aggravated indecent solicitation
31 of a child as defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal,*
32 *or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
33 amendments thereto;

34 (6) sexual exploitation of a child as defined in *K.S.A. 21-3516, prior*
35 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
36 *Kansas*, and amendments thereto;

37 (7) aggravated incest as defined in *K.S.A. 21-3603, prior to its*
38 *repeal, or section 81 of chapter 136 of the 2010 Session Laws of Kansas*,
39 and amendments thereto;

40 (8) endangering a child or aggravated endangering a child as defined
41 in *K.S.A. 21-3608 or 21-3608a, prior to their repeal, or section 78 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto;

1 (9) abuse of a child as defined in *K.S.A. 21-3609, prior to its repeal,*
2 *or section 79 of chapter 136 of the 2010 Session Laws of Kansas,* and
3 amendments thereto;

4 (10) capital murder as defined in *K.S.A. 21-3439, prior to its repeal,*
5 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas,* and
6 amendments thereto;

7 (11) murder in the first degree as defined in *K.S.A. 21-3401, prior to*
8 *its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
9 *Kansas,* and amendments thereto;

10 (12) murder in the second degree as defined in *K.S.A. 21-3402,*
11 *prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws*
12 *of Kansas,* and amendments thereto;

13 (13) voluntary manslaughter as defined in *K.S.A. 21-3403, prior to*
14 *its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
15 *Kansas,* and amendments thereto;

16 (14) involuntary manslaughter as defined in *K.S.A. 21-3404, prior to*
17 *its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
18 *Kansas,* and amendments thereto;

19 (15) sexual battery as defined in *K.S.A. 21-3517, prior to its repeal,*
20 *or section 69 of chapter 136 of the 2010 Session Laws of Kansas,* and
21 amendments thereto, when the victim was less than 18 years of age at the
22 time the crime was committed;

23 (16) aggravated sexual battery as defined in *K.S.A. 21-3518, prior to*
24 *its repeal, or section 69 of chapter 136 of the 2010 Session Laws of*
25 *Kansas,* and amendments thereto;

26 (17) a violation of *K.S.A. 8-1567,* and amendments thereto,
27 including any diversion for such violation;

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

30 (19) any conviction for any offense in effect at any time prior to ~~the~~
31 ~~effective date of this act~~ *July 1, 2011,* that is comparable to any offense as
32 provided in this subsection.

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

37 (A) Defendant's full name;

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

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

41 (D) crime for which the defendant was arrested, convicted or
42 diverted;

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

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

3 (2) Except as *otherwise* provided further, ~~there shall be no docket~~
4 ~~fee for filing a petition pursuant to this section by law, a petition for~~
5 ~~expungement shall be accompanied by a docket fee in the amount of~~
6 ~~\$100.~~ On and after ~~July 1, 2009 through June 30, 2010~~ April 15, 2010
7 through June 30, 2011, the supreme court may impose a charge, not to
8 exceed \$10\$15 per case, to fund the costs of non-judicial personnel. The
9 charge established in this section shall be the only fee collected or
10 moneys in the nature of a fee collected for the case. Such charge shall
11 only be established by an act of the legislature and no other authority is
12 established by law or otherwise to collect a fee.

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

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

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

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

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

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

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

40 (2) the petitioner shall disclose that the arrest, conviction or
41 diversion occurred if asked about previous arrests, convictions or
42 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.
2 ~~20092010~~ Supp. 75-7b21, and amendments thereto, or employment as a
3 detective with a private detective agency, as defined by K.S.A. 75-7b01,
4 and amendments thereto; as security personnel with a private patrol
5 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
6 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
7 the department of social and rehabilitation services;

8 (B) in any application for admission, or for an order of
9 reinstatement, 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
17 as deemed appropriate by the executive director of the commission, or to
18 aid in determining qualifications for licensure or renewal of licensure by
19 the 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
36 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

37 (K) for applications received on and after July 1, 2006, to aid in
38 determining the petitioner's qualifications for a license to carry a
39 concealed weapon pursuant to the personal and family protection act,
40 K.S.A. ~~20092010~~ Supp. 75-7c01 et seq., and 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 which requires as an element of such offense a prior
2 conviction of 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 (g) Whenever a person is convicted of a crime, pleads guilty and
8 pays 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 (h) Subject to the disclosures required pursuant to subsection (f), in
15 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
18 that such person has never been arrested, convicted or diverted of such
19 crime, but the expungement of a felony conviction does not relieve an
20 individual of complying with any state or federal law relating to the use
21 or possession of firearms by persons convicted of a felony.

22 (i) Whenever the record of any arrest, conviction or diversion has
23 been expunged under the provisions of this section or under the
24 provisions of any other existing or former statute, the custodian of the
25 records of arrest, conviction, diversion and incarceration relating to that
26 crime shall not disclose the existence of such records, except when
27 requested by:

28 (1) The person whose record was expunged;

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

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

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

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

42 (6) a prosecutor, and such request is accompanied by a statement
43 that the request is being made in conjunction with a prosecution of an

1 offense that requires a prior conviction as one of the elements of such
2 offense;

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

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

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

29 (11) the Kansas sentencing commission;

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

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

41 (14) the Kansas commission on peace officers' standards and
42 training and the request is accompanied by a statement that the request is
43 being made to aid in determining certification eligibility as a law

1 enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments
2 thereto;

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

7 (16) the attorney general and the request is accompanied by a
8 statement that the request is being made to aid in determining
9 qualifications for a license to carry a concealed weapon pursuant to the
10 personal and family protection act.

11 Sec. 68. Section 257 of chapter 136 of the 2010 Session Laws of
12 Kansas is hereby amended to read as follows: Sec. 257. (a) If a defendant
13 is charged with capital murder, the county or district attorney shall file
14 written notice if such attorney intends, upon conviction of the defendant,
15 to request a separate sentencing proceeding to determine whether the
16 defendant should be sentenced to death. Such notice shall be filed with
17 the court and served on the defendant or the defendant's attorney not later
18 than ~~five~~ seven days after the time of arraignment. If such notice is not
19 filed and served as required by this subsection, the county or district
20 attorney may not request such a sentencing proceeding and the defendant,
21 if convicted of capital murder, shall be sentenced to life without the
22 possibility of parole, and no sentence of death shall be imposed
23 hereunder.

24 (b) Except as provided in sections 258 and 262 of chapter 136 of the
25 2010 Session Laws of Kansas, and amendments thereto, upon conviction
26 of a defendant of capital murder, the court, upon motion of the county or
27 district attorney, shall conduct a separate sentencing proceeding to
28 determine whether the defendant shall be sentenced to death. The
29 proceeding shall be conducted by the trial judge before the trial jury as
30 soon as practicable. If any person who served on the trial jury is unable to
31 serve on the jury for the sentencing proceeding, the court shall substitute
32 an alternate juror who has been impaneled for the trial jury. If there are
33 insufficient alternate jurors to replace trial jurors who are unable to serve
34 at the sentencing proceeding, the trial judge may summon a special jury
35 of 12 persons which shall determine the question of whether a sentence of
36 death shall be imposed. Jury selection procedures, qualifications of jurors
37 and grounds for exemption or challenge of prospective jurors in criminal
38 trials shall be applicable to the selection of such special jury. The jury at
39 the sentencing proceeding may be waived in the manner provided by
40 K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the
41 jury at the sentencing proceeding has been waived or the trial jury has
42 been waived, the sentencing proceeding shall be conducted by the court.

43 (c) In the sentencing proceeding, evidence may be presented

1 concerning any matter that the court deems relevant to the question of
2 sentence and shall include matters relating to any of the aggravating
3 circumstances enumerated in section 264 of chapter 136 of the 2010
4 Session Laws of Kansas, and amendments thereto, and any mitigating
5 circumstances. Any such evidence which the court deems to have
6 probative value may be received regardless of its admissibility under the
7 rules of evidence, provided that the defendant is accorded a fair
8 opportunity to rebut any hearsay statements. Only such evidence of
9 aggravating circumstances as the state has made known to the defendant
10 prior to the sentencing proceeding shall be admissible, and no evidence
11 secured in violation of the constitution of the United States or of the state
12 of Kansas shall be admissible. No testimony by the defendant at the
13 sentencing proceeding shall be admissible against the defendant at any
14 subsequent criminal proceeding. At the conclusion of the evidentiary
15 presentation, the court shall allow the parties a reasonable period of time
16 in which to present oral argument.

17 (d) At the conclusion of the evidentiary portion of the sentencing
18 proceeding, the court shall provide oral and written instructions to the
19 jury to guide its deliberations.

20 (e) If, by unanimous vote, the jury finds beyond a reasonable doubt
21 that one or more of the aggravating circumstances enumerated in section
22 264 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
23 thereto, exist and, further, that the existence of such aggravating
24 circumstances is not outweighed by any mitigating circumstances which
25 are found to exist, the defendant shall be sentenced to death; otherwise,
26 the defendant shall be sentenced to life without the possibility of parole.
27 The jury, if its verdict is a unanimous recommendation of a sentence of
28 death, shall designate in writing, signed by the foreman of the jury, the
29 statutory aggravating circumstances which it found beyond a reasonable
30 doubt. If, after a reasonable time for deliberation, the jury is unable to
31 reach a verdict, the judge shall dismiss the jury and impose a sentence of
32 life without the possibility of parole and shall commit the defendant to the
33 custody of the secretary of corrections. In nonjury cases, the court shall
34 follow the requirements of this subsection in determining the sentence to
35 be imposed.

36 (f) Notwithstanding the verdict of the jury, the trial court shall
37 review any jury verdict imposing a sentence of death hereunder to
38 ascertain whether the imposition of such sentence is supported by the
39 evidence. If the court determines that the imposition of such a sentence is
40 not supported by the evidence, the court shall modify the sentence and
41 sentence the defendant to life without the possibility of parole, and no
42 sentence of death shall be imposed hereunder. Whenever the court enters
43 a judgment modifying the sentencing verdict of the jury, the court shall

1 set forth its reasons for so doing in a written memorandum which shall
2 become part of the record.

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

17 Sec. 69. Section 259 of chapter 136 of the 2010 Session Laws of
18 Kansas is hereby amended to read as follows: Sec. 259. (a) A judgment of
19 conviction resulting in a sentence of death shall be subject to automatic
20 review by ~~an~~ and appeal to the supreme court of Kansas in the manner
21 provided by the applicable statutes and rules of the supreme court
22 governing appellate procedure. The review and appeal shall be expedited
23 in every manner consistent with the proper presentation thereof and given
24 priority pursuant to the statutes and rules of the supreme court governing
25 appellate procedure.

26 (b) The supreme court of Kansas shall consider the question of
27 sentence as well as any errors asserted in the review and appeal and shall
28 be authorized to notice unassigned errors appearing of record if the ends
29 of justice would be served thereby.

30 (c) With regard to the sentence, the court shall determine:

31 (1) Whether the sentence of death was imposed under the influence
32 of passion, prejudice or any other arbitrary factor; and

33 (2) whether the evidence supports the findings that an aggravating
34 circumstance or circumstances existed and that any mitigating
35 circumstances were insufficient to outweigh the aggravating
36 circumstances.

37 (d) The court shall be authorized to enter such orders as are
38 necessary to effect a proper and complete disposition of the review and
39 appeal.

40 Sec. 70. Section 260 of chapter 136 of the 2010 Session Laws of
41 Kansas is hereby amended to read as follows: Sec. 260. (a) Except as
42 provided in ~~section~~ *sections 258 and 262 of chapter 136 of the 2010*
43 *Session Laws of Kansas*, and amendments thereto, if a defendant is

1 convicted of the crime of capital murder and a sentence of death is not
2 imposed pursuant to subsection (e) of section 257 of *chapter 136 of the*
3 *2010 Session Laws of Kansas*, and amendments thereto, or requested
4 pursuant to subsection (a) or (b) of section 257 of *chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto, the defendant shall be
6 sentenced to life without the possibility of parole.

7 (b) If a defendant is convicted of murder in the first degree based
8 upon the finding of premeditated murder, the court shall determine
9 whether the defendant shall be required to serve a mandatory term of
10 imprisonment of 40 years or for crimes committed on and after July 1,
11 1999, a mandatory term of imprisonment of 50 years or sentenced as
12 otherwise provided by law.

13 (c) In order to make such determination, the court may be presented
14 evidence concerning any matter that the court deems relevant to the
15 question of sentence and shall include matters relating to any of the
16 aggravating circumstances enumerated in section 264 of *chapter 136 of*
17 *the 2010 Session Laws of Kansas*, and amendments thereto, and any
18 mitigating circumstances. Any such evidence which the court deems to
19 have probative value may be received regardless of its admissibility under
20 the rules of evidence, provided that the defendant is accorded a fair
21 opportunity to rebut any hearsay statements. Only such evidence of
22 aggravating circumstances as the state has made known to the defendant
23 prior to the sentencing shall be admissible and no evidence secured in
24 violation of the constitution of the United States or of the state of Kansas
25 shall be admissible. No testimony by the defendant at the time of
26 sentencing shall be admissible against the defendant at any subsequent
27 criminal proceeding. At the conclusion of the evidentiary presentation,
28 the court shall allow the parties a reasonable period of time in which to
29 present oral argument.

30 (d) If the court finds that one or more of the aggravating
31 circumstances enumerated in section 264 of *chapter 136 of the 2010*
32 *Session Laws of Kansas*, and amendments thereto, exist and, further, that
33 the existence of such aggravating circumstances is not outweighed by any
34 mitigating circumstances which are found to exist, the defendant shall be
35 sentenced pursuant to section 263 of *chapter 136 of the 2010 Session*
36 *Laws of Kansas*, and amendments thereto; otherwise, the defendant shall
37 be sentenced as provided by law. The court shall designate, in writing, the
38 statutory aggravating circumstances which it found. The court may make
39 the findings required by this subsection for the purpose of determining
40 whether to sentence a defendant pursuant to section 263 of *chapter 136 of*
41 *the 2010 Session Laws of Kansas*, and amendments thereto,
42 notwithstanding contrary findings made by the jury or court pursuant to
43 subsection (e) of section 257 of *chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto, for the purpose of determining whether
2 to sentence such defendant to death.

3 Sec. 71. Section 262 of chapter 136 of the 2010 Session Laws of
4 *Kansas* is hereby amended to read as follows: Sec. 262. (a) If, under
5 section 257 of chapter 136 of the 2010 Session Laws of *Kansas*, and
6 amendments thereto, the county or district attorney has filed a notice of
7 intent to request a separate sentencing proceeding to determine whether
8 the defendant should be sentenced to death and the defendant is convicted
9 of the crime of capital murder, the defendant's counsel or the warden of
10 the correctional institution or sheriff having custody of the defendant may
11 request a determination by the court of whether the defendant is mentally
12 retarded. If the court determines that there is not sufficient reason to
13 believe that the defendant is mentally retarded, the court shall so find and
14 the defendant shall be sentenced in accordance with sections 257, 259,
15 264, 265, 268 and 269 of chapter 136 of the 2010 Session Laws of
16 *Kansas*, and amendments thereto. If the court determines that there is
17 sufficient reason to believe that the defendant is mentally retarded, the
18 court shall conduct a hearing to determine whether the defendant is
19 mentally retarded.

20 (b) If a defendant is convicted of the crime of capital murder and a
21 sentence of death is not imposed, or if a defendant is convicted of the
22 crime of murder in the first degree based upon the finding of
23 premeditated murder, the defendant's counsel or the warden of the
24 correctional institution or sheriff having custody of the defendant may
25 request a determination by the court of whether the defendant is mentally
26 retarded. If the court determines that there is not sufficient reason to
27 believe that the defendant is mentally retarded, the court shall so find and
28 the defendant shall be sentenced in accordance with sections 260, 263,
29 264 and 265 of chapter 136 of the 2010 Session Laws of *Kansas*, and
30 amendments thereto. If the court determines that there is sufficient reason
31 to believe that the defendant is mentally retarded, the court shall conduct
32 a hearing to determine whether the defendant is mentally retarded.

33 (c) At the hearing, the court shall determine whether the defendant is
34 mentally retarded. The court shall order a psychiatric or psychological
35 examination of the defendant. For that purpose, the court shall appoint
36 two licensed physicians or licensed psychologists, or one of each,
37 qualified by training and practice to make such examination, to examine
38 the defendant and report their findings in writing to the judge within ~~14~~
39 days after the order of examination is issued. The defendant shall have
40 the right to present evidence and cross-examine any witnesses at the
41 hearing. No statement made by the defendant in the course of any
42 examination provided for by this section, whether or not the defendant
43 consents to the examination, shall be admitted in evidence against the

1 defendant in any criminal proceeding.

2 (d) If, at the conclusion of a hearing pursuant to subsection (a), the
3 court determines that the defendant is not mentally retarded, the
4 defendant shall be sentenced in accordance with sections 257, 259, 264,
5 265, 268 and 269 of *chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto.

7 (e) If, at the conclusion of a hearing pursuant to subsection (b), the
8 court determines that the defendant is not mentally retarded, the
9 defendant shall be sentenced in accordance with sections 260, 263, 264
10 and 265 of *chapter 136 of the 2010 Session Laws of Kansas*, and
11 amendments thereto.

12 (f) If, at the conclusion of a hearing pursuant to this section, the
13 court determines that the defendant is mentally retarded, the court shall
14 sentence the defendant as otherwise provided by law, and no sentence of
15 death, life without the possibility of parole, or mandatory term of
16 imprisonment shall be imposed hereunder.

17 (g) Unless otherwise ordered by the court for good cause shown, the
18 provisions of subsection (b) shall not apply if it has been determined,
19 pursuant to a hearing granted under the provisions of subsection (a), that
20 the defendant is not mentally retarded.

21 (h) As used in this section, "mentally retarded" means having
22 significantly subaverage general intellectual functioning, as defined by
23 K.S.A. 76-12b01, and amendments thereto, to an extent which
24 substantially impairs one's capacity to appreciate the criminality of one's
25 conduct or to conform one's conduct to the requirements of law.

26 Sec. 72. Section 266 of chapter 136 of the 2010 Session Laws of
27 Kansas is hereby amended to read as follows: Sec. 266. (a) An aggravated
28 habitual sex offender shall be sentenced to imprisonment for life without
29 the possibility of parole. Such offender shall spend the remainder of the
30 offender's natural life incarcerated and in the custody of the secretary of
31 corrections. An offender who is sentenced to imprisonment for life
32 without the possibility of parole shall not be eligible for parole, probation,
33 assignment to a community correctional services program, conditional
34 release, postrelease supervision, or suspension, modification or reduction
35 of sentence.

36 (b) Upon sentencing a defendant to imprisonment for life without the
37 possibility of parole, the court shall commit the defendant to the custody
38 of the secretary of corrections and the court shall state in the sentencing
39 order of the judgment form or journal entry, whichever is delivered with
40 the defendant to the correctional institution, that the defendant has been
41 sentenced to imprisonment for life without the possibility of parole.

42 (c) As used in this section:

43 (1) "Aggravated habitual sex offender" means a person who, on and

1 after July 1, 2006: (A) Has been convicted in this state of a sexually
2 violent crime, as described in subsection (c)(3)(A) through (c)(3)(~~F~~)(H) or
3 (c)(3)(~~L~~)(J); and (B) prior to the conviction of the felony under
4 subparagraph (A), has been convicted ~~on at least two prior conviction~~
5 ~~events of any sexually violent crime of two or more sexually violent~~
6 ~~crimes;~~

7 (2) "~~prior conviction event~~" means ~~one or more felony convictions of~~
8 ~~a sexually violent crime occurring on the same day and within a single~~
9 ~~court. These convictions may result from multiple counts within an~~
10 ~~information or from more than one information. If a person crosses a~~
11 ~~county line and commits a felony as part of the same criminal act or acts,~~
12 ~~such felony, if such person is convicted, shall be considered part of the~~
13 ~~prior conviction event.~~

14 (3) "Sexually violent crime" means:

15 (A) Rape, as defined in *K.S.A. 21-3502, prior to its repeal, or section*
16 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
17 thereto;

18 (B) indecent liberties with a child or aggravated indecent liberties
19 with a child, as defined in *K.S.A. 21-3503 or 21-3504, prior to their*
20 *repeal, or section 70 of chapter 136 of the 2010 Session Laws of Kansas*,
21 and amendments thereto;

22 (C) criminal sodomy, as defined in *subsection (a)(2) or (a)(3) of*
23 *K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and/or (a)(4) of*
24 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
25 amendments thereto;

26 (D) aggravated criminal sodomy, as defined in *K.S.A. 21-3506, prior*
27 *to its repeal, or section 68 of chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto;

29 (E) indecent solicitation of a child or aggravated indecent solicitation
30 of a child, as defined in *K.S.A. 21-3510 or 21-3511, prior to their repeal,*
31 *or section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
32 amendments thereto;

33 (F) sexual exploitation of a child, as defined in *K.S.A. 21-3516, prior*
34 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
35 *Kansas*, and amendments thereto;

36 (G) aggravated sexual battery, as defined in *K.S.A. 21-3518, prior to*
37 *its repeal, or section 69 of chapter 136 of the 2010 Session Laws of*
38 *Kansas*, and amendments thereto;

39 (H) aggravated incest, as defined in *K.S.A. 21-3603, prior to its*
40 *repeal, or section 81 of chapter 136 of the 2010 Session Laws of Kansas*,
41 and amendments thereto;

42 (I) any federal or other state conviction for a felony offense that
43 under the laws of this state would be a sexually violent crime as defined

1 in this section;

2 (J) an attempt, conspiracy or criminal solicitation, as defined in
3 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33,*
4 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,* and
5 amendments thereto, of a sexually violent crime as defined in this section;
6 or

7 (K) any act which at the time of sentencing for the offense has been
8 determined beyond a reasonable doubt to have been sexually motivated.
9 As used in this subparagraph, "sexually motivated" means that one of the
10 purposes for which the defendant committed the crime was for the
11 purpose of the defendant's sexual gratification.

12 Sec. 73. Section 267 of chapter 136 of the 2010 Session Laws of
13 Kansas is hereby amended to read as follows: Sec. 267. (a) (1) Except as
14 provided in subsection (b) or (d), a defendant who is 18 years of age or
15 older and is convicted of the following crimes committed on or after July
16 1, 2006, shall be sentenced to a term of imprisonment for life with a
17 mandatory minimum term of imprisonment of not less than 25 years
18 unless the court determines that the defendant should be sentenced as
19 determined in subsection (a)(2):

20 (A) Aggravated *human* trafficking, as defined in section 61 of
21 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
22 thereto, if the victim is less than 14 years of age;

23 (B) rape, as defined in subsection (a)(3) of section 67 of *chapter 136*
24 *of the 2010 Session Laws of Kansas,* and amendments thereto;

25 (C) aggravated indecent liberties with a child, as defined in
26 subsection (b)(3) of section 70 of *chapter 136 of the 2010 Session Laws*
27 *of Kansas,* and amendments thereto;

28 (D) aggravated criminal sodomy, as defined in subsection (b)(1) or
29 (b)(2) of section 68 of *chapter 136 of the 2010 Session Laws of Kansas,*
30 and amendments thereto;

31 (E) promoting prostitution, as defined in section 230 of *chapter 136*
32 *of the 2010 Session Laws of Kansas,* and amendments thereto, if the
33 prostitute is less than 14 years of age;

34 (F) sexual exploitation of a child, as defined in subsection (a)(1) or
35 (a)(4) of section 74 of *chapter 136 of the 2010 Session Laws of Kansas,*
36 and amendments thereto, if the child is less than 14 years of age; and

37 (G) an attempt, conspiracy or criminal solicitation, as defined in
38 section 33, 34 or 35 of *chapter 136 of the 2010 Session Laws of Kansas,*
39 and amendments thereto, of an offense defined in subsections (a)(1)(A)
40 through (a)(1)(F).

41 (2) The provision of subsection (a)(1) requiring a mandatory
42 minimum term of imprisonment of not less than 25 years shall not apply
43 if the court finds:

1 (A) The defendant is an aggravated habitual sex offender and
2 sentenced pursuant to section 266 *of chapter 136 of the 2010 Session*
3 *Laws of Kansas*, and amendments thereto; or

4 (B) the defendant, because of the defendant's criminal history
5 classification, is subject to presumptive imprisonment pursuant to the
6 sentencing guidelines grid for nondrug crimes and the sentencing range
7 exceeds 300 months. In such case, the defendant is required to serve a
8 mandatory minimum term equal to the sentence established pursuant to
9 the sentencing range.

10 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
11 age or older is convicted of a crime listed in subsection (a)(1) and such
12 defendant has previously been convicted of a crime listed in subsection
13 (a)(1), a crime in effect at any time prior to ~~May 24, 2007~~ *July 1, 2011*,
14 which is substantially the same as a crime listed in subsection (a)(1) or a
15 crime under a law of another jurisdiction which is substantially the same
16 as a crime listed in subsection (a)(1), the court shall sentence the
17 defendant to a term of imprisonment for life with a mandatory minimum
18 term of imprisonment of not less than 40 years. The provisions of this
19 paragraph shall not apply to a crime committed under section 71 *of*
20 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
21 thereto, or a crime under a law of another jurisdiction which is
22 substantially the same as section 71 *of chapter 136 of the 2010 Session*
23 *Laws of Kansas*, and amendments thereto.

24 (2) The provision of subsection (b)(1) requiring a mandatory
25 minimum term of imprisonment of not less than 40 years shall not apply
26 if the court finds:

27 (A) The defendant is an aggravated habitual sex offender and
28 sentenced pursuant to section 266, and amendments thereto; or

29 (B) the defendant, because of the defendant's criminal history
30 classification, is subject to presumptive imprisonment pursuant to the
31 sentencing guidelines grid for nondrug crimes and the sentencing range
32 exceeds 480 months. In such case, the defendant is required to serve a
33 mandatory minimum term equal to the sentence established pursuant to
34 the sentencing range.

35 (c) When a person is sentenced pursuant to subsection (a) or (b),
36 such person shall be sentenced to a mandatory minimum term of
37 imprisonment of not less than 25 years, 40 years or be sentenced as
38 determined in subsection (a)(2) or subsection (b)(2), whichever is
39 applicable, and shall not be eligible for probation or suspension,
40 modification or reduction of sentence. In addition, a person sentenced
41 pursuant to this section shall not be eligible for parole prior to serving
42 such mandatory term of imprisonment, and such imprisonment shall not
43 be reduced by the application of good time credits.

1 (d) (1) On or after July 1, 2006, for a first time conviction of an
2 offense listed in subsection (a)(1), the sentencing judge shall impose the
3 mandatory minimum term of imprisonment provided by subsection (a),
4 unless the judge finds substantial and compelling reasons, following a
5 review of mitigating circumstances, to impose a departure. If the
6 sentencing judge departs from such mandatory minimum term of
7 imprisonment, the judge shall state on the record at the time of sentencing
8 the substantial and compelling reasons for the departure. The departure
9 sentence shall be the sentence pursuant to the revised Kansas sentencing
10 guidelines act, sections 282 through 305 of *chapter 136 of the 2010*
11 *Session Laws of Kansas*, and amendments thereto, and, *subject to the*
12 *provisions of section 299 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto*, no sentence of a mandatory minimum
14 term of imprisonment shall be imposed hereunder.

15 (2) As used in this subsection, "mitigating circumstances" shall
16 include, but are not limited to, the following:

17 (A) The defendant has no significant history of prior criminal
18 activity;

19 (B) the crime was committed while the defendant was under the
20 influence of extreme mental or emotional disturbances;

21 (C) the victim was an accomplice in the crime committed by another
22 person, and the defendant's participation was relatively minor;

23 (D) the defendant acted under extreme distress or under the
24 substantial domination of another person;

25 (E) the capacity of the defendant to appreciate the criminality of the
26 defendant's conduct or to conform the defendant's conduct to the
27 requirements of law was substantially impaired; and

28 (F) the age of the defendant at the time of the crime.

29 (e) *The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to*
30 *their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session*
31 *Laws of Kansas, and amendments thereto, shall not apply to any*
32 *defendant sentenced pursuant to this section.*

33 Sec. 74. Section 268 of Chapter 136 of the 2010 Session Laws of
34 Kansas is hereby amended to read as follows: Sec. 268. (a) In the event
35 the term of imprisonment for life without the possibility of parole or any
36 provision of section 266 or 267 of *chapter 136 of the 2010 Session Laws*
37 *of Kansas*, and amendments thereto, authorizing such term is held to be
38 unconstitutional by the supreme court of Kansas or the United States
39 supreme court, the court having jurisdiction over a person previously
40 sentenced shall cause such person to be brought before the court and shall
41 modify the sentence to require no term of imprisonment for life without
42 the possibility of parole and shall sentence the defendant to the maximum
43 term of imprisonment otherwise provided by law.

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

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

16 Sec. 75. Section 269 of chapter 136 of the 2010 Session Laws of
17 Kansas is hereby amended to read as follows: Sec. 269. (a) The
18 provisions of K.S.A. 21-4622 through 21-4630, as they existed
19 immediately prior to July 1, 1994, shall be applicable only to persons
20 convicted of crimes committed on or after July 1, 1990, and before July
21 1, 1994.

22 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
23 and 21-4630, as amended on July 1, 1994 *and prior to their repeal, and*
24 *sections 257, 258, 259, 262, 264, 265 and subsection (b) of section 268 of*
25 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
26 *thereto, shall be applicable only to persons convicted of crimes*
27 *committed on or after July 1, 1994.*

28 (c) K.S.A. 21-4633 through 21-4640, *prior to their repeal, and*
29 *sections 260, 261, 262, 263, 264, 265 and subsection (c) of section 268 of*
30 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
31 *thereto, shall be applicable only to persons convicted of crimes*
32 *committed on or after July 1, 1994.*

33 Sec. 76. Section 271 of chapter 136 of the 2010 Session Laws of
34 Kansas is hereby amended to read as follows: Sec. 271. (a) Whenever any
35 person has been found guilty of a crime and the court finds that an
36 adequate presentence investigation cannot be conducted by resources
37 available within the judicial district, including mental health centers and
38 mental health clinics, the court may require that a presentence
39 investigation be conducted by the Topeka correctional facility or by the
40 state security hospital. If the offender is sent to the Topeka correctional
41 facility or the state security hospital for a presentence investigation under
42 this section, the correctional facility or hospital may keep the offender
43 confined for a maximum of 60 days, except that an inmate may be held

1 for a longer period of time on order of the secretary, or until the court
2 calls for the return of the offender. While held at the Topeka correctional
3 facility or the state security hospital the defendant may be treated the
4 same as any person committed to the secretary of corrections or secretary
5 of social and rehabilitation services for purposes of maintaining security
6 and control, discipline, and emergency medical or psychiatric treatment,
7 and general population management except that no such person shall be
8 transferred out of the state or to a federal institution or to any other
9 location unless the transfer is between the correctional facility and the
10 state security hospital. The correctional facility or the state security
11 hospital shall compile a complete mental and physical evaluation of such
12 offender and shall make its findings and recommendations known to the
13 court in the presentence report.

14 (b) Except as provided in subsection (c), whenever any person has
15 been found guilty of a crime, the court may adjudge any of the following:

16 (1) Commit the defendant to the custody of the secretary of
17 corrections or, if confinement is for a term less than one year, to jail for
18 the term provided by law;

19 (2) impose the fine applicable to the offense;

20 (3) release the defendant on probation subject to such conditions as
21 the court may deem appropriate, including orders requiring full or partial
22 restitution. In felony cases, the court may include confinement in a
23 county jail not to exceed 60 days, which need not be served
24 consecutively, as a condition of an original probation sentence and up to
25 60 days in a county jail upon each revocation of the probation sentence;

26 (4) suspend the imposition of the sentence subject to such conditions
27 as the court may deem appropriate, including orders requiring full or
28 partial restitution. In felony cases, the court may include confinement in a
29 county jail not to exceed 60 days, which need not be served
30 consecutively, as a condition of suspension of sentence;

31 (5) assign the defendant to a community correctional services
32 program subject to the provisions of K.S.A. 75-5291, and amendments
33 thereto, and such conditions as the court may deem appropriate, including
34 orders requiring full or partial restitution;

35 (6) assign the defendant to a conservation camp for a period not to
36 exceed six months;

37 (7) assign the defendant to a house arrest program pursuant to
38 section ~~252~~ 249 of chapter 136 of the 2010 Session Laws of Kansas, and
39 amendments thereto;

40 (8) order the defendant to attend and satisfactorily complete an
41 alcohol or drug education or training program as provided by subsection
42 (c) of section 242 of chapter 136 of the 2010 Session Laws of Kansas, and
43 amendments thereto;

1 (9) order the defendant to pay the administrative fee authorized by
2 K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

3 (10) impose any appropriate combination of subsections (b)(1)
4 through (b)(9).

5 In addition to or in lieu of any of the above, the court shall order the
6 defendant to submit to and complete an alcohol and drug evaluation, and
7 pay a fee therefor, when required by subsection (d) of section 242 *of*
8 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
9 thereto.

10 In addition to any of the above, the court shall order the defendant to
11 reimburse the state general fund for all or a part of the expenditures by
12 the state board of indigents' defense services to provide counsel and other
13 defense services to the defendant. In determining the amount and method
14 of payment of such sum, the court shall take account of the financial
15 resources of the defendant and the nature of the burden that payment of
16 such sum will impose. A defendant who has been required to pay such
17 sum and who is not willfully in default in the payment thereof may at any
18 time petition the court which sentenced the defendant to waive payment
19 of such sum or any unpaid portion thereof. If it appears to the satisfaction
20 of the court that payment of the amount due will impose manifest
21 hardship on the defendant or the defendant's immediate family, the court
22 may waive payment of all or part of the amount due or modify the
23 method of payment. The amount of attorney fees to be included in the
24 court order for reimbursement shall be the amount claimed by appointed
25 counsel on the payment voucher for indigents' defense services or the
26 amount prescribed by the board of indigents' defense services
27 reimbursement tables as provided in K.S.A. 22-4522, and amendments
28 thereto, whichever is less.

29 In imposing a fine the court may authorize the payment thereof in
30 installments. In releasing a defendant on probation, the court shall direct
31 that the defendant be under the supervision of a court services officer. If
32 the court commits the defendant to the custody of the secretary of
33 corrections or to jail, the court may specify in its order the amount of
34 restitution to be paid and the person to whom it shall be paid if restitution
35 is later ordered as a condition of parole or conditional release.

36 The court in committing a defendant to the custody of the secretary of
37 corrections shall fix a maximum term of confinement within the limits
38 provided by law. In those cases where the law does not fix a maximum
39 term of confinement for the crime for which the defendant was convicted,
40 the court shall fix the maximum term of such confinement. In all cases
41 where the defendant is committed to the custody of the secretary of
42 corrections, the court shall fix the minimum term within the limits
43 provided by law.

1 (c) Whenever any juvenile felon, as defined in K.S.A. 38-16,112,
2 prior to its repeal, has been found guilty of a class A or B felony, the court
3 shall commit the defendant to the custody of the secretary of corrections
4 and may impose the fine applicable to the offense.

5 (d) (1) Except when an appeal is taken and determined adversely to
6 the defendant as provided in subsection (d)(2), at any time within 120
7 days after a sentence is imposed, after probation or assignment to a
8 community correctional services program has been revoked, the court
9 may modify such sentence, revocation of probation or assignment to a
10 community correctional services program by directing that a less severe
11 penalty be imposed in lieu of that originally adjudged within statutory
12 limits and shall modify such sentence if recommended by the Topeka
13 correctional facility unless the court finds and sets forth with particularity
14 the reasons for finding that the safety of members of the public will be
15 jeopardized or that the welfare of the inmate will not be served by such
16 modification.

17 (2) If an appeal is taken and determined adversely to the defendant,
18 such sentence may be modified within 120 days after the receipt by the
19 clerk of the district court of the mandate from the supreme court or court
20 of appeals.

21 (e) The court shall modify the sentence at any time before the
22 expiration thereof when such modification is recommended by the
23 secretary of corrections unless the court finds and sets forth with
24 particularity the reasons for finding that the safety of members of the
25 public will be jeopardized or that the welfare of the inmate will not be
26 served by such modification. The court shall have the power to impose a
27 less severe penalty upon the inmate, including the power to reduce the
28 minimum below the statutory limit on the minimum term prescribed for
29 the crime of which the inmate has been convicted. The recommendation
30 of the secretary of corrections, the hearing on the recommendation and
31 the order of modification shall be made in open court. Notice of the
32 recommendation of modification of sentence and the time and place of
33 the hearing thereon shall be given by the inmate, or by the inmate's legal
34 counsel, at least 21 days prior to the hearing to the county or district
35 attorney of the county where the inmate was convicted. After receipt of
36 such notice and at least 14 days prior to the hearing, the county or district
37 attorney shall give notice of the recommendation of modification of
38 sentence and the time and place of the hearing thereon to any victim of
39 the inmate's crime who is alive and whose address is known to the county
40 or district attorney or, if the victim is deceased, to the victim's next of kin
41 if the next of kin's address is known to the county or district attorney.
42 Proof of service of each notice required to be given by this subsection
43 shall be filed with the court.

1 (f) After such defendant has been assigned to a conservation camp
2 but prior to the end of 180 days, the chief administrator of such camp
3 shall file a performance report and recommendations with the court. The
4 court shall enter an order based on such report and recommendations
5 modifying the sentence, if appropriate, by sentencing the defendant to any
6 of the authorized dispositions provided in subsection (b), except to
7 reassign such person to a conservation camp as provided in subsection (b)
8 (6).

9 (g) This section shall not deprive the court of any authority conferred
10 by any other Kansas statute to decree a forfeiture of property, suspend or
11 cancel a license, remove a person from office, or impose any other civil
12 penalty as a result of conviction of crime.

13 (h) An application for or acceptance of probation, suspended
14 sentence or assignment to a community correctional services program
15 shall not constitute an acquiescence in the judgment for purpose of
16 appeal, and any convicted person may appeal from such conviction, as
17 provided by law, without regard to whether such person has applied for
18 probation, suspended sentence or assignment to a community correctional
19 services program.

20 (i) When it is provided by law that a person shall be sentenced
21 pursuant to K.S.A. 21-4628, prior to its repeal, the provisions of this
22 section shall not apply.

23 (j) The provisions of this section shall apply to crimes committed
24 before July 1, 1993.

25 Sec. 77. Section 285 of chapter 136 of the 2010 Session Laws of
26 Kansas is hereby amended to read as follows: Sec. 285. (a) The
27 provisions of this section shall be applicable to the sentencing guidelines
28 grid for nondrug crimes. The following sentencing guidelines grid shall
29 be applicable to nondrug felony crimes:

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level 1	3+ Person Felonies	2 Person Felonies	1 Person & Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	633 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 23	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	25 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	8 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	6 6 5	7 6 5	6 5 5

LEGEND

Presumptive Probation
Hard Ship
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for
2 nondrug crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime
4 severity and criminal history classification tool. The grid's vertical axis is
5 the crime severity scale which classifies current crimes of conviction. The
6 grid's horizontal axis is the criminal history scale which classifies
7 criminal histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in
9 this section defines presumptive punishments for felony convictions,
10 subject to the sentencing court's discretion to enter a departure sentence.
11 The appropriate punishment for a felony conviction should depend on the
12 severity of the crime of conviction when compared to all other crimes and
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place
15 within the sentencing range. In the usual case it is recommended that the
16 sentencing judge select the center of the range and reserve the upper and
17 lower limits for aggravating and mitigating factors insufficient to warrant
18 a departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of
23 good time; and

24 (C) period of postrelease supervision at the sentencing hearing.
25 Failure to pronounce the period of postrelease supervision shall not
26 negate the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an
32 offender whose crime of conviction and criminal history place such
33 offender in that grid block. If an offense is classified in a grid block
34 below the dispositional line, the presumptive disposition shall be
35 nonimprisonment. If an offense is classified in a grid block above the
36 dispositional line, the presumptive disposition shall be imprisonment. If
37 an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may
38 impose an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of ~~section 48, and amendments~~
40 ~~thereto, K.S.A. 21-3415, prior to its repeal~~, aggravated battery against a
41 law enforcement officer committed prior to July 1, 2006, or a violation of
42 *subsection (d) of section 47 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto, aggravated assault against a law

1 enforcement officer, which places the defendant's sentence in grid block
2 6-H or 6-I shall be presumed imprisonment. The court may impose an
3 optional nonprison sentence as provided in subsection (q).

4 (h) When a firearm is used to commit any person felony, the
5 offender's sentence shall be presumed imprisonment. The court may
6 impose an optional nonprison sentence as provided in subsection (q).

7 (i) (l) The sentence for the violation of the felony provision of
8 K.S.A. 8-1567, subsection (b)(3) of section 49 *of chapter 136 of the 2010*
9 *Session Laws of Kansas*, subsections (b)(3) and (b)(4) of section 109 *of*
10 *chapter 136 of the 2010 Session Laws of Kansas*, section 223 *of chapter*
11 *136 of the 2010 Session Laws of Kansas* and section 227 *of chapter 136*
12 *of the 2010 Session Laws of Kansas*, and amendments thereto, shall be as
13 provided by the specific mandatory sentencing requirements of that
14 section and shall not be subject to the provisions of this section or section
15 288 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
16 thereto.

17 (2) If because of the offender's criminal history classification the
18 offender is subject to presumptive imprisonment or if the judge departs
19 from a presumptive probation sentence and the offender is subject to
20 imprisonment, the provisions of this section and section 288 *of chapter*
21 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
22 apply and the offender shall not be subject to the mandatory sentence as
23 provided in section 109 *of chapter 136 of the 2010 Session Laws of*
24 *Kansas*, and amendments thereto.

25 (3) Notwithstanding the provisions of any other section, the term of
26 imprisonment imposed for the violation of the felony provision of K.S.A.
27 8-1567, subsection (b)(3) of section 49 *of chapter 136 of the 2010*
28 *Session Laws of Kansas*, subsections (b)(3) and (b)(4) of section 109 *of*
29 *chapter 136 of the 2010 Session Laws of Kansas*, section 223 and section
30 227 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
31 thereto, shall not be served in a state facility in the custody of the
32 secretary of corrections, except that the term of imprisonment for felony
33 violations of K.S.A. 8-1567, and amendments thereto, may be served in a
34 state correctional facility designated by the secretary of corrections if the
35 secretary determines that substance abuse treatment resources and facility
36 capacity is available. The secretary's determination regarding the
37 availability of treatment resources and facility capacity shall not be
38 subject to review.

39 (j) (1) The sentence for any persistent sex offender whose current
40 convicted crime carries a presumptive term of imprisonment shall be
41 double the maximum duration of the presumptive imprisonment term.
42 The sentence for any persistent sex offender whose current conviction
43 carries a presumptive nonprison term shall be presumed imprisonment

1 and shall be double the maximum duration of the presumptive
2 imprisonment term.

3 (2) Except as otherwise provided in this subsection, as used in this
4 subsection, "persistent sex offender" means a person who:

5 (A) (i) Has been convicted in this state of a sexually violent crime,
6 as defined in K.S.A. 22-3717, and amendments thereto; and

7 (ii) at the time of the conviction under ~~paragraph~~ *subsection (j)(2)(A)*
8 (i) has at least one conviction for a sexually violent crime, as defined in
9 K.S.A. 22-3717, and amendments thereto, in this state or comparable
10 felony under the laws of another state, the federal government or a
11 foreign government; or

12 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
13 prior to its repeal, or section 67 of *chapter 136 of the 2010 Session Laws*
14 *of Kansas*, and amendments thereto; and

15 (ii) at the time of the conviction under ~~paragraph~~ *subsection (j)(2)(B)*
16 (i) has at least one conviction for rape in this state or comparable felony
17 under the laws of another state, the federal government or a foreign
18 government.

19 (3) Except as provided in ~~paragraph~~ *subsection (j)(2)(B)*, the
20 provisions of this subsection shall not apply to any person whose current
21 convicted crime is a severity level 1 or 2 felony.

22 (k) (1) If it is shown at sentencing that the offender committed any
23 felony violation for the benefit of, at the direction of, or in association
24 with any criminal street gang, with the specific intent to promote, further
25 or assist in any criminal conduct by gang members, the offender's
26 sentence shall be presumed imprisonment. The court may impose an
27 optional nonprison sentence as provided in subsection (q).

28 (2) As used in this subsection, "criminal street gang" means any
29 organization, association or group of three or more persons, whether
30 formal or informal, having as one of its primary activities:

31 (A) The commission of one or more person felonies; or

32 (B) the commission of felony violations of K.S.A. ~~2009~~ *2010*
33 *Supp. 21-36a01 through 21-36a17*, and amendments thereto; and

34 (C) its members have a common name or common identifying sign
35 or symbol; and

36 (D) its members, individually or collectively, engage in or have
37 engaged in the commission, attempted commission, conspiracy to commit
38 or solicitation of two or more person felonies or felony violations of
39 K.S.A. ~~2009~~ *2010 Supp. 21-36a01 through 21-36a17*, and amendments
40 thereto, or any substantially similar offense from another jurisdiction.

41 (l) Except as provided in subsection (o), the sentence for a violation
42 of subsection (a)(1) of section 93 of *chapter 136 of the 2010 Session*
43 *Laws of Kansas*, and amendments thereto, *or any attempt or conspiracy*,

1 *as defined in sections 33 and 34 of chapter 136 of the 2010 Session Laws*
2 *of Kansas, and amendments thereto, to commit such offense, when such*
3 *person being sentenced has a prior conviction for a violation of*
4 *subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior*
5 *to its repeal, subsection (a)(1) or (a)(2) of section 93 of chapter 136 of the*
6 *2010 Session Laws of Kansas, or subsection (b) of section 93 of chapter*
7 *136 of the 2010 Session Laws of Kansas, and amendments thereto, or any*
8 *attempt or conspiracy to commit such offense, shall be presumed-*
9 *presumptive imprisonment.*

10 (m) The sentence for a violation of K.S.A 22-4903 or subsection (a)
11 (2) of section 138 *of chapter 136 of the 2010 Session Laws of Kansas,*
12 *and amendments thereto, shall be presumptive imprisonment. If an*
13 *offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H*
14 *or 5-I, the court may impose an optional nonprison sentence as provided*
15 *in subsection (q).*

16 (n) The sentence for a violation of criminal deprivation of property,
17 *as defined in section 89 of chapter 136 of the 2010 Session Laws of*
18 *Kansas, and amendments thereto, when such property is a motor vehicle,*
19 *and when such person being sentenced has any combination of two or*
20 *more prior convictions of subsection (b) of K.S.A. 21-3705, prior to its*
21 *repeal, or of criminal deprivation of property, as defined in section 89 of*
22 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
23 *thereto, when such property is a motor vehicle, shall be presumptive*
24 *imprisonment. Such sentence shall not be considered a departure and*
25 *shall not be subject to appeal.*

26 (o) The sentence for a felony violation of theft of property as defined
27 *in section 87 of chapter 136 of the 2010 Session Laws of Kansas, and*
28 *amendments thereto, or burglary as defined in subsection (a) of section 93*
29 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
30 *thereto, when such person being sentenced has no prior convictions for a*
31 *violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of*
32 *property as defined in section 87 of chapter 136 of the 2010 Session Laws*
33 *of Kansas, and amendments thereto, or burglary as defined in subsection*
34 *(a) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and*
35 *amendments thereto; or the sentence for a felony violation of theft of*
36 *property as defined in section 87 of chapter 136 of the 2010 Session Laws*
37 *of Kansas, and amendments thereto, when such person being sentenced*
38 *has one or two prior felony convictions for a violation of K.S.A. 21-3701,*
39 *21-3715 or 21-3716, prior to their repeal, or theft of property as defined*
40 *in section 87 of chapter 136 of the 2010 Session Laws of Kansas, and*
41 *amendments thereto, or burglary or aggravated burglary as defined in*
42 *section 93 of chapter 136 of the 2010 Session Laws of Kansas, and*
43 *amendments thereto; or the sentence for a felony violation of burglary as*

1 defined in subsection (a) of section 93 of *chapter 136 of the 2010 Session*
2 *Laws of Kansas*, and amendments thereto, when such person being
3 sentenced has one prior felony conviction for a violation of K.S.A. 21-
4 3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as
5 defined in section 87 of *chapter 136 of the 2010 Session Laws of Kansas*,
6 and amendments thereto, or burglary or *aggravated burglary* as defined
7 in section 93 of *chapter 136 of the 2010 Session Laws of Kansas*, and
8 amendments thereto, shall be the sentence as provided by this section,
9 except that the court may order an optional nonprison sentence for a
10 defendant to participate in a drug treatment program, including, but not
11 limited to, an approved after-care plan, if the court makes the following
12 findings on the record:

13 (1) Substance abuse was an underlying factor in the commission of
14 the crime;

15 (2) substance abuse treatment in the community is likely to be more
16 effective than a prison term in reducing the risk of offender recidivism;
17 and

18 (3) participation in an intensive substance abuse treatment program
19 will serve community safety interests.

20 A defendant sentenced to an optional nonprison sentence under
21 this subsection shall be supervised by community correctional services.
22 The provisions of subsection (f)(1) of section 305 of *chapter 136 of the*
23 *2010 Session Laws of Kansas*, and amendments thereto, shall apply to a
24 defendant sentenced under this subsection. The sentence under this
25 subsection shall not be considered a departure and shall not be subject to
26 appeal.

27 (p) The sentence for a felony violation of theft of property as defined
28 in section 87 of *chapter 136 of the 2010 Session Laws of Kansas*, and
29 amendments thereto, when such person being sentenced has any
30 combination of three or more prior felony convictions for violations of
31 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of
32 property as defined in section 87 of *chapter 136 of the 2010 Session Laws*
33 *of Kansas*, and amendments thereto, or burglary or *aggravated burglary*
34 as defined in section 93 of *chapter 136 of the 2010 Session Laws of*
35 *Kansas*; or the sentence for a violation of burglary as defined in
36 subsection (a) of section 93 of *chapter 136 of the 2010 Session Laws of*
37 *Kansas*, and amendments thereto, when such person being sentenced has
38 any combination of two or more prior convictions for violations of
39 K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of
40 property as defined in section 87 of *chapter 136 of the 2010 Session Laws*
41 *of Kansas*, and amendments thereto, or burglary or *aggravated burglary*
42 as defined in section 93 of *chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto, shall be presumed imprisonment and

1 the defendant shall be sentenced to prison as provided by this section,
2 except that the court may recommend that an offender be placed in the
3 custody of the secretary of corrections, in a facility designated by the
4 secretary to participate in an intensive substance abuse treatment
5 program, upon making the following findings on the record:

6 (1) Substance abuse was an underlying factor in the commission of
7 the crime;

8 (2) substance abuse treatment with a possibility of an early release
9 from imprisonment is likely to be more effective than a prison term in
10 reducing the risk of offender recidivism; and

11 (3) participation in an intensive substance abuse treatment program
12 with the possibility of an early release from imprisonment will serve
13 community safety interests by promoting offender reformation.

14 The intensive substance abuse treatment program shall be determined
15 by the secretary of corrections, but shall be for a period of at least four
16 months. Upon the successful completion of such intensive treatment
17 program, the offender shall be returned to the court and the court may
18 modify the sentence by directing that a less severe penalty be imposed in
19 lieu of that originally adjudged within statutory limits. If the offender's
20 term of imprisonment expires, the offender shall be placed under the
21 applicable period of postrelease supervision. The sentence under this
22 subsection shall not be considered a departure and shall not be subject to
23 appeal.

24 (q) As used in this section, an "optional nonprison sentence" is a
25 sentence which the court may impose, in lieu of the presumptive
26 sentence, upon making the following findings on the record:

27 (1) An appropriate treatment program exists which is likely to be
28 more effective than the presumptive prison term in reducing the risk of
29 offender recidivism; and

30 (2) the recommended treatment program is available and the
31 offender can be admitted to such program within a reasonable period of
32 time; or

33 (3) the nonprison sanction will serve community safety interests by
34 promoting offender reformation.

35 Any decision made by the court regarding the imposition of an
36 optional nonprison sentence shall not be considered a departure and shall
37 not be subject to appeal.

38 (r) The sentence for a violation of subsection (c)(2) of section 48 of
39 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
40 thereto, shall be presumptive imprisonment and shall be served
41 consecutively to any other term or terms of imprisonment imposed. Such
42 sentence shall not be considered a departure and shall not be subject to
43 appeal.

1 (s) *The sentence for a violation of section 76 of chapter 136 of the*
2 *2010 Session Laws of Kansas, and amendments thereto, shall be*
3 *presumptive imprisonment. Such sentence shall not be considered a*
4 *departure and shall not be subject to appeal.*

5 (t) (1) *If the trier of fact makes a finding that an offender wore or*
6 *used ballistic resistant material in the commission of, or attempt to*
7 *commit, or flight from any felony, in addition to the sentence imposed*
8 *pursuant to the Kansas sentencing guidelines act, the offender shall be*
9 *sentenced to an additional 30 months' imprisonment.*

10 (2) *The sentence imposed pursuant to subsection (t)(1) shall be*
11 *presumptive imprisonment and shall be served consecutively to any other*
12 *term or terms of imprisonment imposed. Such sentence shall not be*
13 *considered a departure and shall not be subject to appeal.*

14 (3) *As used in this subsection, "ballistic resistant material" means:*
15 *(A) Any commercially produced material designed with the purpose of*
16 *providing ballistic and trauma protection, including, but not limited to,*
17 *bulletproof vests and kevlar vests; and (B) any homemade or fabricated*
18 *substance or item designed with the purpose of providing ballistic and*
19 *trauma protection.*

20 Sec. 78. Section 291 of chapter 136 of the 2010 Session Laws of
21 Kansas is hereby amended to read as follows: Sec. 291. (a) Criminal
22 history categories contained in the sentencing guidelines grids are based
23 on the following types of prior convictions: Person felony adult
24 convictions, nonperson felony adult convictions, person felony juvenile
25 adjudications, nonperson felony juvenile adjudications, person
26 misdemeanor adult convictions, nonperson class A misdemeanor adult
27 convictions, person misdemeanor juvenile adjudications, nonperson class
28 A misdemeanor juvenile adjudications, select class B nonperson
29 misdemeanor adult convictions, select class B nonperson misdemeanor
30 juvenile adjudications and convictions and adjudications for violations of
31 municipal ordinances or county resolutions which are comparable to any
32 crime classified under the state law of Kansas as a person misdemeanor,
33 select nonperson class B misdemeanor or nonperson class A
34 misdemeanor. A prior conviction is any conviction, other than another
35 count in the current case which was brought in the same information or
36 complaint or which was joined for trial with other counts in the current
37 case pursuant to K.S.A. 22-3203, and amendments thereto, which
38 occurred prior to sentencing in the current case regardless of whether the
39 offense that led to the prior conviction occurred before or after the current
40 offense or the conviction in the current case.

41 (b) A class B nonperson select misdemeanor is a special
42 classification established for weapons violations. Such classification shall
43 be considered and scored in determining an offender's criminal history

1 classification.

2 (c) Except as otherwise provided, all convictions, whether sentenced
3 consecutively or concurrently, shall be counted separately in the
4 offender's criminal history.

5 (d) Except as provided in section 296 of chapter 136 of the 2010
6 Session Laws of Kansas, and amendments thereto, the following are
7 applicable to determining an offender's criminal history classification:

8 (1) Only verified convictions will be considered and scored.

9 (2) All prior adult felony convictions, including expungements, will
10 be considered and scored.

11 (3) There will be no decay factor applicable for:

12 (A) Adult convictions;

13 (B) a juvenile adjudication for an offense which would constitute a
14 person felony if committed by an adult;

15 (C) a juvenile adjudication for an offense committed before July 1,
16 1993, which would have been a class A, B or C felony, if committed by
17 an adult; or

18 (D) a juvenile adjudication for an offense committed on or after July
19 1, 1993, which would be an off-grid felony, a nondrug severity level 1, 2,
20 3, 4 or 5 felony, or a drug severity level 1, 2 or 3 felony, if committed by
21 an adult.

22 (4) Except as otherwise provided, a juvenile adjudication will decay
23 if the current crime of conviction is committed after the offender reaches
24 the age of 25, and the juvenile adjudication is for an offense:

25 (A) Committed before July 1, 1993, which would have been a class
26 D or E felony if committed by an adult;

27 (B) committed on or after July 1, 1993, which would be a nondrug
28 level 6, 7, 8, 9 or 10, or drug level 4, nonperson felony if committed by
29 an adult; or

30 (C) which would be a misdemeanor if committed by an adult.

31 (5) All person misdemeanors, class A nonperson misdemeanors and
32 class B select nonperson misdemeanors, and all municipal ordinance and
33 county resolution violations comparable to such misdemeanors, shall be
34 considered and scored.

35 (6) Unless otherwise provided by law, unclassified felonies and
36 misdemeanors, shall be considered and scored as nonperson crimes for
37 the purpose of determining criminal history.

38 (7) Prior convictions of a crime defined by a statute which has since
39 been repealed shall be scored using the classification assigned at the time
40 of such conviction.

41 (8) Prior convictions of a crime defined by a statute which has since
42 been determined unconstitutional by an appellate court shall not be used
43 for criminal history scoring purposes.

1 (9) Prior convictions of any crime shall not be counted in
2 determining the criminal history category if they enhance the severity
3 level ~~or applicable penalties~~, elevate the classification from misdemeanor
4 to felony, or are elements of the present crime of conviction. Except as
5 otherwise provided, all other prior convictions will be considered and
6 scored.

7 Sec. 79. Section 292 of chapter 136 of the 2010 Session Laws of
8 Kansas is hereby amended to read as follows: Sec. 292. In addition to the
9 provisions of section 291 *of chapter 136 of the 2010 Session Laws of*
10 *Kansas*, and amendments thereto, the following shall apply in
11 determining an offender's criminal history classification as contained in
12 the presumptive sentencing guidelines grids:

13 (a) Every three prior adult convictions or juvenile adjudications of
14 class A and class B person misdemeanors in the offender's criminal
15 history, or any combination thereof, shall be rated as one adult conviction
16 or one juvenile adjudication of a person felony for criminal history
17 purposes. Every three prior adult convictions or juvenile adjudications of
18 assault as defined in *K.S.A. 21-3408, prior to its repeal, or* subsection (a)
19 *of section 47 of chapter 136 of the 2010 Session Laws of Kansas*, and
20 amendments thereto, occurring within a period commencing three years
21 prior to the date of conviction for the current crime of conviction shall be
22 rated as one adult conviction or one juvenile adjudication of a person
23 felony for criminal history purposes.

24 (b) A conviction of *criminal possession of a firearm as defined in*
25 *subsection (a)(1) or (a)(5) of K.S.A. 21-4204, prior to its repeal, criminal*
26 *use of weapons as defined in subsection ~~(a)(8) or (a)(13)~~(a)(10) or (a)*
27 *(11) of section 186 of chapter 136 of the 2010 Session Laws of Kansas,*
28 *and amendments thereto, or unlawful possession of a firearm on the*
29 *grounds or in the state capitol building as defined in section 194, and*
30 *amendments thereto as in effect on June 30, 2005, and as defined in*
31 *K.S.A. 21-4218, prior to its repeal,* will be scored as a select class B
32 nonperson misdemeanor conviction or adjudication and shall not be
33 scored as a person misdemeanor for criminal history purposes.

34 (c) (1) If the current crime of conviction was committed before
35 July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect on
36 June 30, 1996, involuntary manslaughter in the commission of driving
37 under the influence, then, each prior adult conviction or juvenile
38 adjudication for K.S.A. 8-1567, and amendments thereto, shall count as
39 one person felony for criminal history purposes.

40 (2) If the current crime of conviction was committed on or after July
41 1, 1996, and is for a violation of subsection (a)(3) of section 40 *of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto, each prior adult conviction, diversion in lieu of criminal

1 prosecution or juvenile adjudication for: (A) An act described in K.S.A.
2 8-1567, and amendments thereto; or (B) a violation of a law of another
3 state or an ordinance of any city, or resolution of any county, which
4 prohibits the act described in K.S.A. 8-1567, and amendments thereto,
5 shall count as one person felony for criminal history purposes.

6 (d) Prior burglary adult convictions and juvenile adjudications will
7 be scored for criminal history purposes as follows:

8 (1) As a prior person felony if the prior conviction or adjudication
9 was classified as a burglary as defined in *subsection (a) of K.S.A. 21-*
10 *3715, prior to its repeal, or subsection (a)(1) of section 93 of chapter 136*
11 *of the 2010 Session Laws of Kansas*, and amendments thereto.

12 (2) As a prior nonperson felony if the prior conviction or
13 adjudication was classified as a burglary as defined in *subsection (b) or*
14 *(c) of K.S.A. 21-3715, prior to its repeal, or subsection (a)(2) or (a)(3) of*
15 *section 93 of chapter 136 of the 2010 Session Laws of Kansas*, and
16 amendments thereto.

17 The facts required to classify prior burglary adult convictions and
18 juvenile adjudications shall be established by the state by a
19 preponderance of the evidence.

20 (e) Out-of-state convictions and juvenile adjudications shall be used
21 in classifying the offender's criminal history. An out-of-state crime will be
22 classified as either a felony or a misdemeanor according to the convicting
23 jurisdiction. If a crime is a felony in another state, it will be counted as a
24 felony in Kansas. The state of Kansas shall classify the crime as person or
25 nonperson. In designating a crime as person or nonperson comparable
26 offenses shall be referred to. If the state of Kansas does not have a
27 comparable offense, the out-of-state conviction shall be classified as a
28 nonperson crime. Convictions or adjudications occurring within the
29 federal system, other state systems, the District of Columbia, foreign,
30 tribal or military courts are considered out-of-state convictions or
31 adjudications. The facts required to classify out-of-state adult convictions
32 and juvenile adjudications shall be established by the state by a
33 preponderance of the evidence.

34 (f) Except as provided in *subsections (d)(4), (d)(5) or (d)(6) of*
35 *K.S.A. 21-4710, prior to its repeal, or subsections (d)(3)(B), (d)(3)(C), (d)*
36 *(3)(D) and (d)(4) of section 291 of chapter 136 of the 2010 Session Laws*
37 *of Kansas*, and amendments thereto, juvenile adjudications will be
38 applied in the same manner as adult convictions. Out-of-state juvenile
39 adjudications will be treated as juvenile adjudications in Kansas.

40 (g) A prior felony conviction of an attempt, a conspiracy or a
41 solicitation as provided in *K.S.A. 21-3301, 21-3302 or 21-3303, prior to*
42 *their repeal, or section 33, 34 or 35 of chapter 136 of the 2010 Session*
43 *Laws of Kansas*, and amendments thereto, to commit a crime shall be

1 treated as a person or nonperson crime in accordance with the designation
2 assigned to the underlying crime.

3 (h) Drug crimes are designated as nonperson crimes for criminal
4 history scoring.

5 Sec. 80. Section 294 of chapter 136 of the 2010 Session Laws of
6 Kansas is hereby amended to read as follows: Sec. 294. (a) The court
7 shall order the preparation of the presentence investigation report by the
8 court services officer as soon as possible after conviction of the
9 defendant.

10 (b) Each presentence report prepared for an offender to be sentenced
11 for one or more felonies committed on or after July 1, 1993, shall be
12 limited to the following information:

13 (1) A summary of the factual circumstances of the crime or crimes of
14 conviction.

15 (2) If the defendant desires to do so, a summary of the defendant's
16 version of the crime.

17 (3) When there is an identifiable victim, a victim report. The person
18 preparing the victim report shall submit the report to the victim and
19 request that the information be returned to be submitted as a part of the
20 presentence investigation. To the extent possible, the report shall include
21 a complete listing of restitution for damages suffered by the victim.

22 (4) An appropriate classification of each crime of conviction on the
23 crime severity scale.

24 (5) A listing of prior adult convictions or juvenile adjudications for
25 felony or misdemeanor crimes or violations of county resolutions or city
26 ordinances comparable to any misdemeanor defined by state law. Such
27 listing shall include an assessment of the appropriate classification of the
28 criminal history on the criminal history scale and the source of
29 information regarding each listed prior conviction and any available
30 source of journal entries or other documents through which the listed
31 convictions may be verified. If any such journal entries or other
32 documents are obtained by the court services officer, they shall be
33 attached to the presentence investigation report. Any prior criminal
34 history worksheets of the defendant shall also be attached.

35 (6) A proposed grid block classification for each crime, or crimes of
36 conviction and the presumptive sentence for each crime, or crimes of
37 conviction.

38 (7) If the proposed grid block classification is a grid block which
39 presumes imprisonment, the presumptive prison term range and the
40 presumptive duration of postprison supervision as it relates to the crime
41 severity scale.

42 (8) If the proposed grid block classification does not presume prison,
43 the presumptive prison term range and the presumptive duration of the

1 nonprison sanction as it relates to the crime severity scale and the court
2 services officer's professional assessment as to recommendations for
3 conditions to be mandated as part of the nonprison sanction.

4 (9) For defendants who are being sentenced for a conviction of a
5 felony violation of K.S.A. 65-4160 or 65-4162, prior to their repeal or
6 K.S.A. ~~2009~~2010 Supp. 21-36a06, and amendments thereto, and meet the
7 requirements of section 305 of chapter 136 of the 2010 Session Laws of
8 Kansas, and amendments thereto, the drug abuse assessment as provided
9 in section 305 of chapter 136 of the 2010 Session Laws of Kansas, and
10 amendments thereto.

11 (10) For defendants who are being sentenced for a third or
12 subsequent felony conviction of a violation of K.S.A. 65-4160 or 65-
13 4162, prior to their repeal or K.S.A. ~~2009~~2010 Supp. 21-36a06, and
14 amendments thereto, the drug abuse assessment as provided in section
15 305 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
16 thereto.

17 (c) The presentence report will become part of the court record and
18 shall be accessible to the public, except that the official version,
19 defendant's version and the victim's statement, any psychological reports,
20 risk and needs assessments and drug and alcohol reports and assessments
21 shall be accessible only to the parties, the sentencing judge, the
22 department of corrections, and if requested, the Kansas sentencing
23 commission. If the offender is committed to the custody of the secretary
24 of corrections, the report shall be sent to the secretary and, in accordance
25 with K.S.A. 75-5220, and amendments thereto, to the warden of the state
26 correctional institution to which the defendant is conveyed.

27 (d) The criminal history worksheet will not substitute as a
28 presentence report.

29 (e) The presentence report will not include optional report
30 components, which would be subject to the discretion of the sentencing
31 court in each district except for psychological reports and drug and
32 alcohol reports.

33 (f) *Except as provided in section 295 of chapter 136 of the 2010*
34 *Session Laws of Kansas, and amendments thereto*, the court may take
35 judicial notice in a subsequent felony proceeding of an earlier presentence
36 report criminal history worksheet prepared for a prior sentencing of the
37 defendant for a felony committed on or after July 1, 1993.

38 (g) All presentence reports in any case in which the defendant has
39 been convicted of a felony shall be on a form approved by the Kansas
40 sentencing commission.

41 Sec. 81. Section 298 of chapter 136 of the 2010 Session Laws of
42 Kansas is hereby amended to read as follows: Sec. 298. (a) (1) Whenever
43 a person is convicted of a felony, the court upon motion of either the

1 defendant or the state, shall hold a hearing to consider imposition of a
2 departure sentence other than an upward durational departure sentence.
3 The motion shall state the type of departure sought and the reasons and
4 factors relied upon. The hearing shall be scheduled so that the parties
5 have adequate time to prepare and present arguments regarding the issues
6 of departure sentencing. The county or district attorney shall notify the
7 victim of a crime or the victim's family of the right to be present at the
8 hearing. The parties may submit written arguments to the court prior to
9 the date of the hearing and may make oral arguments before the court at
10 the hearing. The court shall review the victim impact statement. Prior to
11 the hearing, the court shall transmit to the defendant or the defendant's
12 attorney and the prosecutor copies of the presentence investigation report.

13 (2) At the conclusion of the hearing or within ~~20~~21 days thereafter,
14 the court shall issue findings of fact and conclusions of law regarding the
15 issues submitted by the parties, and shall enter an appropriate order.

16 (3) If the court decides to depart on its own volition, without a
17 motion from the state or the defendant, the court ~~must~~shall notify all
18 parties of its intent and allow reasonable time for either party to respond
19 if requested. The notice shall state the type of departure intended by the
20 court and the reasons and factors relied upon.

21 (4) In each case in which the court imposes a sentence that deviates
22 from the presumptive sentence, the court shall make findings of fact as to
23 the reasons for departure as provided in this subsection regardless of
24 whether a hearing is requested.

25 (b) (1) Upon motion of the county or district attorney to seek an
26 upward durational departure sentence, the court shall consider imposition
27 of such upward durational departure sentence in the manner provided in
28 subsection (b)(2). The county or district attorney shall file such motion to
29 seek an upward durational departure sentence not less than 30 days prior
30 to the date of trial or if the trial date is to take place in less than 30 days
31 then within ~~five~~seven days from the date of the arraignment.

32 (2) The court shall determine if the presentation of any evidence
33 regarding the alleged fact or factors that may increase the penalty for a
34 crime beyond the statutory maximum, other than a prior conviction, shall
35 be presented to a jury and proved beyond a reasonable doubt during the
36 trial of the matter or whether such evidence should be submitted to the
37 jury in a separate departure sentencing hearing following the
38 determination of the defendant's innocence or guilt.

39 (3) If the presentation of the evidence regarding the alleged fact or
40 factors is submitted to the jury during the trial of the matter as determined
41 by the court, then the provisions of subsections (b)(5), (b)(6) and (b)(7)
42 shall be applicable.

43 (4) If the court determines it is in the interest of justice, the court

1 shall conduct a separate departure sentence proceeding to determine
2 whether the defendant may be subject to an upward durational departure
3 sentence. Such proceeding shall be conducted by the court before the trial
4 jury as soon as practicable. If any person who served on the trial jury is
5 unable to serve on the jury for the upward durational departure sentence
6 proceeding, the court shall substitute an alternate juror who has been
7 impaneled for the trial jury. If there are insufficient alternate jurors to
8 replace trial jurors who are unable to serve at the upward durational
9 departure sentence proceeding, the court may conduct such upward
10 durational departure sentence proceeding before a jury which may have
11 12 or less jurors, but at no time less than six jurors. Any decision of an
12 upward durational departure sentence proceeding shall be decided by a
13 unanimous decision of the jury. Jury selection procedures, qualifications
14 of jurors and grounds for exemption or challenge of prospective jurors in
15 criminal trials shall be applicable to the selection of such jury. The jury at
16 the upward durational departure sentence proceeding may be waived in
17 the manner provided by K.S.A. 22-3403, and amendments thereto, for
18 waiver of a trial jury. If the jury at the upward durational departure
19 sentence proceeding has been waived or the trial jury has been waived,
20 the upward durational departure sentence proceeding shall be conducted
21 by the court.

22 (5) In the upward durational departure sentence proceeding,
23 evidence may be presented concerning any matter that the court deems
24 relevant to the question of determining if any specific factors exist that
25 may serve to enhance the maximum sentence as provided by section 296
26 or 297 of chapter 136 of the 2010 Session Laws of Kansas, and
27 amendments thereto. Only such evidence as the state has made known to
28 the defendant prior to the upward durational departure sentence
29 proceeding shall be admissible, and no evidence secured in violation of
30 the constitution of the United States or of the state of Kansas shall be
31 admissible. No testimony by the defendant at the upward durational
32 departure sentence proceeding shall be admissible against the defendant
33 at any subsequent criminal proceeding. At the conclusion of the
34 evidentiary presentation, the court shall allow the parties a reasonable
35 period of time in which to present oral arguments.

36 (6) The court shall provide oral and written instructions to the jury to
37 guide its deliberations.

38 (7) If, by unanimous vote, the jury finds beyond a reasonable doubt
39 that one or more specific factors exist that may serve to enhance the
40 maximum sentence, the defendant may be sentenced pursuant to sections
41 296 through 299 of chapter 136 of the 2010 Session Laws of Kansas, and
42 amendments thereto; otherwise, the defendant shall be sentenced as
43 provided by law. The jury, if its verdict is a unanimous recommendation

1 that one or more of the specific factors that may serve to enhance the
2 maximum sentence exists, shall designate in writing, signed by the
3 foreman of the jury, the specific factor or factors which the jury found
4 beyond a reasonable doubt. If, after a reasonable time for deliberation, the
5 jury is unable to reach a verdict of finding any of the specific factors, the
6 court shall dismiss the jury and shall only impose a sentence as provided
7 by law. In nonjury cases, the court shall follow the requirements of this
8 subsection in determining if one or more of the specific factors exist that
9 may serve to enhance the maximum sentence.

10 Sec. 82. Section 299 of chapter 136 of the 2010 Session Laws of
11 Kansas is hereby amended to read as follows: Sec. 299. (a) When a
12 departure sentence is appropriate, the sentencing judge may depart from
13 the sentencing guidelines as provided in this section. The sentencing
14 judge shall not impose a downward dispositional departure sentence for
15 any crime of extreme sexual violence, as defined in section 296, and
16 amendments thereto. The sentencing judge shall not impose a downward
17 durational departure sentence for any crime of extreme sexual violence,
18 as defined in section 296, and amendments thereto, to less than 50% of
19 the center of the range of the sentence for such crime.

20 (b) When a sentencing judge departs in setting the duration of a
21 presumptive term of imprisonment:

22 (1) The judge shall consider and apply the sentencing guidelines,
23 ~~which is~~ to impose a sentence that is proportionate to the severity of the
24 crime of conviction and the offender's criminal history; and

25 (2) the presumptive term of imprisonment set in such departure shall
26 not total more than double the maximum duration of the presumptive
27 imprisonment term.

28 (c) When a sentencing judge imposes a prison term as a dispositional
29 departure:

30 (1) The judge shall consider and apply ~~the primary purpose of~~ the
31 sentencing guidelines, ~~which is~~ to impose a sentence that is proportionate
32 to the severity of the crime of conviction; and

33 (2) the term of imprisonment shall not exceed the maximum duration
34 of the presumptive imprisonment term listed within the sentencing grid.
35 Any sentence inconsistent with the provisions of this section shall
36 constitute an additional departure and shall require substantial and
37 compelling reasons independent of the reasons given for the dispositional
38 departure.

39 (d) If the sentencing judge imposes a nonprison sentence as a
40 dispositional departure from the guidelines, the recommended duration
41 shall be as provided in subsection (c) of section 248 *of chapter 136 of the*
42 *2010 Session Laws of Kansas*, and amendments thereto.

43 Sec. 83. Section 302 of chapter 136 of the 2010 Session Laws of

1 Kansas is hereby amended to read as follows: Sec. 302. (a) The secretary
2 of corrections is hereby authorized to adopt rules and regulations
3 providing for a system of good time calculations. Such rules and
4 regulations shall provide circumstances upon which an inmate may earn
5 good time credits and for the forfeiture of earned credits. Such
6 circumstances may include factors related to program and work
7 participation and conduct and the inmate's willingness to examine and
8 confront past behavioral patterns that resulted in the commission of the
9 inmate's crimes.

10 (b) For purposes of determining release of an inmate, the following
11 shall apply with regard to good time calculations:

12 (1) Good behavior by inmates is the expected norm and negative
13 behavior will be punished; and

14 (2) the amount of good time which can be earned by an inmate and
15 subtracted from any sentence is limited to:

16 (A) For a crime committed on or after July 1, 1993, an amount equal
17 to 15% of the prison part of the sentence; or

18 (B) for a drug severity level 3 or 4 or a nondrug severity level 7
19 through 10 crime committed on or after January 1, 2008, an amount equal
20 to 20% of the prison part of the sentence.

21 (c) Any time which is earned and subtracted from the prison part of
22 the sentence of any inmate pursuant to good time calculation shall be
23 added to such inmate's postrelease supervision term.

24 (d) An inmate shall not be awarded good time credits pursuant to this
25 section for any review period established by the secretary of corrections
26 in which a court finds that the inmate has done any of the following while
27 in the custody of the secretary of corrections:

28 (1) Filed a false or malicious action or claim with the court;

29 (2) brought an action or claim with the court solely or primarily for
30 delay or harassment;

31 (3) testified falsely or otherwise submitted false evidence or
32 information to the court;

33 (4) attempted to create or obtain a false affidavit, testimony or
34 evidence; or

35 (5) abused the discovery process in any judicial action or
36 proceeding.

37 (e) (1) For purposes of determining release of an inmate who is
38 serving only a sentence for a nondrug severity level 4 through 10 crime or
39 a drug severity level 3 or 4 crime committed on or after January 1, 2008,
40 the secretary of corrections is hereby authorized to adopt rules and
41 regulations regarding program credit calculations. Such rules and
42 regulations shall provide circumstances upon which an inmate may earn
43 program credits and for the forfeiture of earned credits and such

1 circumstances may include factors substantially related to program
2 participation and conduct. In addition to any good time credits earned and
3 retained, the following shall apply with regard to program credit
4 calculations:

5 (A) A system shall be developed whereby program credits may be
6 earned by inmates for the successful completion of requirements for a
7 general education diploma, a technical or vocational training program, a
8 substance abuse treatment program or any other program designated by
9 the secretary which has been shown to reduce offender's risk after release;
10 and

11 (B) the amount of time which can be earned and retained by an
12 inmate for the successful completion of programs and subtracted from
13 any sentence is limited to not more than 60 days.

14 (2) Any time which is earned and subtracted from the prison part of
15 the sentence of any inmate pursuant to program credit calculation shall be
16 added to such inmate's postrelease supervision ~~obligation term~~, if
17 applicable.

18 (3) When separate sentences of imprisonment for different crimes
19 are imposed on a defendant on the same date, a defendant shall only be
20 eligible for program credits if such crimes are a nondrug severity level 4
21 through 10 or a drug severity level 3 or 4.

22 (4) Program credits shall not be earned by any offender successfully
23 completing a sex offender treatment program.

24 (5) The secretary of corrections shall report to the Kansas sentencing
25 commission and the Kansas reentry policy council the data on the
26 program credit calculations.

27 Sec. 84. K.S.A. 22-3427 as amended by section 306 of chapter 136
28 of the 2010 Session Laws of Kansas, is hereby amended to read as
29 follows: 22-3427. (a) When any person has been convicted of a violation
30 of any law of the state of Kansas and has been sentenced to confinement,
31 it shall be the duty of the sheriff of the county, upon receipt of a certified
32 copy of the journal entry of judgment, judgment form showing
33 conviction, sentence, and commitment, or an order of commitment
34 supported by a recorded judgment of sentence, to cause such person to be
35 confined in accordance with the sentence.

36 (b) The certified copy of a judgment and sentence to confinement or
37 imprisonment shall be sufficient authority for the jailer or warden or other
38 person in charge of the place of confinement to detain such person for the
39 period of the sentence.

40 (c) The court shall forward a copy of all *complaints, supporting*
41 *affidavits, county and district attorney reports*, presentence investigation
42 reports and other diagnostic reports on the offender received by the
43 district court, including any reports received from the ~~Topeka correctional~~

1 facility—east or the state security hospital, to the officer having the
2 offender in custody for delivery with the offender to the correctional
3 institution.

4 Sec. 85. K.S.A. 2010 Supp. 8-116a is hereby amended to read as
5 follows: 8-116a. (a) Except as provided in K.S.A. 8-170, and amendments
6 thereto, when an application is made for a vehicle which has been
7 assembled, reconstructed, reconstituted or restored from one or more
8 vehicles, or the proper identification number of a vehicle is in doubt, the
9 procedure in this section shall be followed. The owner of the vehicle shall
10 request the Kansas highway patrol to check the vehicle and the highway
11 patrol shall within a reasonable period of time perform such vehicle
12 check. At the time of such check the owner shall supply the highway
13 patrol with information concerning the history of the various parts of the
14 vehicle. Such information shall be supplied by affidavit of the owner, if
15 so requested by the highway patrol. If the highway patrol is satisfied that
16 the vehicle contains no stolen parts, it shall assign an existing or new
17 identification number to the vehicle and direct the places and manner in
18 which the identification number is to be located and affixed or implanted.
19 A charge of \$10 per hour or part thereof, with a minimum charge of \$10,
20 shall be made to the owner of a vehicle requesting check under this
21 subsection, and such charge shall be paid prior to the check under this
22 section. When a check has been made under subsection (b), not more than
23 60 days prior to a check of the same vehicle identification number,
24 requested by the owner of the vehicle to obtain a regular certificate of
25 title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage
26 title in lieu of a salvage title, no charge shall be made for such second
27 check.

28 (b) Any person making application for any original Kansas title for a
29 used vehicle which, at the time of making application, is titled in another
30 jurisdiction, as a condition precedent to obtaining any Kansas title, shall
31 have such vehicle checked by the Kansas highway patrol for verification
32 that the vehicle identification number shown on the foreign title is
33 genuine and agrees with the identification number on the vehicle. Checks
34 under this section may include inspection for possible violation of ~~K.S.A.~~
35 ~~21-3757~~ *section 121 of chapter 136 of the 2010 Session Laws of Kansas*,
36 and amendments thereto, or other evidence of possible fraud. The
37 verification shall be made upon forms prescribed by the division of
38 vehicles which shall contain such information as the secretary of revenue
39 shall require by rules and regulations. A charge of \$10 per hour or part
40 thereof, with a minimum charge of \$10, shall be made for checks under
41 this subsection. When a vehicle is registered in another state, but is
42 financed by a Kansas financial institution and is repossessed in another
43 state and such vehicle will not be returned to Kansas, the check required

1 by this subsection (b) shall not be required to obtain a valid Kansas title
2 or registration.

3 (c) As used in this act, "identification number" or "vehicle
4 identification number" means an identifying number, serial number,
5 engine number, transmission number or other distinguishing number or
6 mark, placed on a vehicle, engine, transmission or other essential part by
7 its manufacturer or by authority of the division of vehicles or the Kansas
8 highway patrol or in accordance with the laws of another state or country.

9 (d) The checks made under subsection (b) may be made by:

10 (1) A designee of the superintendent of the Kansas highway patrol;
11 or

12 (2) an employee of a new vehicle dealer, as defined in subsection (b)
13 of K.S.A. 8-2401, and amendments thereto, for the purposes provided for
14 in subsection (f). For checks made by a designee, \$1 of each charge shall
15 be remitted to the Kansas highway patrol and the balance of such charges
16 shall be retained by such designee. When a check is made under either
17 subsection (a) or (b) by personnel of the Kansas highway patrol or when a
18 check is made under subsection (b) by an employee of a new vehicle
19 dealer, the entire amount of the charge therefor shall be paid to the
20 highway patrol.

21 (e) There is hereby created the vehicle identification number fee
22 fund. The Kansas highway patrol shall remit all moneys received by the
23 Kansas highway patrol from fees collected under subsection (d) to the
24 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
25 amendments thereto. Upon receipt of each such remittance, the state
26 treasurer shall deposit the entire amount in the state treasury to the credit
27 of the vehicle identification number fee fund. All expenditures from the
28 vehicle identification number fee fund shall be made in accordance with
29 appropriations acts upon warrants of the director of accounts and reports
30 issued pursuant to vouchers approved by the superintendent of the Kansas
31 highway patrol or by a person or persons designated by the
32 superintendent.

33 (f) An employee of a new vehicle dealer, who has received initial
34 training and certification from the highway patrol, and has met continuing
35 certification requirements, in accordance with rules and regulations
36 adopted by the superintendent of the highway patrol, may provide the
37 checks under subsection (b), in accordance with rules and regulations
38 adopted by the superintendent of the highway patrol, on motor vehicles
39 repurchased or reacquired by a manufacturer, distributor or financing
40 subsidiary of such manufacturer and which are purchased by the new
41 vehicle dealer. At any time, after a hearing in accordance with the
42 provisions of the Kansas administrative procedure act, the superintendent
43 of the highway patrol may revoke, suspend, decline to renew or decline to

1 issue certification for failure to comply with the provisions of this
2 subsection, including any rules and regulations.

3 Sec. 86. K.S.A. 8-254 is hereby amended to read as follows: 8-254.

4 (a) Subject to the provisions of subsection (b), the division shall
5 revoke a person's driving privileges upon receiving a record of the
6 person's conviction of any of the following offenses, including municipal
7 violations, when the conviction has become final, or upon receiving a
8 record of a person's adjudication as a juvenile offender for commission of
9 an act which, if committed by a person 18 or more years of age, would
10 constitute any of the following offenses when the adjudication has
11 become final:

12 (1) ~~Aggravated vehicular homicide~~*Involuntary manslaughter*, as
13 defined by ~~K.S.A. 21-3405a~~*in subsection (a)(2) of section 40 of chapter*
14 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, if the
15 crime is committed while committing a violation of K.S.A. 8-1566 or
16 *subsection (a) of 8-1568*, and amendments thereto, or the ordinance of a
17 city or resolution of a county which prohibits any acts prohibited by those
18 statutes;

19 (2) vehicular homicide, as defined by ~~K.S.A. 21-3405~~*in section 41*
20 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
21 thereto;

22 (3) ~~vehicular battery~~, as defined by ~~K.S.A. 21-3405b~~*in subsection*
23 *(a)(1) of section 48 of chapter 136 of the 2010 Session Laws of*
24 *Kansas*, and amendments thereto, if the crime is committed while
25 committing a violation of K.S.A. 8-1566 or 8-1568, and amendments
26 thereto, or the ordinance of a city or resolution of a county which
27 prohibits the acts prohibited by those statutes;

28 (4) failure to stop and render aid as required under the laws of this
29 state in the event of a motor vehicle accident resulting in the death or
30 personal injury of another;

31 (5) conviction, or forfeiture of bail not vacated, upon a charge of
32 reckless driving;

33 (6) conviction, or forfeiture of bail not vacated of any felony in the
34 commission of which a motor vehicle is used; or

35 (7) fleeing or attempting to elude a police officer as provided in
36 K.S.A. 8-1568, and amendments thereto, or conviction of violation of an
37 ordinance of any city or a law of another state which is in substantial
38 conformity with such statute.

39 (b) In lieu of revoking a person's driving privileges as provided by
40 subsection (a), the court in which the person is convicted or adjudicated
41 may place restrictions on the person's driving privileges as provided by
42 K.S.A. 8-292, and amendments thereto, unless the violation was
43 committed while operating a commercial motor vehicle, as defined in

1 K.S.A. 8-2,128. Driving privileges are to be automatically revoked if the
2 violation which leads to the subsequent conviction occurs in a
3 commercial motor vehicle, as defined in K.S.A. 8-2,128.

4 Sec. 87. K.S.A. 2010 Supp. 8-255 is hereby amended to read as
5 follows: 8-255. (a) The division is authorized to restrict, suspend or
6 revoke a person's driving privileges upon a showing by its records or
7 other sufficient evidence the person:

8 (1) Has been convicted with such frequency of serious offenses
9 against traffic regulations governing the movement of vehicles as to
10 indicate a disrespect for traffic laws and a disregard for the safety of other
11 persons on the highways;

12 (2) has been convicted of three or more moving traffic violations
13 committed on separate occasions within a 12-month period;

14 (3) is incompetent to drive a motor vehicle;

15 (4) has been convicted of a moving traffic violation, committed at a
16 time when the person's driving privileges were restricted, suspended or
17 revoked; or

18 (5) is a member of the armed forces of the United States stationed at
19 a military installation located in the state of Kansas, and the authorities of
20 the military establishment certify that such person's on-base driving
21 privileges have been suspended, by action of the proper military
22 authorities, for violating the rules and regulations of the military
23 installation governing the movement of vehicular traffic or for any other
24 reason relating to the person's inability to exercise ordinary and
25 reasonable control in the operation of a motor vehicle.

26 (b) (1) The division shall:

27 (A) Suspend a person's driving privileges:

28 (i) When required by K.S.A. 8-262, 8-1014, ~~21-3765~~ or 41-727, and
29 amendments thereto, ~~and shall~~;

30 (ii) upon a person's second conviction of theft, as defined in
31 subsection (a)(5) of section 87 of chapter 136 of the 2010 Session Laws
32 of Kansas, and amendments thereto, for six months; and

33 (iii) upon a person's third or subsequent conviction of theft, as defined
34 in subsection (a)(5) of section 87 of chapter 136 of the 2010 Session
35 Laws of Kansas, and amendments thereto, for one year;

36 (B) disqualify a person's privilege to drive commercial motor
37 vehicles when required by K.S.A. 8-2,142, and amendments thereto. ~~The~~
38 ~~division shall~~; and

39 (C) restrict a person's driving privileges when required by K.S.A.
40 2010 Supp. 39-7,155, and amendments thereto.

41 (2) As used in this subsection, "conviction" means a final conviction
42 without regard to whether the sentence was suspended or probation
43 granted after such conviction. Forfeiture of bail, bond or collateral

1 *deposited to secure a defendant's appearance in court, which forfeiture*
2 *has not been vacated, shall be equivalent to a conviction. "Conviction"*
3 *includes being convicted of a violation of K.S.A. 21-3765, prior to its*
4 *repeal, or subsection (a)(5) of section 87 of chapter 136 of the 2010*
5 *Session Laws of Kansas, and amendments thereto.*

6 (c) When the action by the division restricting, suspending, revoking
7 or disqualifying a person's driving privileges is based upon a report of a
8 conviction or convictions from a convicting court, the person may not
9 request a hearing but, within 30 days after notice of restriction,
10 suspension, revocation or disqualification is mailed, may submit a written
11 request for administrative review and provide evidence to the division to
12 show the person whose driving privileges have been restricted,
13 suspended, revoked or disqualified by the division was not convicted of
14 the offense upon which the restriction, suspension, revocation or
15 disqualification is based. Within 30 days of its receipt of the request for
16 administrative review, the division shall notify the person whether the
17 restriction, suspension, revocation or disqualification has been affirmed
18 or set aside. The request for administrative review shall not stay any
19 action taken by the division.

20 (d) Upon restricting, suspending, revoking or disqualifying the
21 driving privileges of any person as authorized by this act, the division
22 shall immediately notify the person in writing. Except as provided by
23 K.S.A. 8-1002 and 8-2,145, and amendments thereto, and subsections (c)
24 and (g), if the person makes a written request for hearing within 30 days
25 after such notice of restriction, suspension or revocation is mailed, the
26 division shall afford the person an opportunity for a hearing as early as
27 practical not sooner than five days nor more than 30 days after such
28 request is mailed. If the division has not revoked or suspended the
29 person's driving privileges or vehicle registration prior to the hearing, the
30 hearing may be held within not to exceed 45 days. Except as provided by
31 K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing shall be
32 held in the person's county of residence or a county adjacent thereto,
33 unless the division and the person agree that the hearing may be held in
34 some other county. Upon the hearing, the director or the director's duly
35 authorized agent may administer oaths and may issue subpoenas for the
36 attendance of witnesses and the production of relevant books and papers
37 and may require an examination or reexamination of the person. When
38 the action proposed or taken by the division is authorized but not
39 required, the division, upon the hearing, shall either rescind or affirm its
40 order of restriction, suspension or revocation or, good cause appearing
41 therefor, extend the restriction or suspension of the person's driving
42 privileges, modify the terms of the restriction or suspension or revoke the
43 person's driving privileges. When the action proposed or taken by the

1 division is required, the division, upon the hearing, shall either affirm its
2 order of restriction, suspension, revocation or disqualification, or, good
3 cause appearing therefor, dismiss the administrative action. If the person
4 fails to request a hearing within the time prescribed or if, after a hearing,
5 the order of restriction, suspension, revocation or disqualification is
6 upheld, the person shall surrender to the division, upon proper demand,
7 any driver's license in the person's possession.

8 (e) In case of failure on the part of any person to comply with any
9 subpoena issued ~~in~~ on behalf of the division or the refusal of any witness
10 to testify to any matters regarding which the witness may be lawfully
11 interrogated, the district court of any county, on application of the
12 division, may compel obedience by proceedings for contempt, as in the
13 case of disobedience of the requirements of a subpoena issued from the
14 court or a refusal to testify in the court. Each witness who appears before
15 the director or the director's duly authorized agent by order or subpoena,
16 other than an officer or employee of the state or of a political subdivision
17 of the state, shall receive for the witness' attendance the fees and mileage
18 provided for witnesses in civil cases in courts of record, which shall be
19 audited and paid upon the presentation of proper vouchers sworn to by
20 the witness.

21 (f) The division, in the interest of traffic and safety, may establish or
22 contract with a private individual, corporation, partnership or association
23 for the services of driver improvement clinics throughout the state and,
24 upon reviewing the driving record of a person whose driving privileges
25 are subject to suspension under subsection (a)(2), may permit the person
26 to retain such person's driving privileges by attending a driver
27 improvement clinic. Any person other than a person issued a commercial
28 driver's license under K.S.A. 8-2,125 et seq., and amendments thereto,
29 desiring to attend a driver improvement clinic shall make application to
30 the division and such application shall be accompanied by the required
31 fee. The secretary of revenue shall adopt rules and regulations prescribing
32 a driver's improvement clinic fee which shall not exceed \$500 and such
33 rules and regulations deemed necessary for carrying out the provisions of
34 this section, including the development of standards and criteria to be
35 utilized by such driver improvement clinics. Amounts received under this
36 subsection shall be remitted to the state treasurer in accordance with the
37 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
38 each such remittance, the state treasurer shall deposit the same in the state
39 treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments
40 thereto.

41 (g) When the action by the division restricting a person's driving
42 privileges is based upon certification by the secretary of social and
43 rehabilitation services pursuant to K.S.A. 2010 Supp. 39-7,155, and

1 amendments thereto, the person may not request a hearing but, within 30
2 days after notice of restriction is mailed, may submit a written request for
3 administrative review and provide evidence to the division to show the
4 person whose driving privileges have been restricted by the division is
5 not the person certified by the secretary of social and rehabilitation
6 services, did not receive timely notice of the proposed restriction from the
7 secretary of social and rehabilitation services or has been decertified by
8 the secretary of social and rehabilitation services. Within 30 days of its
9 receipt of the request for administrative review, the division shall notify
10 the person whether the restriction has been affirmed or set aside. The
11 request for administrative review shall not stay any action taken by the
12 division.

13 *(h) Any person whose driving privileges have been suspended under*
14 *subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in*
15 *the amount of \$100 to the division. The division shall remit all revenues*
16 *received from such fees, at least monthly, to the state treasurer in*
17 *accordance with the provisions of K.S.A. 75-4215, and amendments*
18 *thereto, for deposit in the state treasury and credit to the state highway*
19 *fund.*

20 Sec. 88. K.S.A. 2010 Supp. 8-262 is hereby amended to read as
21 follows: 8-262. (a) (1) Any person who drives a motor vehicle on any
22 highway of this state at a time when such person's privilege so to do is
23 canceled, suspended or revoked or while such person's privilege to obtain
24 a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and
25 amendments thereto, shall be guilty of a class B nonperson misdemeanor
26 on the first conviction and a class A nonperson misdemeanor on the
27 second or subsequent conviction.

28 (2) No person shall be convicted under this section if such person
29 was entitled at the time of arrest under K.S.A. 8-257, and amendments
30 thereto, to the return of such person's driver's license.

31 (3) Except as otherwise provided by subsection (a)(4) or (c), every
32 person convicted under this section shall be sentenced to at least five
33 days' imprisonment and fined at least \$100 and upon a second conviction
34 shall not be eligible for parole until completion of five days'
35 imprisonment.

36 (4) Except as otherwise provided by subsection (c), if a person: (A)
37 Is convicted of a violation of this section, committed while the person's
38 privilege to drive or privilege to obtain a driver's license was suspended
39 or revoked for a violation of K.S.A. 8-1567, and amendments thereto, or
40 any ordinance of any city or resolution of any county or a law of another
41 state, which ordinance or law prohibits the acts prohibited by that statute;
42 and (B) is or has been also convicted of a violation of K.S.A. 8-1567, and
43 amendments thereto, or of a municipal ordinance or law of another state,

1 which ordinance or law prohibits the acts prohibited by that statute,
2 committed while the person's privilege to drive or privilege to obtain a
3 driver's license was so suspended or revoked, the person shall not be
4 eligible for suspension of sentence, probation or parole until the person
5 has served at least 90 days' imprisonment, and any fine imposed on such
6 person shall be in addition to such a term of imprisonment.

7 (b) The division, upon receiving a record of the conviction of any
8 person under this section, or any ordinance of any city or resolution of
9 any county or a law of another state which is in substantial conformity
10 with this section, upon a charge of driving a vehicle while the license of
11 such person is revoked or suspended, shall extend the period of such
12 suspension or revocation for an additional period of 90 days.

13 (c) (1) The person found guilty of a class A nonperson misdemeanor
14 on a third or subsequent conviction of this section shall be sentenced to
15 not less than 90 days imprisonment and fined not less than \$1,500 if such
16 person's privilege to drive a motor vehicle is canceled, suspended or
17 revoked because such person:

18 (A) Refused to submit and complete any test of blood, breath or
19 urine requested by law enforcement excluding the preliminary screening
20 test as set forth in K.S.A. 8-1012, and amendments thereto;

21 (B) was convicted of violating the provisions of K.S.A. 40-3104,
22 and amendments thereto, relating to motor vehicle liability insurance
23 coverage;

24 (C) was convicted of vehicular homicide, K.S.A. 21-3405, *prior to*
25 *its repeal, or section 41 of chapter 136 of the 2010 Session Laws of*
26 *Kansas*, and amendments thereto, involuntary manslaughter while driving
27 under the influence of alcohol or drugs, K.S.A. 21-3442, *prior to its*
28 *repeal, or involuntary manslaughter as defined in subsection (a)(3) of*
29 *section 40 of chapter 136 of the 2010 Session Laws of Kansas*, and
30 amendments thereto, or any other murder or manslaughter crime resulting
31 from the operation of a motor vehicle; or

32 (D) was convicted of being a habitual violator, K.S.A. 8-287, and
33 amendments thereto.

34 (2) The person convicted shall not be eligible for release on
35 probation, suspension or reduction of sentence or parole until the person
36 has served at least 90 days' imprisonment. The 90 days' imprisonment
37 mandated by this subsection may be served in a work release program
38 only after such person has served 48 consecutive hours' imprisonment,
39 provided such work release program requires such person to return to
40 confinement at the end of each day in the work release program. The
41 court may place the person convicted under a house arrest program
42 pursuant to ~~K.S.A. 21-4603~~ *section 249 of chapter 136 of the 2010*
43 *Session Laws of Kansas*, and amendments thereto, or any municipal

1 ordinance to serve the remainder of the minimum sentence only after
2 such person has served 48 consecutive hours' imprisonment.

3 (d) For the purposes of determining whether a conviction is a first,
4 second, third or subsequent conviction in sentencing under this section,
5 "conviction" includes a conviction of a violation of any ordinance of any
6 city or resolution of any county or a law of another state which is in
7 substantial conformity with this section.

8 Sec. 89. K.S.A. 8-285 is hereby amended to read as follows: 8-285.
9 Except as otherwise provided in this section, as used in this act, the words
10 and phrases defined in K.S.A. 8-234a, and amendments thereto, shall
11 have the meanings ascribed to them therein. The term "habitual violator"
12 means any resident or nonresident person who, within the immediately
13 preceding five years, has been convicted in this or any other state:

14 (a) Three or more times of:

15 (1) Vehicular homicide, as defined by K.S.A. 21-3405, *prior to its*
16 *repeal, or in section 41 of chapter 136 of the 2010 Session Laws of*
17 *Kansas*, and amendments thereto, or as prohibited by any ordinance of
18 any city in this state or any law of another state which is in substantial
19 conformity with that statute;

20 (2) violating K.S.A. 8-1567, and amendments thereto, or violating
21 an ordinance of any city in this state or any law of another state, which
22 ordinance or law declares to be unlawful the acts prohibited by that
23 statute;

24 (3) driving while the privilege to operate a motor vehicle on the
25 public highways of this state has been canceled, suspended or revoked, as
26 prohibited by K.S.A. 8-262, and amendments thereto, or while such
27 person's privilege to obtain a driver's license is suspended or revoked
28 pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by
29 any ordinance of any city in this state or any law of another state which is
30 in substantial conformity with those statutes;

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

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

38 (6) any crime punishable as a felony, if a motor vehicle was used in
39 the perpetration of the crime;

40 (7) failing to stop at the scene of an accident and perform the duties
41 required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or
42 required by any ordinance of any city in this state or a law of another
43 state which is in substantial conformity with those statutes; or

1 (8) violating the provisions of K.S.A. 40-3104, and amendments
2 thereto, relating to motor vehicle liability insurance coverage or an
3 ordinance of any city in this state, which is in substantial conformity with
4 such statute.

5 (b) Three or more times, either singly or in combination, of any of
6 the offenses enumerated in subsection (a).

7 For the purpose of subsection (a)(2), in addition to the definition of
8 "conviction" otherwise provided by law, conviction includes, but is not
9 limited to, a diversion agreement entered into in lieu of further criminal
10 proceedings, or a plea of *nolo contendere*, on a complaint, indictment,
11 information, citation or notice to appear alleging a violation of K.S.A. 8-
12 1567, and amendments thereto, or an ordinance of a city in this state or
13 law of another state, which ordinance or law prohibits the acts prohibited
14 by that statute.

15 Sec. 90. K.S.A. 2010 Supp. 8-287 is hereby amended to read as
16 follows: 8-287. Operation of a motor vehicle in this state while one's
17 driving privileges are revoked pursuant to K.S.A. 8-286, and amendments
18 thereto, is a class A nonperson misdemeanor. The person found guilty of a
19 third or subsequent conviction of this section shall be sentenced to not
20 less than 90 days imprisonment and fined not less than \$1,500. The
21 person convicted shall not be eligible for release on probation, suspension
22 or reduction of sentence or parole until the person has served at least 90
23 days' imprisonment. The 90 days' imprisonment mandated by this
24 subsection may be served in a work release program only after such
25 person has served 48 consecutive hours' imprisonment, provided such
26 work release program requires such person to return to confinement at the
27 end of each day in the work release program. The court may place the
28 person convicted under a house arrest program pursuant to ~~K.S.A. 21-~~
29 ~~4603~~ *subsection 249 of chapter 136 of the 2010 Session Laws of Kansas*,
30 and amendments thereto, or any municipal ordinance to serve the
31 remainder of the minimum sentence only after such person has served 48
32 consecutive hours' imprisonment.

33 Sec. 91. K.S.A. 2010 Supp. 8-2,144 is hereby amended to read as
34 follows: 8-2,144. (a) No person shall drive any commercial motor
35 vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, within
36 this state while:

37 (1) The alcohol concentration in the person's blood or breath, as
38 shown by any competent evidence, including other competent evidence,
39 as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
40 amendments thereto, is .04 or more;

41 (2) the alcohol concentration in the person's blood or breath, as
42 measured within two hours of the time of driving a commercial motor
43 vehicle, is .04 or more; or

1 (3) committing a violation of subsection (a) of K.S.A. 8-1567, and
2 amendments thereto, or the ordinance of a city or resolution of a county
3 which prohibits any of the acts prohibited thereunder.

4 (b) Upon a first conviction of a violation of this section, a person
5 shall be guilty of a class B, nonperson misdemeanor and sentenced to not
6 less than 48 consecutive hours nor more than six months' imprisonment,
7 or in the court's discretion, 100 hours of public service, and fined not less
8 than \$500 nor more than \$1,000. The person convicted must serve at least
9 48 consecutive hours' imprisonment or 100 hours of public service either
10 before or as a condition of any grant of probation or suspension,
11 reduction of sentence or parole. In addition, the court shall enter an order
12 which requires that the person enroll in and successfully complete an
13 alcohol and drug safety action education program or treatment program as
14 provided in K.S.A. 8-1008, and amendments thereto, or both the
15 education and treatment programs.

16 (c) On a second conviction of a violation of this section, a person
17 shall be guilty of a class A, nonperson misdemeanor and sentenced to not
18 less than 90 days nor more than one year's imprisonment and fined not
19 less than \$1,000 nor more than \$1,500. The person convicted must serve
20 at least five consecutive days' imprisonment before the person is granted
21 probation, suspension or reduction of sentence or parole or is otherwise
22 released. The five days' imprisonment mandated by this subsection may
23 be served in a work release program only after such person has served 48
24 consecutive hours' imprisonment, provided such work release program
25 requires such person to return to confinement at the end of each day in
26 the work release program. The court may place the person convicted
27 under a house arrest program pursuant to ~~K.S.A. 21-4603~~ *subsection 249 of*
28 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
29 thereto, to serve the remainder of the minimum sentence only after such
30 person has served 48 consecutive hours' imprisonment. As a condition of
31 any grant of probation, suspension of sentence or parole or of any other
32 release, the person shall be required to enter into and complete a
33 treatment program for alcohol and drug abuse as provided in K.S.A. 8-
34 1008, and amendments thereto.

35 (d) On the third conviction of a violation of this section, a person
36 shall be guilty of a nonperson felony and sentenced to not less than 90
37 days nor more than one year's imprisonment and fined not less than
38 \$1,500 nor more than \$2,500. The person convicted shall not be eligible
39 for release on probation, suspension or reduction of sentence or parole
40 until the person has served at least 90 days' imprisonment. The court also
41 requires as a condition of parole that such person enter into and complete
42 a treatment program for alcohol and drug abuse as provided by K.S.A. 8-
43 1008, and amendments thereto. The 90 days' imprisonment mandated by

1 this subsection may be served in a work release program only after such
2 person has served 48 consecutive hours' imprisonment provided such
3 work release program requires such person to return to confinement at the
4 end of each day in the work release program. The court may place the
5 person convicted under a house arrest program pursuant to ~~K.S.A. 21-~~
6 ~~4603~~ *section 249 of chapter 136 of the 2010 Session Laws of Kansas*,
7 and amendments thereto, to serve the remainder of the minimum sentence
8 only after such person has served 48 consecutive hours' imprisonment.

9 (e) The court shall report every conviction of a violation of this
10 section to the division. Prior to sentencing under the provisions of this
11 section, the court shall request and shall receive from the division a
12 record of all prior convictions obtained against such person for any
13 violation of any of the motor vehicle laws of this state.

14 (f) Upon conviction of a person of a violation of this section or a
15 violation of a city ordinance or county resolution prohibiting the acts
16 prohibited by this section, the division, upon receiving a report of
17 conviction, shall disqualify the person from driving a commercial motor
18 vehicle under K.S.A. 8-2,142, and amendments thereto.

19 (g) For the purpose of this section, "alcohol concentration" means
20 the number of grams of alcohol per 100 milliliters of blood or per 210
21 liters of breath.

22 Sec. 92. K.S.A. 2010 Supp. 8-1013 is hereby amended to read as
23 follows: 8-1013. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-
24 1012, 8-1014, 8-1015, 8-1016, 8-1017 and 8-1018, and amendments
25 thereto, and this section:

26 (a) "Alcohol concentration" means the number of grams of alcohol
27 per 100 milliliters of blood or per 210 liters of breath.

28 (b) (1) "Alcohol or drug-related conviction" means any of the
29 following: (A) Conviction of vehicular battery or aggravated vehicular
30 homicide, if the crime is committed while committing a violation of
31 K.S.A. 8-1567 and amendments thereto or the ordinance of a city or
32 resolution of a county in this state which prohibits any acts prohibited by
33 that statute, or conviction of a violation of K.S.A. 8-1567 and
34 amendments thereto; (B) conviction of a violation of a law of another
35 state which would constitute a crime described in subsection (b)(1)(A) if
36 committed in this state; (C) conviction of a violation of an ordinance of a
37 city in this state or a resolution of a county in this state which would
38 constitute a crime described in subsection (b)(1)(A), whether or not such
39 conviction is in a court of record; or (D) conviction of an act which was
40 committed on a military reservation and which would constitute a
41 violation of K.S.A. 8-1567, and amendments thereto, or would constitute
42 a crime described in subsection (b)(1)(A) if committed off a military
43 reservation in this state.

1 (2) For the purpose of determining whether an occurrence is a first,
2 second or subsequent occurrence: (A) "Alcohol or drug-related
3 conviction" also includes entering into a diversion agreement in lieu of
4 further criminal proceedings on a complaint alleging commission of a
5 crime described in subsection (b)(1), including a diversion agreement
6 entered into prior to the effective date of this act; and (B) it is irrelevant
7 whether an offense occurred before or after conviction or diversion for a
8 previous offense.

9 (c) "Division" means the division of vehicles of the department of
10 revenue.

11 (d) "Ignition interlock device" means a device which uses a breath
12 analysis mechanism to prevent a person from operating a motor vehicle if
13 such person has consumed an alcoholic beverage.

14 (e) "Occurrence" means a test refusal, test failure or alcohol or drug-
15 related conviction, or any combination thereof arising from one arrest,
16 including an arrest which occurred prior to the effective day of this act.

17 (f) "Other competent evidence" includes: (1) Alcohol concentration
18 tests obtained from samples taken two hours or more after the operation
19 or attempted operation of a vehicle; and (2) readings obtained from a
20 partial alcohol concentration test on a breath testing machine.

21 (g) "Samples" includes breath supplied directly for testing, which
22 breath is not preserved.

23 (h) "Test failure" or "fails a test" refers to a person's having results of
24 a test administered pursuant to this act, other than a preliminary screening
25 test, which show an alcohol concentration of .08 or greater in the person's
26 blood or breath, and includes failure of any such test on a military
27 reservation.

28 (i) "Test refusal" or "refuses a test" refers to a person's failure to
29 submit to or complete any test, other than a preliminary screening test, in
30 accordance with this act, and includes refusal of any such test on a
31 military reservation.

32 (j) "Law enforcement officer" has the meaning provided by ~~K.S.A.~~
33 ~~21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of Kansas*,
34 and amendments thereto, and includes any person authorized by law to
35 make an arrest on a military reservation for an act which would constitute
36 a violation of K.S.A. 8-1567, and amendments thereto, if committed off a
37 military reservation in this state.

38 Sec. 93. K.S.A. 2010 Supp. 8-1102 is hereby amended to read as
39 follows: 8-1102. (a) (1) A person shall not use the public highway to
40 abandon vehicles or use the highway to leave vehicles unattended in such
41 a manner as to interfere with public highway operations. When a person
42 leaves a motor vehicle on a public highway or other property open to use
43 by the public, the public agency having jurisdiction of such highway or

1 other property open to use by the public, after 48 hours or when the motor
2 vehicle interferes with public highway operations, may remove and
3 impound the motor vehicle.

4 (2) Any motor vehicle which has been impounded as provided in
5 this section for 30 days or more shall be disposed of in the following
6 manner: If such motor vehicle has displayed thereon a registration plate
7 issued by the division of vehicles and has been registered with the
8 division, the public agency shall request verification from the division of
9 vehicles of the last registered owner and any lienholders, if any. Such
10 verification request shall be submitted to the division of vehicles not
11 more than 30 days after such agency took possession of the vehicle. The
12 public agency shall mail a notice by certified mail to the registered owner
13 thereof, addressed to the address as shown on the certificate of
14 registration, and to the lienholder, if any, of record in the county in which
15 the title shows the owner resides, if registered in this state. The notice
16 shall state that if the owner or lienholder does not claim such motor
17 vehicle and pay the removal and storage charges incurred by such public
18 agency on it within 15 days from the date of the mailing of the notice,
19 that it will be sold at public auction to the highest bidder for cash. The
20 notice shall be mailed within 10 days after receipt of verification of the
21 last owner and any lienholders, if any, as provided in this subsection.

22 After 15 days from date of mailing notice, the public agency shall
23 publish a notice once a week for two consecutive weeks in a newspaper
24 of general circulation in the county where such motor vehicle was
25 abandoned and left, which notice shall describe the motor vehicle by
26 name of maker, model, serial number, and owner, if known, and stating
27 that it has been impounded by the public agency and that it will be sold at
28 public auction to the highest bidder for cash if the owner thereof does not
29 claim it within 10 days of the date of the second publication of the notice
30 and pay the removal and storage charges, and publication costs incurred
31 by the public agency. If the motor vehicle does not display a registration
32 plate issued by the division of vehicles and is not registered with the
33 division, the public agency after 30 days from the date of impoundment,
34 shall request verification from the division of vehicles of the last
35 registered owner and any lienholders, if any. Such verification request
36 shall be submitted to the division of vehicles no more than 30 days after
37 such agency took possession of the vehicle. The public agency shall mail
38 a notice by certified mail to the registered owner thereof, addressed to the
39 address as shown on the certificate of registration, and to the lienholder, if
40 any, of record in the county in which the title shows the owner resides, if
41 registered in this state. The notice shall state that if the owner or
42 lienholder does not claim such motor vehicle and pay the removal and
43 storage charges incurred by such public agency on it within 15 days from

1 the date of the mailing of the notice, it will be sold at public auction to the
2 highest bidder for cash. The notice shall be mailed within 10 days after
3 receipt of verification of the last owner and any lienholders, if any, as
4 provided in this subsection. After 15 days from the date of mailing notice,
5 the public agency shall publish a notice in a newspaper of general
6 circulation in the county where such motor vehicle was abandoned and
7 left, which notice shall describe the motor vehicle by name of maker,
8 model, color and serial number and shall state that it has been impounded
9 by said public agency and will be sold at public auction to the highest
10 bidder for cash, if the owner thereof does not claim it within 10 days of
11 the date of the second publication of the notice and pay the removal and
12 storage charges incurred by the public agency.

13 When any public agency has complied with the provisions of this
14 section with respect to an abandoned motor vehicle and the owner thereof
15 does not claim it within the time stated in the notice and pay the removal
16 and storage charges and publication costs incurred by the public agency
17 on such motor vehicle, the public agency may sell the motor vehicle at
18 public auction to the highest bidder for cash.

19 (3) After any sale pursuant to this section, the purchaser may file
20 proof thereof with the division of vehicles, and the division shall issue a
21 certificate of title to the purchaser of such motor vehicle. All moneys
22 derived from the sale of motor vehicles pursuant to this section, after
23 payment of the expenses of the impoundment and sale, shall be paid into
24 the fund of the public agency which is used by it for the construction or
25 maintenance of highways.

26 (b) Any person who abandons and leaves a vehicle on real property,
27 other than public property or property open to use by the public, which is
28 not owned or leased by such person or by the owner or lessee of such
29 vehicle shall be guilty of criminal trespass, as defined by ~~K.S.A. 21-~~
30 ~~3724~~ *in section 94 of chapter 136 of the 2010 Session Laws of Kansas,*
31 and amendments thereto, and upon request of the owner or occupant of
32 such real property, the public agency in whose jurisdiction such property
33 is situated may remove and dispose of such vehicle in the manner
34 provided in subsection (a), except that the provisions of subsection (a)
35 requiring that a motor vehicle be abandoned for a period of time in excess
36 of 48 hours prior to its removal shall not be applicable to abandoned
37 vehicles which are subject to the provisions of this subsection. Any
38 person removing such vehicle from the real property at the request of
39 such public agency shall have a possessory lien on such vehicle for the
40 costs incurred in removing, towing and storing such vehicle.

41 (c) Whenever any motor vehicle has been left unattended for more
42 than 48 hours or when any unattended motor vehicle interferes with
43 public highway operations, any law enforcement officer is hereby

1 authorized to move such vehicle or cause to have the vehicle moved as
2 provided in K.S.A. 8-1103 *et seq.*, and amendments thereto.

3 (d) The notice provisions of this section shall apply to any motor
4 vehicle which has been impounded as provided in K.S.A. 8-1567, and
5 amendments thereto.

6 (e) Any person attempting to recover a motor vehicle impounded as
7 provided in this section or in accordance with a city ordinance or county
8 resolution providing for the impoundment of motor vehicles, shall show
9 proof of valid registration and ownership of the motor vehicle to the
10 public agency before obtaining the motor vehicle. In addition, the public
11 agency may require payment of all reasonable costs associated with the
12 impoundment of the motor vehicle, including transportation and storage
13 fees, prior to release of the motor vehicle.

14 Sec. 94. K.S.A. 8-1450 is hereby amended to read as follows: 8-
15 1450. "Police officer" means every law enforcement officer, as defined by
16 ~~K.S.A. 21-3110~~ *in section 11 of chapter 136 of the 2010 Session Laws of*
17 *Kansas, and amendments thereto*, authorized to direct or regulate traffic
18 or to make arrests for violations of traffic regulations.

19 Sec. 95. K.S.A. 2009 Supp. 8-1567, as amended by section 3 of
20 chapter 153 of the 2010 Session Laws of Kansas, is hereby amended to
21 read as follows: 8-1567. (a) No person shall operate or attempt to operate
22 any vehicle within this state while:

23 (1) The alcohol concentration in the person's blood or breath as
24 shown by any competent evidence, including other competent evidence,
25 as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and
26 amendments thereto, is .08 or more;

27 (2) the alcohol concentration in the person's blood or breath, as
28 measured within two hours of the time of operating or attempting to
29 operate a vehicle, is .08 or more;

30 (3) under the influence of alcohol to a degree that renders the person
31 incapable of safely driving a vehicle;

32 (4) under the influence of any drug or combination of drugs to a
33 degree that renders the person incapable of safely driving a vehicle; or

34 (5) under the influence of a combination of alcohol and any drug or
35 drugs to a degree that renders the person incapable of safely driving a
36 vehicle.

37 (b) No person shall operate or attempt to operate any vehicle within
38 this state if the person is a habitual user of any narcotic, hypnotic,
39 somnifacient or stimulating drug.

40 (c) If a person is charged with a violation of this section involving
41 drugs, the fact that the person is or has been entitled to use the drug under
42 the laws of this state shall not constitute a defense against the charge.

43 (d) Upon a first conviction of a violation of this section, a person

1 shall be guilty of a class B, nonperson misdemeanor and sentenced to not
2 less than 48 consecutive hours nor more than six months' imprisonment,
3 or in the court's discretion 100 hours of public service, and fined not less
4 than \$500 nor more than \$1,000. The person convicted must serve at least
5 48 consecutive hours' imprisonment or 100 hours of public service either
6 before or as a condition of any grant of probation or suspension,
7 reduction of sentence or parole.

8 In addition, the court shall enter an order which requires that the
9 person enroll in and successfully complete an alcohol and drug safety
10 action education program or treatment program as provided in K.S.A. 8-
11 1008, and amendments thereto, or both the education and treatment
12 programs.

13 (e) On a second conviction of a violation of this section, a person
14 shall be guilty of a class A, nonperson misdemeanor and sentenced to not
15 less than 90 days nor more than one year's imprisonment and fined not
16 less than \$1,000 nor more than \$1,500. The person convicted must serve
17 at least five consecutive days' imprisonment before the person is granted
18 probation, suspension or reduction of sentence or parole or is otherwise
19 released. The five days' imprisonment mandated by this subsection may
20 be served in a work release program only after such person has served 48
21 consecutive hours' imprisonment, provided such work release program
22 requires such person to return to confinement at the end of each day in
23 the work release program. The court may place the person convicted
24 under a house arrest program pursuant to ~~K.S.A. 21-4603b~~ *section 249 of*
25 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
26 thereto, to serve the remainder of the minimum sentence only after such
27 person has served 48 consecutive hours' imprisonment.

28 As a condition of any grant of probation, suspension of sentence or
29 parole or of any other release, the person shall be required to enter into
30 and complete a treatment program for alcohol and drug abuse as provided
31 in K.S.A. 8-1008, and amendments thereto.

32 (f) (1) On the third conviction of a violation of this section, a
33 person shall be guilty of a nonperson felony and sentenced to not less
34 than 90 days nor more than one year's imprisonment and fined \$2,500.
35 The person convicted shall not be eligible for release on probation,
36 suspension or reduction of sentence or parole until the person has served
37 at least 90 days' imprisonment. The 90 days' imprisonment mandated by
38 this paragraph may be served in a work release program only after such
39 person has served 72 consecutive hours' imprisonment, provided such
40 work release program requires such person to return to confinement at the
41 end of each day in the work release program.

42 (2) The court may order that the term of imprisonment imposed
43 pursuant to paragraph (1) be served in a state facility in the custody of the

1 secretary of corrections in a facility designated by the secretary for the
2 provision of substance abuse treatment pursuant to the provisions of
3 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
4 *Kansas*, and amendments thereto. The person shall remain imprisoned at
5 the state facility only while participating in the substance abuse treatment
6 program designated by the secretary and shall be returned to the custody
7 of the sheriff for execution of the balance of the term of imprisonment
8 upon completion of or the person's discharge from the substance abuse
9 treatment program. Custody of the person shall be returned to the sheriff
10 for execution of the sentence imposed in the event the secretary of
11 corrections determines: (A) That substance abuse treatment resources or
12 the capacity of the facility designated by the secretary for the
13 incarceration and treatment of the person is not available; (B) the person
14 fails to meaningfully participate in the treatment program of the
15 designated facility; (C) the person is disruptive to the security or
16 operation of the designated facility; or (D) the medical or mental health
17 condition of the person renders the person unsuitable for confinement at
18 the designated facility. The determination by the secretary that the person
19 either is not to be admitted into the designated facility or is to be
20 transferred from the designated facility is not subject to review. The
21 sheriff shall be responsible for all transportation expenses to and from the
22 state correctional facility.

23 At the time of the filing of the judgment form or journal entry as
24 required by ~~K.S.A. 21-4620~~ *or section 280 of chapter 136 of the 2010*
25 *Session Laws of Kansas or K.S.A. 22-3426*, and amendments thereto, the
26 court shall cause a certified copy to be sent to the officer having the
27 offender in charge. The law enforcement agency maintaining custody and
28 control of a defendant for imprisonment shall cause a certified copy of the
29 judgment form or journal entry to be sent to the secretary of corrections
30 within three business days of receipt of the judgment form or journal
31 entry from the court and notify the secretary of corrections when the term
32 of imprisonment expires and upon expiration of the term of imprisonment
33 shall deliver the defendant to a location designated by the secretary. After
34 the term of imprisonment imposed by the court, the person shall be
35 placed in the custody of the secretary of corrections for a mandatory one-
36 year period of postrelease supervision, which such period of postrelease
37 supervision shall not be reduced. During such postrelease supervision, the
38 person shall be required to participate in an inpatient or outpatient
39 program for alcohol and drug abuse, including, but not limited to, an
40 approved aftercare plan or mental health counseling, as determined by the
41 secretary and satisfy conditions imposed by the Kansas parole board as
42 provided by K.S.A. 22-3717, and amendments thereto. Any violation of
43 the conditions of such postrelease supervision may subject such person to

1 revocation of postrelease supervision pursuant to K.S.A. 75-5217 et seq.,
2 and amendments thereto and as otherwise provided by law.

3 (g) (1) On the fourth or subsequent conviction of a violation of this
4 section, a person shall be guilty of a nonperson felony and sentenced to
5 not less than 180 days nor more than one year's imprisonment and fined
6 \$2,500. The person convicted shall not be eligible for release on
7 probation, suspension or reduction of sentence or parole until the person
8 has served at least 180 days' imprisonment. The 180 days' imprisonment
9 mandated by this paragraph may be served in a work release program
10 only after such person has served 144 consecutive hours' imprisonment,
11 provided such work release program requires such person to return to
12 confinement at the end of each day in the work release program.

13 (2) The court may order that the term of imprisonment imposed
14 pursuant to paragraph (1) be served in a state facility in the custody of the
15 secretary of corrections in a facility designated by the secretary for the
16 provision of substance abuse treatment pursuant to the provisions of
17 ~~K.S.A. 21-4704~~ *section 285 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto. The person shall remain imprisoned at
19 the state facility only while participating in the substance abuse treatment
20 program designated by the secretary and shall be returned to the custody
21 of the sheriff for execution of the balance of the term of imprisonment
22 upon completion of or the person's discharge from the substance abuse
23 treatment program. Custody of the person shall be returned to the sheriff
24 for execution of the sentence imposed in the event the secretary of
25 corrections determines: (A) That substance abuse treatment resources or
26 the capacity of the facility designated by the secretary for the
27 incarceration and treatment of the person is not available; (B) the person
28 fails to meaningfully participate in the treatment program of the
29 designated facility; (C) the person is disruptive to the security or
30 operation of the designated facility; or (D) the medical or mental health
31 condition of the person renders the person unsuitable for confinement at
32 the designated facility. The determination by the secretary that the person
33 either is not to be admitted into the designated facility or is to be
34 transferred from the designated facility is not subject to review. The
35 sheriff shall be responsible for all transportation expenses to and from the
36 state correctional facility.

37 At the time of the filing of the judgment form or journal entry as
38 required by ~~K.S.A. 21-4620~~ *section 280 of chapter 136 of the 2010*
39 *Session Laws of Kansas* or *K.S.A. 22-3426*, and amendments thereto, the
40 court shall cause a certified copy to be sent to the officer having the
41 offender in charge. The law enforcement agency maintaining custody and
42 control of a defendant for imprisonment shall cause a certified copy of the
43 judgment form or journal entry to be sent to the secretary of corrections

1 within three business days of receipt of the judgment form or journal
2 entry from the court and notify the secretary of corrections when the term
3 of imprisonment expires and upon expiration of the term of imprisonment
4 shall deliver the defendant to a location designated by the secretary.

5 (h) Any person convicted of violating this section or an ordinance
6 which prohibits the acts that this section prohibits who had one or more
7 children under the age of 14 years in the vehicle at the time of the offense
8 shall have such person's punishment enhanced by one month of
9 imprisonment. This imprisonment must be served consecutively to any
10 other minimum mandatory penalty imposed for a violation of this section
11 or an ordinance which prohibits the acts that this section prohibits. Any
12 enhanced penalty imposed shall not exceed the maximum sentence
13 allowable by law. During the service of the enhanced penalty, the judge
14 may order the person on house arrest, work release or other conditional
15 release.

16 (i) The court may establish the terms and time for payment of any
17 fines, fees, assessments and costs imposed pursuant to this section. Any
18 assessment and costs shall be required to be paid not later than 90 days
19 after imposed, and any remainder of the fine shall be paid prior to the
20 final release of the defendant by the court.

21 (j) In lieu of payment of a fine imposed pursuant to this section, the
22 court may order that the person perform community service specified by
23 the court. The person shall receive a credit on the fine imposed in an
24 amount equal to \$5 for each full hour spent by the person in the specified
25 community service. The community service ordered by the court shall be
26 required to be performed not later than one year after the fine is imposed
27 or by an earlier date specified by the court. If by the required date the
28 person performs an insufficient amount of community service to reduce
29 to zero the portion of the fine required to be paid by the person, the
30 remaining balance of the fine shall become due on that date.

31 (k) (1) Except as provided in paragraph (5), in addition to any
32 other penalty which may be imposed upon a first conviction of a violation
33 of this section, the court may order that the convicted person's motor
34 vehicle or vehicles be impounded or immobilized for a period not to
35 exceed one year and that the convicted person pay all towing,
36 impoundment and storage fees or other immobilization costs.

37 (2) The court shall not order the impoundment or immobilization of
38 a motor vehicle driven by a person convicted of a violation of this section
39 if the motor vehicle had been stolen or converted at the time it was driven
40 in violation of this section.

41 (3) Prior to ordering the impoundment or immobilization of a motor
42 vehicle or vehicles owned by a person convicted of a violation of this
43 section, the court shall consider, but not be limited to, the following:

1 (A) Whether the impoundment or immobilization of the motor
2 vehicle would result in the loss of employment by the convicted person or
3 a member of such person's family; and

4 (B) whether the ability of the convicted person or a member of such
5 person's family to attend school or obtain medical care would be
6 impaired.

7 (4) Any personal property in a vehicle impounded or immobilized
8 pursuant to this subsection may be retrieved prior to or during the period
9 of such impoundment or immobilization.

10 (5) As used in this subsection, the convicted person's motor vehicle
11 or vehicles shall include any vehicle leased by such person. If the lease
12 on the convicted person's motor vehicle subject to impoundment or
13 immobilization expires in less than one year from the date of the
14 impoundment or immobilization, the time of impoundment or
15 immobilization of such vehicle shall be the amount of time remaining on
16 the lease.

17 (1) (1) Except as provided in paragraph (3), in addition to any other
18 penalty which may be imposed upon a second or subsequent conviction
19 of a violation of this section, the court shall order that each motor vehicle
20 owned or leased by the convicted person shall either be equipped with an
21 ignition interlock device or be impounded or immobilized for a period of
22 two years. The convicted person shall pay all costs associated with the
23 installation, maintenance and removal of the ignition interlock device and
24 all towing, impoundment and storage fees or other immobilization costs.

25 (2) Any personal property in a vehicle impounded or immobilized
26 pursuant to this subsection may be retrieved prior to or during the period
27 of such impoundment or immobilization.

28 (3) As used in this subsection, the convicted person's motor vehicle
29 or vehicles shall include any vehicle leased by such person. If the lease
30 on the convicted person's motor vehicle subject to impoundment or
31 immobilization expires in less than two years from the date of the
32 impoundment or immobilization, the time of impoundment or
33 immobilization of such vehicle shall be the amount of time remaining on
34 the lease.

35 (m) (1) Prior to filing a complaint alleging a violation of this
36 section, a prosecutor shall request and shall receive from the division a
37 record of all prior convictions obtained against such person for any
38 violations of any of the motor vehicle laws of this state.

39 (2) Prior to filing a complaint alleging a violation of this section, a
40 prosecutor shall request and shall receive from the Kansas bureau of
41 investigation central repository all criminal history record information
42 concerning such person.

43 (n) The court shall electronically report every conviction of a

1 violation of this section and every diversion agreement entered into in
2 lieu of further criminal proceedings or a complaint alleging a violation of
3 this section to the division. Prior to sentencing under the provisions of
4 this section, the court shall request and shall receive from the division a
5 record of all prior convictions obtained against such person for any
6 violations of any of the motor vehicle laws of this state.

7 (o) For the purpose of determining whether a conviction is a first,
8 second, third, fourth or subsequent conviction in sentencing under this
9 section:

10 (1) "Conviction" includes being convicted of a violation of this
11 section or entering into a diversion agreement in lieu of further criminal
12 proceedings on a complaint alleging a violation of this section;

13 (2) "conviction" includes being convicted of a violation of a law of
14 another state or an ordinance of any city, or resolution of any county,
15 which prohibits the acts that this section prohibits or entering into a
16 diversion agreement in lieu of further criminal proceedings in a case
17 alleging a violation of such law, ordinance or resolution;

18 (3) any convictions occurring during a person's lifetime shall be
19 taken into account when determining the sentence to be imposed for a
20 first, second, third, fourth or subsequent offender;

21 (4) it is irrelevant whether an offense occurred before or after
22 conviction for a previous offense; and

23 (5) a person may enter into a diversion agreement in lieu of further
24 criminal proceedings for a violation of this section, and amendments
25 thereto, or an ordinance which prohibits the acts of this section, and
26 amendments thereto, only once during the person's lifetime.

27 (p) Upon conviction of a person of a violation of this section or a
28 violation of a city ordinance or county resolution prohibiting the acts
29 prohibited by this section, the division, upon receiving a report of
30 conviction, shall suspend, restrict or suspend and restrict the person's
31 driving privileges as provided by K.S.A. 8-1014, and amendments
32 thereto.

33 (q) (1) (A) Nothing contained in this section shall be construed
34 as preventing any city from enacting ordinances, or any county from
35 adopting resolutions, declaring acts prohibited or made unlawful by this
36 act as unlawful or prohibited in such city or county and prescribing
37 penalties for violation thereof. Except as specifically provided by this
38 subsection, the minimum penalty prescribed by any such ordinance or
39 resolution shall not be less than the minimum penalty prescribed by this
40 act for the same violation, and the maximum penalty in any such
41 ordinance or resolution shall not exceed the maximum penalty prescribed
42 for the same violation.

43 (B) On and after July 1, 2007, and retroactive for ordinance

1 violations committed on or after July 1, 2006, an ordinance may grant to
2 a municipal court jurisdiction over a violation of such ordinance which is
3 concurrent with the jurisdiction of the district court over a violation of
4 this section, notwithstanding that the elements of such ordinance violation
5 are the same as the elements of a violation of this section that would
6 constitute, and be punished as, a felony.

7 (C) Any such ordinance or resolution shall authorize the court to
8 order that the convicted person pay restitution to any victim who suffered
9 loss due to the violation for which the person was convicted. Except as
10 provided in paragraph (5), any such ordinance or resolution may require
11 or authorize the court to order that the convicted person's motor vehicle
12 or vehicles be impounded or immobilized for a period not to exceed one
13 year and that the convicted person pay all towing, impoundment and
14 storage fees or other immobilization costs.

15 (2) The court shall not order the impoundment or immobilization of
16 a motor vehicle driven by a person convicted of a violation of this section
17 if the motor vehicle had been stolen or converted at the time it was driven
18 in violation of this section.

19 (3) Prior to ordering the impoundment or immobilization of a motor
20 vehicle or vehicles owned by a person convicted of a violation of this
21 section, the court shall consider, but not be limited to, the following:

22 (A) Whether the impoundment or immobilization of the motor
23 vehicle would result in the loss of employment by the convicted person or
24 a member of such person's family; and

25 (B) whether the ability of the convicted person or a member of such
26 person's family to attend school or obtain medical care would be
27 impaired.

28 (4) Any personal property in a vehicle impounded or immobilized
29 pursuant to this subsection may be retrieved prior to or during the period
30 of such impoundment or immobilization.

31 (5) As used in this subsection, the convicted person's motor vehicle
32 or vehicles shall include any vehicle leased by such person. If the lease
33 on the convicted person's motor vehicle subject to impoundment or
34 immobilization expires in less than one year from the date of the
35 impoundment or immobilization, the time of impoundment or
36 immobilization of such vehicle shall be the amount of time remaining on
37 the lease.

38 (r) (1) Upon the filing of a complaint, citation or notice to appear
39 alleging a person has violated a city ordinance prohibiting the acts
40 prohibited by this section, and prior to conviction thereof, a city attorney
41 shall request and shall receive from the division a record of all prior
42 convictions obtained against such person for any violations of any of the
43 motor vehicle laws of this state.

1 (2) Upon the filing of a complaint, citation or notice to appear
2 alleging a person has violated a city ordinance prohibiting the acts
3 prohibited by this section, and prior to conviction thereof, a city attorney
4 shall request and shall receive from the Kansas bureau of investigation
5 central repository all criminal history record information concerning such
6 person.

7 (3) If the elements of such ordinance violation are the same as the
8 elements of a violation of this section that would constitute, and be
9 punished as, a felony, the city attorney shall refer the violation to the
10 appropriate county or district attorney for prosecution.

11 (s) No plea bargaining agreement shall be entered into nor shall any
12 judge approve a plea bargaining agreement entered into for the purpose of
13 permitting a person charged with a violation of this section, or a violation
14 of any ordinance of a city or resolution of any county in this state which
15 prohibits the acts prohibited by this section, to avoid the mandatory
16 penalties established by this section or by the ordinance. For the purpose
17 of this subsection, entering into a diversion agreement pursuant to K.S.A.
18 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
19 constitute plea bargaining.

20 (t) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3)
21 may be pleaded in the alternative, and the state, city or county, but shall
22 not be required to, may elect one or two of the three prior to submission
23 of the case to the fact finder.

24 (u) Upon a third or subsequent conviction, the judge of any court in
25 which any person is convicted of violating this section, may revoke the
26 person's license plate or temporary registration certificate of the motor
27 vehicle driven during the violation of this section for a period of one year.
28 Upon revoking any license plate or temporary registration certificate
29 pursuant to this subsection, the court shall require that such license plate
30 or temporary registration certificate be surrendered to the court.

31 (v) For the purpose of this section: (1) "Alcohol concentration"
32 means the number of grams of alcohol per 100 milliliters of blood or per
33 210 liters of breath.

34 (2) "Imprisonment" shall include any restrained environment in
35 which the court and law enforcement agency intend to retain custody and
36 control of a defendant and such environment has been approved by the
37 board of county commissioners or the governing body of a city.

38 (3) "Drug" includes toxic vapors as such term is defined in K.S.A.
39 ~~20092010~~ Supp. 21-36a12, and amendments thereto.

40 (w) The amount of the increase in fines as specified in this section
41 shall be remitted by the clerk of the district court to the state treasurer in
42 accordance with the provisions of K.S.A. 75-4215, and amendments
43 thereto. Upon receipt of remittance of the increase provided in this act,

1 the state treasurer shall deposit the entire amount in the state treasury and
2 the state treasurer shall credit 50% to the community alcoholism and
3 intoxication programs fund and 50% to the department of corrections
4 alcohol and drug abuse treatment fund, which is hereby created in the
5 state treasury.

6 (x) Upon every conviction of a violation of this section, the court
7 shall order such person to submit to a pre-sentence alcohol and drug
8 abuse evaluation pursuant to K.S.A. 8-1008, and amendments thereto.
9 Such pre-sentence evaluation shall be made available, and shall be
10 considered by the sentencing court.

11 Sec. 96. K.S.A. 2010 Supp. 8-2106 is hereby amended to read as
12 follows: 8-2106. (a) A law enforcement officer may prepare and deliver to
13 a person a written traffic citation on a form approved by the division of
14 motor vehicles, if the law enforcement officer stops the person for a
15 violation of:

16 (1) The uniform act regulating traffic on highways, which violation
17 is a misdemeanor or a traffic infraction;

18 (2) ~~K.S.A. 8-262, 8-287, 8-2,144, 21-3610, 21-3610a, 21-3722, 21-~~
19 ~~3724, 21-3725, 21-3728, 21-4101,8-1599, 40-3104, 40-3106, 41-715, 41-~~
20 ~~724, 41-727, 47-607, 66-1,111, 66-1,129, 66-1,139, 66-1,140, 66-273, 66-~~
21 ~~1314, 66-1324, 66-1330, 66-1331, 66-1332, 68-2104, 68-2106;or~~
22 ~~subsection (b) of K.S.A. 79-34,122, or K.S.A. 8-1599~~ *subsection (a) of*
23 *section 84, section 96, section 101, section 102, subsection (a) of section*
24 *103, or section 181 of chapter 136 of the 2010 Session Laws of Kansas,*
25 *and amendments thereto;*

26 (3) K.S.A. 31-155 and amendments thereto involving transportation
27 of bottle rockets;

28 (4) K.S.A. 66-1314 or 66-1328, and amendments thereto, and any
29 rules and regulations adopted pursuant thereto;

30 (5) any rules and regulations adopted pursuant to K.S.A. 2-1212, 68-
31 2001 or 31-146, and amendments thereto;

32 (6) any rules and regulations adopted pursuant to K.S.A. 31-133 and
33 amendments thereto relating to transportation of materials or fuel; or

34 (7) K.S.A. 8-1343 through 8-1347 and amendments thereto relating
35 to the child passenger safety act; or

36 (8) K.S.A. 8-2501 through 8-2507 and amendments thereto relating
37 to the safety belt use act.

38 (b) The citation shall contain a notice to appear in court, the name
39 and address of the person, the type of vehicle the person was driving,
40 whether hazardous materials were being transported, whether an accident
41 occurred, the state registration number of the person's vehicle, if any, a
42 statement whether the vehicle is a commercial vehicle, whether the
43 person is licensed to drive a commercial motor vehicle, the offense or

1 offenses charged, the time and place when and where the person shall
2 appear in court, the signature of the law enforcement officer, and any
3 other pertinent information.

4 (c) The time specified in the notice to appear shall be at least five
5 days after the alleged violation unless the person charged with the
6 violation demands an earlier hearing.

7 (d) The place specified in the notice to appear shall be before a
8 judge of the district court within the county in which the offense is
9 alleged to have been committed.

10 (e) Except in the circumstances to which subsection (a) of K.S.A. 8-
11 2104, and amendments thereto, apply, in the discretion of the law
12 enforcement officer, a person charged with a misdemeanor may give
13 written promise to appear in court by signing at least one copy of the
14 written citation prepared by the law enforcement officer, in which event
15 the law enforcement officer shall deliver a copy of the citation to the
16 person and shall not take the person into physical custody.

17 (f) When a person is charged with a traffic infraction, the notice to
18 appear shall provide a place where the person may make a written entry
19 of appearance, waive the right to a trial and plead guilty or no contest.
20 Such notice to appear shall contain a provision that the person's failure to
21 either pay such fine and court costs or appear at the specified time may
22 result in suspension of the person's drivers' license as provided in K.S.A.
23 8-2110, and amendments thereto. The notice to appear shall provide a
24 space where the law enforcement officer shall enter the appropriate fine
25 specified in the uniform fine schedule contained in K.S.A. 8-2118, and
26 amendments thereto, for the violation charged and court costs in the
27 amount provided by law. If the notice to appear does not do so, the law
28 enforcement officer shall provide a person charged with a traffic
29 infraction a form explaining the person's right to appear and right to a
30 trial and the person's right to pay the appropriate fine and court costs prior
31 to the appearance date. The law enforcement officer shall provide the
32 person with the address of the court to which the written entry of
33 appearance, waiver of trial, plea of guilty or no contest and payment of
34 fine and court costs shall be mailed.

35 (g) Any officer violating any of the provisions of subsection (f) is
36 guilty of misconduct in office and shall be subject to removal from office.

37 Sec. 97. K.S.A. 2010 Supp. 8-2117 is hereby amended to read as
38 follows: 8-2117. (a) Subject to the provisions of this section, a court of
39 competent jurisdiction may hear prosecutions of traffic offenses involving
40 any child 14 or more years of age but less than 18 years of age. The court
41 hearing the prosecution may impose any fine authorized by law for a
42 traffic offense, including a violation of K.S.A. 8-1567 and amendments
43 thereto, and may order that the child be placed in a juvenile detention

1 facility, as defined by K.S.A. 2010 Supp. 38-2302, and amendments
2 thereto, for not more than 10 days. If the child is less than 18 years of
3 age, the child shall not be incarcerated in a jail as defined by K.S.A. 2010
4 Supp. 38-2302, and amendments thereto. If the statute under which the
5 child is convicted requires a revocation or suspension of driving
6 privileges, the court shall revoke or suspend such privileges in
7 accordance with that statute. Otherwise, the court may suspend the
8 license of any person who is convicted of a traffic offense and who was
9 under 18 years of age at the time of commission of the offense.
10 Suspension of a license shall be for a period not exceeding one year, as
11 ordered by the court. Upon suspending any license pursuant to this
12 section, the court shall require that the license be surrendered to the court
13 and shall transmit the license to the division of vehicles with a copy of the
14 court order showing the time for which the license is suspended. The
15 court may modify the time for which the license is suspended, in which
16 case it shall notify the division of vehicles in writing of the modification.
17 After the time period has passed for which the license is suspended, the
18 division of vehicles shall issue an appropriate license to the person whose
19 license had been suspended, upon successful completion of the
20 examination required by K.S.A. 8-241 and amendments thereto and upon
21 proper application and payment of the required fee unless the child's
22 driving privileges have been revoked, suspended or canceled for another
23 cause and the revocation, suspension or cancellation has not expired.

24 (b) Instead of suspending a driver's license pursuant to this section,
25 the court may place restrictions on the child's driver's privileges pursuant
26 to K.S.A. 8-292 and amendments thereto.

27 (c) Instead of the penalties provided in subsections (a) and (b), the
28 court may place the child under a house arrest program, pursuant to
29 ~~K.S.A. 21-4603b~~ *section 249 of chapter 136 of the 2010 Session Laws of*
30 *Kansas*, and amendments thereto, and sentence the child to the same
31 sentence as an adult traffic offender under K.S.A. 8-2116, and
32 amendments thereto.

33 (d) As used in this section, "traffic offense" means a violation of the
34 uniform act regulating traffic on highways, a violation of articles 1 and 2
35 of chapter 8 of the Kansas Statutes Annotated and a violation of K.S.A.
36 40-3104, and amendments thereto. Traffic offenses shall include a
37 violation of a city ordinance or county resolution which prohibits acts
38 which would constitute a violation of the uniform act regulating traffic on
39 highways, a violation of articles 1 and 2 of chapter 8 of the Kansas
40 Statutes Annotated, or a violation of K.S.A. 40-3104, and amendments
41 thereto, and any violation of a city ordinance or county resolution which
42 prohibits acts which are not violations of state laws and which relate to
43 the regulation of traffic on the roads, highways or streets or the operation

1 of self-propelled or nonself-propelled vehicles of any kind.

2 Sec. 98. K.S.A. 2010 Supp. 8-2410 is hereby amended to read as
3 follows: 8-2410. (a) A license may be denied, suspended or revoked or a
4 renewal may be refused by the director on any of the following grounds:

5 (1) Proof of financial unfitness of the applicant;

6 (2) material false statement in an application for a license;

7 (3) filing a materially false or fraudulent tax return as certified by
8 the director of taxation;

9 (4) negligently failing to comply with any applicable provision of
10 this act or any applicable rule or regulation adopted pursuant thereto;

11 (5) knowingly defrauding any retail buyer to the buyer's damage;

12 (6) negligently failing to perform any written agreement with any
13 buyer;

14 (7) failure or refusal to furnish and keep in force any required bond;

15 (8) knowingly making a fraudulent sale or transaction;

16 (9) knowingly engaging in false or misleading advertising;

17 (10) willful misrepresentation, circumvention or concealment,
18 through a subterfuge or device, of any material particulars, or the nature
19 thereof, required by law to be stated or furnished to the retail buyer;

20 (11) negligent use of fraudulent devices, methods or practices in
21 contravention of law with respect to the retaking of goods under retail
22 installment contracts and the redemption and resale of such goods;

23 (12) knowingly violating any law relating to the sale, distribution or
24 financing of vehicles;

25 (13) being a first or second stage manufacturer of vehicles, factory
26 branch, distributor, distributor or factory representative, officer, agent or
27 any representative thereof, who has:

28 (A) Required any new vehicle dealer to order or accept delivery of
29 any new motor vehicle, part or accessory of such part, equipment or any
30 other commodity not required by law, or not necessary for the repair or
31 service, or both, of a new motor vehicle which was not ordered by the
32 new vehicle dealer;

33 (B) unfairly, without due regard to the equities of the vehicle dealer,
34 and without just provocation, canceled, terminated or failed to renew a
35 franchise agreement with any new vehicle dealer; or

36 (C) induced, or has attempted to induce, by coercion, intimidation or
37 discrimination, any vehicle dealer to involuntarily enter into any franchise
38 agreement with such first or second stage manufacturer, factory branch,
39 distributor, or any representative thereof, or to do any other act to a
40 vehicle dealer which may be deemed a violation of this act, or the rules
41 and regulations adopted or orders promulgated under authority of this act,
42 by threatening to cancel or not renew a franchise agreement existing
43 between such parties;

1 (14) being a first or second stage manufacturer, or distributor who
2 for the protection of the buying public fails to specify in writing the
3 delivery and preparation obligations of its vehicle dealers prior to
4 delivery of new vehicles to new vehicle dealers. A copy of such writing
5 shall be filed with the division by every licensed first or second stage
6 manufacturer of vehicles and the contents thereof shall constitute the
7 vehicle dealer's only responsibility for product liability as between the
8 vehicle dealer and the first or second stage manufacturer. Any
9 mechanical, body or parts defects arising from any express or implied
10 warranties of the first or second stage manufacturer shall constitute the
11 product or warranty liability of the first or second stage manufacturer.
12 The first or second stage manufacturer shall reasonably compensate any
13 authorized vehicle dealer for the performance of delivery and preparation
14 obligation;

15 (15) being a first or second stage manufacturer of new vehicles,
16 factory branch or distributor who fails to supply a new vehicle dealer
17 with a reasonable quantity of new vehicles, parts and accessories, in
18 accordance with the franchise agreement. It shall not be deemed a
19 violation of this act if such failure is attributable to factors reasonably
20 beyond the control of such first or second stage manufacturer, factory
21 branch or distributor;

22 (16) knowingly used or permitted the use of dealer plates contrary to
23 law;

24 (17) has failed or refused to permit an agent of the division, during
25 the licensee's regular business hours, to examine or inspect such dealer's
26 records pertaining to titles and purchase and sale of vehicles;

27 (18) has failed to notify the division within 10 days of dealer's plates
28 that have been lost, stolen, mutilated or destroyed;

29 (19) has failed or refused to surrender their dealer's license or
30 dealer's plates to the division or its agent upon demand;

31 (20) has demonstrated that such person is not of good character and
32 reputation in the community in which the dealer resides;

33 (21) has, within five years immediately preceding the date of
34 making application, been convicted of a felony or any crime involving
35 moral turpitude, or has been adjudged guilty of the violations of any law
36 of any state or the United States in connection with such person's
37 operation as a dealer or salesperson;

38 (22) has cross-titled a title to any purchaser of any vehicle. Cross-
39 titling shall include, but not by way of limitation, a dealer or broker or the
40 authorized agent of either selling or causing to be sold, exchanged or
41 transferred any vehicle and not showing a complete chain of title on the
42 papers necessary for the issuance of title for the purchaser. The selling
43 dealer's name must appear on the assigned first or second stage

- 1 manufacturer's certificate of origin or reassigned certificate of title;
- 2 (23) has changed the location of such person's established place of
3 business or supplemental place of business prior to approval of such
4 change by the division;
- 5 (24) having in such person's possession a certificate of title which is
6 not properly completed, otherwise known as an "open title";
- 7 (25) doing business as a vehicle dealer other than at the dealer's
8 established or supplemental place of business, with the exception that
9 dealers selling new recreational vehicles may engage in business at other
10 than their established or supplemental place of business for a period not
11 to exceed 15 days;
- 12 (26) any violation of K.S.A. 8-126 et seq., and amendments thereto,
13 in connection with such person's operation as a dealer;
- 14 (27) any violation of K.S.A. 8-116, and amendments thereto;
- 15 (28) any violation of ~~K.S.A. 21-3757~~ *section 121 of chapter 136 of*
16 *the 2010 Session Laws of Kansas*, and amendments thereto;
- 17 (29) any violation of K.S.A. 79-1019, 79-3294 et seq., or 79-3601 et
18 seq., and amendments thereto;
- 19 (30) failure to provide adequate proof of ownership for motor
20 vehicles in the dealer's possession;
- 21 (31) being a first or second stage manufacturer who fails to provide
22 the director of property valuation all information necessary for vehicle
23 identification number identification and determination of vehicle
24 classification at least 90 days prior to release for sale of any new make,
25 model or series of vehicles; or
- 26 (32) displaying motor vehicles at a location other than at the dealer's
27 established place of business or supplemental place of business without
28 obtaining the authorization required in K.S.A. 8-2435, and amendments
29 thereto.
- 30 (b) In addition to the provisions of subsection (a), and
31 notwithstanding the terms and conditions of any franchise agreement,
32 including any policy, bulletin, practice or guideline with respect thereto or
33 performance thereunder, no first or second stage manufacturer of
34 vehicles, factory branch, distributor, distributor or factory representative,
35 officer or agent or any representative thereof, or any other person may do
36 or cause to be done any of the following acts or practices referenced in
37 this subsection, all of which are also declared to be a violation of the
38 vehicle dealers and manufacturers licensing act, and amendments thereto:
- 39 (1) Through the use of a written instrument or otherwise,
40 unreasonably fail or refuse to offer to its same line-make new vehicle
41 dealers all models manufactured for that line-make, or unreasonably
42 require a dealer to: (A) Pay any extra fee;
- 43 (B) purchase unreasonable advertising displays or other materials; or

1 (C) remodel, renovate or recondition the dealer's existing facilities
2 as a prerequisite to receiving a model or series of vehicles. The provisions
3 of this subsection shall not apply to manufacturers of recreational
4 vehicles;

5 (2) require a change in the capital structure of the new vehicle
6 dealership, or the means by or through which the dealer finances the
7 operation of the dealership, if the dealership at all times meets any
8 reasonable capital standards determined by the manufacturer and in
9 accordance with uniformly applied criteria;

10 (3) discriminate unreasonably among competing dealers of the same
11 line-make in the sale of vehicles or availability of incentive programs or
12 sales promotion plans or other similar programs, unless justified by
13 obsolescence;

14 (4) unless required by subpoena or as otherwise compelled by law:
15 (A) Require a new vehicle dealer to release, convey or otherwise provide
16 customer information if to do so is unlawful, or if the customer objects in
17 writing to doing so, unless the information is necessary for the first or
18 second stage manufacturer of vehicles, factory branch or distributor to
19 meet its obligations to consumers or the new vehicle dealer, including
20 vehicle recalls or other requirements imposed by state or federal law; or

21 (B) release to any unaffiliated third party any customer information
22 which has been provided by the dealer to the manufacturer;

23 (5) unless the parties have reached a voluntary agreement where
24 separate and adequate consideration has been offered and accepted in
25 exchange for altering or foregoing the following limitations, through the
26 use of written instrument, or otherwise:

27 (A) Prohibit or prevent a dealer from acquiring, adding or
28 maintaining a sales or service operation for another line-make at the same
29 or expanded facility at which the dealership is located if the prohibition or
30 prevention of such arrangements would be unreasonable in light of all
31 existing circumstances including, but not limited to, debt exposure, cost,
32 return on investment, the dealer's and manufacturer's business plans and
33 other financial and economic conditions and considerations;

34 (B) require a dealer to establish or maintain exclusive facilities,
35 personnel or display space if the imposition of the requirement would be
36 unreasonable in light of all existing circumstances, including, but not
37 limited to, debt exposure, cost, return on investment, the dealer's and
38 manufacturer's business plans and other financial and economic
39 conditions and considerations;

40 (C) to require a dealer to build or relocate and build new facilities, or
41 make a material alteration, expansion or addition to any dealership
42 facility, unless the requirement is reasonable in light of all existing
43 conditions, including, but not limited to, debt exposure, cost, return on

1 investment, the dealer's and manufacturer's business plans and other
2 financial and economic conditions and considerations;

3 (6) through the use of written instrument, or otherwise, require,
4 coerce or force a dealer to underutilize its facilities by requiring the dealer
5 to exclude or remove operations for the display, sale or service of any
6 vehicle for which the dealer has a franchise agreement, except that in
7 light of all existing circumstances the dealer must comply with reasonable
8 facilities requirements. The requirement for a dealer to meet reasonable
9 facilities requirements shall not include any requirement that a dealer
10 establish or maintain exclusive facilities.

11 In the event a dealer decides to add an additional franchise agreement
12 to sell another line-make of new vehicles of a different first or second
13 stage manufacturer or distributor from that currently sold in its existing
14 facility, it shall be a rebuttable presumption that the decision to do so is
15 reasonable. Any dealer adding a franchise agreement for an existing
16 facility shall provide 60 days written notice of its intent to those other
17 parties to franchise agreements it may have. The other party must respond
18 to such notice within 60 days by requesting a hearing before the director
19 in accordance with K.S.A. 8-2411, and amendments thereto. Consent
20 shall be deemed to have been given approving the addition of the line-
21 make if no hearing is timely requested. A party objecting to the addition
22 shall have the burden to overcome such presumption by a preponderance
23 of the evidence;

24 (7) (A) through the use of written instrument, or otherwise, directly
25 or indirectly condition the awarding of a franchise agreement to a
26 prospective dealer, the addition of a line-make or franchise agreement to
27 an existing dealer, the renewal of a franchise agreement, the approval of a
28 dealer or facility relocation, the acquisition of a franchise agreement or
29 the approval of a sale or transfer of a franchise agreement or other
30 arrangement on the willingness of a dealer or a prospective dealer to enter
31 into a site control agreement or exclusive use agreement as defined in this
32 subsection;

33 (B) as used in this paragraph, "site control agreement" and
34 "exclusive use agreement" include any agreement by or required by the
35 first or second stage manufacturer of vehicles, factory branch or
36 distributor ("manufacturer parties" in this paragraph) that has the effect of
37 either:

38 (i) Requiring that the dealer establish or maintain exclusive
39 dealership facilities in violation of the dealer and manufacturers licensing
40 act;

41 (ii) restricting the ability of the dealer, or the ability of the dealer's
42 lessor in the event the dealership facility is being leased, to transfer, sell,
43 lease or change the use of the dealership premises, whether by sublease,

1 lease, collateral pledge of lease or other similar agreement; or

2 (iii) which gives control of the premises to a designated party. "Site
3 control agreement" and "exclusive use agreement" also include
4 manufacturer parties restricting the ability of a dealer to transfer, sell or
5 lease the dealership premises by right of first refusal to purchase or lease,
6 option to purchase, or option to lease, except as otherwise allowed by
7 K.S.A. 8-2416, and amendments thereto, except that voluntary
8 agreements where separate and adequate consideration has been offered
9 and accepted are excluded;

10 (8) through the use of written instrument, or otherwise, require
11 adherence to a performance standard or standards which are not applied
12 uniformly to other similarly situated dealers. In addition to any other
13 requirements by law, the following shall apply:

14 (A) A performance standard, sales objective or program for
15 measuring dealer performance that may have a material effect on a dealer,
16 including the dealer's right to payment under any incentive or
17 reimbursement program and the application of the standard, sales
18 objective or program by a manufacturer, distributor or factory branch
19 shall be fair, reasonable, equitable and based on accurate information;

20 (B) a dealer that claims that the application of a performance
21 standard, sales objective or program for measuring dealership
22 performance does not meet the standards listed in subparagraph (A) may
23 request a hearing before the director pursuant to K.S.A. 8-2411, and
24 amendments thereto; and

25 (C) a first or second stage manufacturer of vehicles, factory branch
26 or distributor has the burden of proving by a preponderance of the
27 evidence that the performance standard, sales objective or program for
28 measuring dealership information complies with this subsection;

29 (9) in addition to any other provisions of law, a franchise agreement
30 or other contract offered to a dealer by a first or second stage
31 manufacturer of vehicles, factory branch or distributor may not contain
32 any provision requiring a dealer to pay the attorney's fees of the first or
33 second stage manufacturer of vehicles, factory branch or distributor
34 related to disputes between the parties.

35 (c) The director may deny the application for the license within 30
36 days after receipt thereof by written notice to the applicant, stating the
37 grounds for such denial. Upon request by the applicant whose license has
38 been so denied, the applicant shall be granted an opportunity to be heard
39 in accordance with the provisions of the Kansas administrative procedure
40 act.

41 (d) If a licensee is a firm or corporation, it shall be sufficient cause
42 for the denial, suspension or revocation of a license that any officer,
43 director or trustee of the firm or corporation, or any member in case of a

1 partnership, has been guilty of any act or omission which would be good
2 cause for refusing, suspending or revoking a license to such party as an
3 individual. Each licensee shall be responsible for the acts of its
4 salespersons or representatives while acting as its agent.

5 (e) Any licensee or other person aggrieved by a final order of the
6 director, may appeal to the district court as provided by the Kansas
7 judicial review act.

8 (f) The revocation or suspension of a first or second stage
9 manufacturer's or distributor's license may be limited to one or more
10 municipalities or counties or any other defined trade area.

11 Sec. 99. K.S.A. 9-2004 is hereby amended to read as follows: 9-
12 2004. (a) Every officer or employee of a bank or trust company required
13 by this act to take an oath or affirmation, who shall willfully swear or
14 affirm falsely, shall be guilty of perjury, and upon conviction shall be
15 punished as provided by ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the*
16 *2010 Session Laws of Kansas*, and amendments thereto.

17 (b) (1) A violation of subsection (a) as provided in ~~subsection (b)(1)~~
18 ~~of K.S.A. 21-3805(b)(2) of section 128 of chapter 136 of the 2010~~
19 *Session Laws of Kansas*, and amendments thereto, is a severity level 7,
20 nonperson felony.

21 (2) A violation of subsection (a) as provided in ~~subsection (b)(2) of~~
22 ~~K.S.A. 21-3805(b)(1) of section 128 of chapter 136 of the 2010 Session~~
23 *Laws of Kansas*, and amendments thereto, is a severity level 9, nonperson
24 felony.

25 Sec. 100. K.S.A. 2010 Supp. 12-16,119 is hereby amended to read
26 as follows: 12-16,119. (a) Any person convicted or diverted, or
27 adjudicated or diverted under a preadjudication program, pursuant to
28 K.S.A. 22-2906 et seq., K.S.A. 2010 Supp. 38-2346 et seq., or 12-4414 et
29 seq., and amendments thereto, of a misdemeanor or felony contained in
30 chapters 8, ~~21~~, 41 or 65 of the Kansas Statutes Annotated, *or the Kansas*
31 *criminal code*, and amendments thereto, where fingerprints are required
32 pursuant to K.S.A. 21-2501, and amendments thereto, shall pay a separate
33 court cost if the board of county commissioners or by the governing body
34 of a city, where a city operates a detention facility, votes to adopt such a
35 fee as a booking or processing fee for each complaint.

36 (b) Such fee shall be in addition to and not in substitution for any
37 and all fines and penalties otherwise provided for by law for such offense.

38 (c) Disbursements of these fees shall be to the general fund of the
39 governing body responsible for the funding of the sheriff, police
40 department or countywide law enforcement agency that obtains the
41 fingerprints.

42 (d) Such fee shall not exceed \$45.

43 Sec. 101. K.S.A. 2010 Supp. 12-4104 is hereby amended to read as

1 follows: 12-4104. (a) The municipal court of each city shall have
2 jurisdiction to hear and determine cases involving violations of the
3 ordinances of the city, including concurrent jurisdiction to hear and
4 determine a violation of an ordinance when the elements of such
5 ordinance violation are the same as the elements of a violation of one of
6 the following state statutes and would constitute, and be punished as, a
7 felony if charged in district court:

8 (1) K.S.A. 8-1567, and amendments thereto, driving under the
9 influence;

10 (2) ~~K.S.A. 21-3412~~ *section 49 of chapter 136 of the 2010 Session*
11 *Laws of Kansas*, and amendments thereto, domestic battery;

12 (3) ~~K.S.A. 21-3701~~ *section 87 of chapter 136 of the 2010 Session*
13 *Laws of Kansas*, and amendments thereto, theft;

14 (4) ~~K.S.A. 21-3707~~ *section 107 of chapter 136 of the 2010 Session*
15 *Laws of Kansas*, and amendments thereto, giving a worthless check; or

16 (5) subsection (b)(3) of K.S.A. 2010 Supp. 21-36a06, and
17 amendments thereto, possession of marijuana.

18 (b) Search warrants shall not issue out of a municipal court.

19 Sec. 102. K.S.A. 2010 Supp. 12-4516 is hereby amended to read as
20 follows: 12-4516. (a) (1) Except as provided in subsection (b) or (c), any
21 person who has been convicted of a violation of a city ordinance of this
22 state may petition the convicting court for the expungement of such
23 conviction and related arrest records if three or more years have elapsed
24 since the person:

25 (A) Satisfied the sentence imposed; or

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

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

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

37 (1) Vehicular homicide, as defined by K.S.A. 21-3405, *prior to its*
38 *repeal, or section 41 of chapter 136 of the 2010 Session Laws of Kansas*,
39 and amendments thereto;

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

43 (3) perjury resulting from a violation of K.S.A. 8-261a, and

1 amendments thereto;

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

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

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

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

10 (8) a violation of K.S.A. 21-3405b, ~~and amendments thereto~~ *prior to*
11 *its repeal.*

12 (c) There shall be no expungement of convictions or diversions for a
13 violation of a city ordinance which would also constitute a violation of
14 K.S.A. 8-1567 or 8-2,144, and amendments thereto.

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

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

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

22 (4) the crime for which the defendant was arrested, convicted or
23 diverted;

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

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

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

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

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

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

42 (f) When the court has ordered an arrest record, conviction or
43 diversion expunged, the order of expungement shall state the information

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (K) for applications received on and after July 1, 2006, to aid in
7 determining the petitioner's qualifications for a license to carry a
8 concealed weapon pursuant to the personal and family protection act,
9 K.S.A. 2010 Supp. 75-7c01 et seq., and amendments thereto;

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

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

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

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

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

34 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

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

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

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

1 representative by such agency and the application was submitted by the
2 person whose record has been expunged;

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

7 (14) the Kansas sentencing commission;

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

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

17 Sec. 103. K.S.A. 2010 Supp. 12-4516a is hereby amended to read as
18 follows: 12-4516a. (a) Any person who has been arrested on a violation
19 of a city ordinance of this state may petition the court for the
20 expungement of such arrest record.

21 (b) When a petition for expungement is filed, the court shall set a
22 date for hearing on such petition and shall cause notice of such hearing to
23 be given to the prosecuting attorney and the arresting law enforcement
24 agency. When a petition for expungement is filed, the official court file
25 shall be separated from the other records of the court, and shall be
26 disclosed only to a judge of the court and members of the staff of the
27 court designated by a judge of the district court, the prosecuting attorney,
28 the arresting law enforcement agency, or any other person when
29 authorized by a court order, subject to any conditions imposed by the
30 order. The petition shall state: (1) The petitioner's full name;

31 (2) the full name of the petitioner at the time of arrest, if different
32 than the petitioner's current name;

33 (3) the petitioner's sex, race and date of birth;

34 (4) the crime for which the petitioner was arrested;

35 (5) the date of the petitioner's arrest, and

36 (6) the identity of the arresting law enforcement agency.

37 A municipal court may prescribe a fee to be charged as costs for a
38 person petitioning for an order of expungement pursuant to this section,
39 except that no fee shall be charged to a person who was arrested as a
40 result of being a victim of identity theft under K.S.A. 21-4018, *prior to*
41 *its repeal, or section 177 of chapter 136 of the 2010 Session Laws of*
42 *Kansas*, and amendments thereto. Any person who may have relevant
43 information about the petitioner may testify at the hearing. The court may

1 inquire into the background of the petitioner.

2 (c) At the hearing on a petition for expungement, the court shall
3 order the arrest record and subsequent court proceedings, if any,
4 expunged upon finding: (1) The arrest occurred because of mistaken
5 identity;

6 (2) a court has found that there was no probable cause for the arrest;

7 (3) the petitioner was found not guilty in court proceedings; or

8 (4) the expungement would be in the best interests of justice and (A)
9 charges have been dismissed; or (B) no charges have been or are likely to
10 be filed.

11 (d) When the court has ordered expungement of an arrest record and
12 subsequent court proceedings, if any, the order shall state the information
13 required to be stated in the petition and shall state the grounds for
14 expungement under subsection (c). The clerk of the court shall send a
15 certified copy of the order to the Kansas bureau of investigation which
16 shall notify the federal bureau of investigation, the secretary of
17 corrections and any other criminal justice agency which may have a
18 record of the arrest. If an order of expungement is entered, the petitioner
19 shall be treated as not having been arrested.

20 (e) If the ground for expungement is as provided in subsection (c)
21 (4), the court shall determine whether, in the interest of public welfare,
22 the records should be available for any of the following purposes: (1) In
23 any application for employment as a detective with a private detective
24 agency, as defined by K.S.A. 75-7b01 and amendments thereto; as
25 security personnel with a private patrol operator, as defined by K.S.A. 75-
26 7b01 and amendments thereto; or with an institution, as defined in K.S.A.
27 76-12a01 and amendments thereto, of the department of social and
28 rehabilitation services;

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

31 (3) to aid in determining the petitioner's qualifications for
32 employment with the Kansas lottery or for work in sensitive areas within
33 the Kansas lottery as deemed appropriate by the executive director of the
34 Kansas lottery;

35 (4) to aid in determining the petitioner's qualifications for executive
36 director of the Kansas racing commission, for employment with the
37 commission or for work in sensitive areas in parimutuel racing as deemed
38 appropriate by the executive director of the commission, or to aid in
39 determining qualifications for licensure or renewal of licensure by the
40 commission;

41 (5) in any application for a commercial driver's license under K.S.A.
42 8-2,125 through 8-2,142 and amendments thereto;

43 (6) to aid in determining the petitioner's qualifications to be an

1 employee of the state gaming agency;

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

5 (8) in any other circumstances which the court deems appropriate.

6 (f) Subject to any disclosures required under subsection (e), in any
7 application for employment, license or other civil right or privilege, or
8 any appearance as a witness, a person whose arrest records have been
9 expunged as provided in this section may state that such person has never
10 been arrested.

11 (g) Whenever a petitioner's arrest records have been expunged as
12 provided in this section, the custodian of the records of arrest,
13 incarceration due to arrest or court proceedings related to the arrest, shall
14 not disclose the arrest or any information related to the arrest, except as
15 directed by the order of expungement or when requested by the person
16 whose arrest record was expunged.

17 Sec. 104. K.S.A. 2010 Supp. 12-4517 is hereby amended to read as
18 follows: 12-4517. (a) (1) The municipal court judge shall ensure that all
19 persons convicted of violating municipal ordinance provisions that
20 prohibit conduct comparable to a class A or B misdemeanor or assault as
21 defined in ~~K.S.A. 21-3408~~ *subsection (a) of section 47 of chapter 136 of*
22 *the 2010 Session Laws of Kansas*, and amendments thereto, under a
23 Kansas criminal statute are fingerprinted and processed.

24 (2) The municipal court judge shall ensure that all persons arrested
25 or charged with a violation of a city ordinance prohibiting the acts
26 prohibited by K.S.A. 8-1567, and amendments thereto, are fingerprinted
27 and processed at the time of booking or first appearance, whichever
28 occurs first.

29 (b) The municipal court judge shall order the individual to be
30 fingerprinted at an appropriate location as determined by the municipal
31 court judge. Failure of the person to be fingerprinted after court order
32 issued by the municipal judge shall constitute contempt of court. To
33 reimburse the city or other entity for costs associated with fingerprinting,
34 the municipal court judge may assess reasonable court costs, in addition
35 to other court costs imposed by the state or municipality.

36 Sec. 105. K.S.A. 2010 Supp. 17-12a508 is hereby amended to read
37 as follows: 17-12a508. (a) *Criminal penalties.* (1) Except as provided in
38 subsections (a)(2) through (a)(4), a conviction for an intentional violation
39 of the Kansas uniform securities act, or a rule adopted or order issued
40 under this act, except K.S.A. 17-12a504, and amendments thereto, or the
41 notice filing requirements of K.S.A. 17-12a302 or 17-12a405, and
42 amendments thereto, is a severity level 7, nonperson felony. An
43 individual convicted of violating a rule or order under this act may be

1 fined, but may not be imprisoned, if the individual did not have
2 knowledge of the rule or order.

3 (2) A conviction for an intentional violation of K.S.A. 17-12a501 or
4 17-12a502, and amendments thereto, if the violation resulted in a loss of
5 an amount of:

6 (A) \$1,000,000 or more is a severity level 2, nonperson felony;

7 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
8 nonperson felony;

9 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
10 nonperson felony;

11 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
12 nonperson felony; or

13 (E) less than \$25,000 is a severity level 6, nonperson felony.

14 (3) A conviction for an intentional violation of K.S.A. 17-12a301,
15 17-12a401(a), 17-12a402(a), 17-12a403(a) or 17-12a404(a), and
16 amendments thereto, is:

17 (A) A severity level 5, nonperson felony if the violation resulted in a
18 loss of \$100,000 or more;

19 (B) a severity level 6, nonperson felony if the violation resulted in a
20 loss of at least \$25,000 but less than \$100,000; or

21 (C) a severity level 7, nonperson felony if the violation resulted in a
22 loss of less than \$25,000.

23 (4) A conviction for an intentional violation of:

24 (A) K.S.A. 17-12a404(e) or 17-12a505, and amendments thereto, or
25 an order to cease and desist issued by the administrator pursuant to
26 K.S.A. 17-12a412(c) or 17-12a604(a), and amendments thereto, is a
27 severity level 5, nonperson felony.

28 (B) K.S.A. 17-12a401(c), 17-12a403(c) or 17-12a506, and
29 amendments thereto, is a severity level 6, nonperson felony.

30 (C) K.S.A. 17-12a402(d) or 17-12a403(d), and amendments thereto,
31 is a severity level 7, nonperson felony.

32 (5) Any violation of K.S.A. 17-12a301, 17-12a401(a), 17-12a402(a),
33 17-12a403(a), 17-12a404(a), 17-12a501 or 17-12a502, and amendments
34 thereto, resulting in a loss of \$25,000 or more shall be presumed
35 imprisonment.

36 (b) *Statute of Limitations.* Except as provided by subsection ~~(5)~~ of
37 ~~K.S.A. 21-3106(e)~~ of section 7 of chapter 136 of the 2010 Session Laws
38 of Kansas, and amendments thereto, no prosecution for any crime under
39 this act may be commenced more than 10 years after the alleged violation
40 if the victim is the Kansas public employees retirement system and no
41 prosecution for any other crime under this act may be commenced more
42 than five years after the alleged violation. A prosecution is commenced
43 when a complaint or information is filed, or an indictment returned, and a

1 warrant thereon is delivered to the sheriff or other officer for execution,
2 except that no prosecution shall be deemed to have been commenced if
3 the warrant so issued is not executed without unreasonable delay.

4 (c) *Criminal reference.* The administrator may refer such evidence
5 as may be available concerning violations of this act or of any rules and
6 regulations or order hereunder to the attorney general or the proper
7 county or district attorney, who may in the prosecutor's discretion, with or
8 without such a reference, institute the appropriate criminal proceedings
9 under this act. Upon receipt of such reference, the attorney general or the
10 county attorney or district attorney may request that a duly employed
11 attorney of the administrator prosecute or assist in the prosecution of such
12 violation or violations on behalf of the state. Upon approval of the
13 administrator, such employee shall be appointed a special prosecutor for
14 the attorney general or the county attorney or district attorney to serve
15 without compensation from the attorney general or the county attorney or
16 district attorney. Such special prosecutor shall have all the powers and
17 duties prescribed by law for assistant attorneys general or assistant county
18 or district attorneys and such other powers and duties as are lawfully
19 delegated to such special prosecutor by the attorney general or the county
20 attorney or district attorney. If an attorney employed by the administrator
21 acts as a special prosecutor, the administrator may pay extradition and
22 witness expenses associated with the case.

23 (d) *No limitation on other criminal enforcement.* This act does not
24 limit the power of this state to punish a person for conduct that constitutes
25 a crime under other laws of this state.

26 Sec. 106. K.S.A. 19-101d is hereby amended to read as follows: 19-
27 101d. (a) (1) The board of county commissioners of any county shall
28 have the power to enforce all resolutions passed pursuant to county home
29 rule powers, as designated by K.S.A. 19-101c, and amendments thereto.
30 Resolutions may be enforced by enjoining violations, by prescribing
31 penalties for violations by fine, by confinement in the county jail or by
32 both fine and confinement. Unless otherwise provided by the resolution
33 that defines and makes punishable the violation of such resolution, the
34 penalty imposed shall be in accordance with the penalties established by
35 law for conviction of a class C misdemeanor. In no event shall the penalty
36 imposed for the violation of a resolution exceed the penalties established
37 by law for conviction of a class B misdemeanor.

38 (2) Prosecution for any violation shall be commenced in the district
39 court in the name of the county and, except as provided in subsection (b),
40 shall be conducted in the manner provided by law for the prosecution of
41 misdemeanor violations of state laws. Writs and process necessary for the
42 prosecution of such violations shall be in the form prescribed by the
43 judge or judges of the courts vested with jurisdiction of such violations

1 by this act, and shall be substantially in the form of writs and process
2 issued for the prosecution of misdemeanor violations of state laws. Each
3 county shall provide all necessary supplies, forms and records at its own
4 expense.

5 (b) (1) In addition to all other procedures authorized for the
6 enforcement of county codes and resolutions, in Crawford, Douglas,
7 Franklin, Jefferson, Johnson, Leavenworth, Miami, Riley, Sedgwick,
8 Shawnee and Wyandotte counties, the prosecution for violation of codes
9 and resolutions adopted by the board of county commissioners may be
10 commenced in the district court in the name of the county and may be
11 conducted, except as otherwise provided in this section, in the manner
12 provided for and in accordance with the provisions of the code for the
13 enforcement of county codes and resolutions.

14 (2) The board of county commissioners of any county which has not
15 provided for the enforcement of county codes and resolutions in
16 accordance with provisions of the code for enforcement of county codes
17 and resolutions on or before July 1, 2007, and which desires to utilize the
18 provisions of the code for enforcement of county codes and resolutions
19 set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and
20 amendments thereto, shall cause a notice of its intention to utilize the
21 provisions of the code for enforcement of county codes and resolutions
22 set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and
23 amendments thereto, be published in the official newspaper of the county.
24 If within 30 days next following the date of the publication of such notice
25 a petition, signed by electors equal in number to not less than 5% of the
26 electors of the county, requesting an election thereon, shall be filed in the
27 office of the county election officer, no utilization of the provisions of the
28 code for enforcement of county codes and resolutions set forth in article
29 47 of chapter 19 of the Kansas Statutes Annotated, and amendments
30 thereto, may be made without such proposition having first been
31 submitted to and having been approved by a majority of the electors of
32 the county voting at an election called and held thereon. Any election
33 shall be called, noticed and held in the manner provided by K.S.A. 10-
34 120, and amendments thereto.

35 (3) For the purposes of aiding in the enforcement of county codes
36 and resolutions, the board of county commissioners may employ or
37 appoint code enforcement officers for the county who shall have power to
38 sign, issue and execute notices to appear and uniform citations or uniform
39 complaints and notices to appear, as provided in the appendix of forms of
40 the code contained in this act to enforce violations of county codes and
41 resolutions, but shall have no power to issue warrants or make arrests. All
42 warrants shall be issued and arrests made by law enforcement officers
43 pursuant to and in the manner provided in ~~chapter 21 of the Kansas~~

1 ~~Statutes Annotated~~ *the Kansas criminal code.*

2 (4) The board of county commissioners may employ or appoint
3 attorneys for the purpose of prosecuting actions for the enforcement of
4 county codes and resolutions. The attorneys shall have the duties, powers
5 and authorities provided by the board that are necessary to prosecute
6 actions under the code.

7 (5) All costs for the enforcement and prosecution of violations of
8 county codes and resolutions, except for compensation and expenses of
9 the district court judge, shall be paid from the revenues of the county. The
10 board of county commissioners may establish a special law enforcement
11 fund for the purpose of paying for the costs of code enforcement within
12 the county.

13 (c) Notwithstanding the provisions of subsection (b), any action
14 commenced in the district court for the enforcement of county codes and
15 resolutions, in which a person may be subject to detention or arrest or in
16 which an accused person, if found guilty, would or might be deprived of
17 the person's liberty, shall be conducted in the manner provided by law for
18 the prosecution of misdemeanor violations of state laws under the Kansas
19 code of criminal procedure and not under the code for the enforcement of
20 county codes and resolutions.

21 Sec. 107. K.S.A. 19-27,139 is hereby amended to read as follows:
22 19-27,139. Any person violating the rules and regulations adopted under
23 authority of this act, shall, upon conviction, be deemed guilty of a
24 misdemeanor and punished as provided in ~~K.S.A. 21-112~~ *section 242 of*
25 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
26 *thereto.*

27 Sec. 108. K.S.A. 19-4804 is hereby amended to read as follows: 19-
28 4804. (a) An application for compensation shall be made in the manner
29 and form prescribed by the state crime victims compensation board. A
30 victim may seek compensation under this act whether or not an offender
31 has been charged with the crime which results in the victim's loss.

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

37 (c) Compensation may not be awarded to a victim who was the
38 offender or an accomplice of the offender and may not be awarded to
39 another person if the award would unjustly benefit the offender or
40 accomplice.

41 (d) Compensation may not be awarded unless the local board finds
42 the victim has fully cooperated with appropriate law enforcement
43 agencies. The local board may deny, withdraw or reduce an award of

1 compensation for noncooperativeness.

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

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

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

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

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

14 (h) No compensation payment may exceed \$250 if the property
15 crime results in a misdemeanor or traffic charge. If the crime is
16 committed by a juvenile, whether this subsection applies shall be
17 determined on the basis of whether a misdemeanor would be charged had
18 the offender been an adult. If the original crime charged was a felony and
19 through plea negotiations the adult or juvenile offender is charged with
20 and pleads guilty or *nolo contendere* to a misdemeanor, in the discretion
21 of the local board, subsection (g) limits may apply to the compensation
22 payment.

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

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

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

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

43 (m) No award made pursuant to this act shall be subject to

1 execution, attachment, garnishment or other legal process, except that an
2 award for allowable expenses shall not be exempt from a claim of a
3 creditor to the extent the creditor has provided products, services or
4 accommodations the costs of which are included in the payment made
5 pursuant to this act.

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

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

11 (p) No claim shall be allowed unless the crime charged is pursuant
12 to article 37 of chapter 21 of Kansas Statutes Annotated, *prior to their*
13 *repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of*
14 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
15 *thereto, or similar crimes in county or municipal penal codes. If the crime*
16 *charged is pursuant to K.S.A. 21-3707, 21-3708, 21-3722, 21-3725, 21-*
17 *3734, 21-3736, 21-3737, 21-3739, 21-3748, 21-3749, 21-3750, 21-3753,*
18 *21-3754 and 21-3756, prior to their repeal, and section 92, section 101,*
19 *subsection (a) of section 103, section 106, section 107, section 116,*
20 *section 117, section 118 and section 123 of chapter 136 of the 2010*
21 *Session Laws of Kansas, and amendments thereto, no claim for*
22 *compensation under this act shall be allowed. In addition to claims that*
23 *may be made for criminally injurious conduct with the state crime victims*
24 *compensation board, a claim for compensation for property damage may*
25 *be allowed under this act for crimes charged under K.S.A. 21-3418, 21-*
26 *3426 or 21-3427, prior to their repeal, and section 55 or section 63 of*
27 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
28 *thereto.*

29 (q) Payment or payments made from a local fund under this act shall
30 not limit, impair or preclude the ability of a court or the parole board to
31 order restitution, and prescribe the manner and conditions of payment of
32 restitution, as allowed by law.

33 Sec. 109. K.S.A. 20-369, as amended by section 4 of chapter 101 of
34 the 2010 Session Laws of Kansas, is hereby amended to read as follows:
35 20-369. (a) If a judicial district creates a local fund, the court may impose
36 a fee as provided in this section against any defendant for crimes
37 involving a family or household member as provided in ~~K.S.A. 21-3412a~~
38 *section 49 of chapter 136 of the 2010 Session Laws of Kansas, and*
39 *amendments thereto, and against any defendant found to have committed*
40 *a domestic violence offense pursuant to section 1 of chapter 101 of the*
41 *2010 Session Laws of Kansas, and amendments thereto. The chief judge*
42 *of each judicial district where such fee is imposed shall set the amount of*
43 *such fee by rules adopted in such judicial district in an amount not to*

1 exceed \$100 per case.

2 (b) Such fees shall be deposited into the local fund and disbursed
3 pursuant to recommendations of the chief judge under this act. All
4 moneys collected by this section shall be paid into the domestic violence
5 special programs fund in the county where the fee is collected, as
6 established by the judicial district .

7 (c) Expenditures made in each judicial district shall be determined by
8 the chief judge and shall be paid to domestic violence programs
9 administered by the court and to local programs within the judicial
10 district that enhance a coordinated community justice response to the
11 issue of domestic violence.

12 Sec. 110. K.S.A. 2010 Supp. 20-2207 is hereby amended to read as
13 follows: 20-2207. (a) The judicial council may fix, charge and collect fees
14 for sale and distribution of legal publications in order to recover direct
15 and indirect costs incurred for preparation, publication and distribution of
16 legal publications. The judicial council may request and accept gifts,
17 grants and donations from any person, firm, association or corporation or
18 from the federal government or any agency thereof for preparation,
19 publication or distribution of legal publications.

20 (b) The publications fee fund of the judicial council which was
21 established in the state treasury pursuant to appropriation acts is hereby
22 continued in existence and shall be administered by the judicial council.
23 Revenue from the following sources shall be deposited in the state
24 treasury and credited to such fund:

25 (1) All moneys received by or for the judicial council from fees
26 collected under this section; and

27 (2) all moneys received as gifts, grants or donations for preparation,
28 publication or distribution of legal publications.

29 (c) Moneys deposited in the publications fee fund of the judicial
30 council may be expended for operating expenditures related to
31 preparation, publication and distribution of legal publications of the
32 judicial council and for operating expenses that are not related to
33 publication activities; ~~including expenditures to fund the Kansas criminal~~
34 ~~code recodification commission on July 1, 2009, through June 30, 2010.~~

35 (d) All expenditures from the publications fee fund shall be made in
36 accordance with appropriation acts upon warrants of the director of
37 accounts and reports issued pursuant to vouchers approved by the
38 chairperson of the judicial council or the chairperson's designee.

39 Sec. 111. K.S.A. 2010 Supp. 20-2208 is hereby amended to read as
40 follows: 20-2208. There is hereby established in the state treasury the
41 judicial council fund. All expenditures from the judicial council fund
42 shall be made in accordance with appropriation acts and upon warrants of
43 the director of accounts and reports issued pursuant to expenditures

1 approved by the chairperson of the Kansas judicial council or by a person
2 or persons designated by the chairperson of the Kansas judicial council.
3 ~~Expenditures from the judicial council fund may be made to fund the~~
4 ~~Kansas criminal code recodification commission on July 1, 2009, through~~
5 ~~June 30, 2010.~~

6 Sec. 112. K.S.A. 2010 Supp. 20-3207 is hereby amended to read as
7 follows: 20-3207. On and after July 1, 2006, there is hereby established in
8 the state treasury the judicial performance fund. All moneys credited to
9 the fund shall be used for the judicial performance evaluation process;
10 ~~except on July 1, 2009, through June 30, 2010, moneys credited to the~~
11 ~~fund may be used to fund the Kansas criminal code recodification~~
12 ~~commission.~~ All expenditures from the judicial performance fund shall be
13 made in accordance with appropriation acts and upon warrants of the
14 director of accounts and reports issued pursuant to expenditures approved
15 by the chairperson of the Kansas judicial council or by the person or
16 persons designated by the chairperson of the Kansas judicial council.

17 Sec. 113. K.S.A. 2010 Supp. 22-2310 is hereby amended to read as
18 follows: 22-2310. (a) All law enforcement agencies in this state shall
19 adopt written policies regarding allegations of stalking as provided in
20 subsection (b). These policies shall be made available to all officers of
21 such agency.

22 (b) Such written policies shall include, but not be limited to, the
23 following:

24 (1) A statement directing that the officers shall make an arrest when
25 they have probable cause to believe that a crime is being committed or
26 has been committed;

27 (2) a statement defining stalking pursuant to ~~K.S.A. 21-3438~~*section*
28 *62 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
29 thereto;

30 (3) a statement describing the dispatchers' responsibilities;

31 (4) a statement describing the responding officers' responsibilities
32 and procedures to follow when responding to an allegation of stalking
33 and the suspect is at the scene;

34 (5) a statement describing the responding officers' responsibilities
35 and procedures to follow when responding to an allegation of stalking
36 and the suspect has left the scene;

37 (6) procedures for both misdemeanor and felony cases;

38 (7) procedures for law enforcement officers to follow when handling
39 an allegation of stalking involving court orders, including any protective
40 order as defined by ~~K.S.A. 21-3843~~*section 149 of chapter 136 of the*
41 *2010 Session Laws of Kansas*, and amendments thereto;

42 (8) a statement that the law enforcement agency shall provide the
43 following information to victims, in writing:

- 1 (A) Availability of emergency and medical telephone numbers, if
2 needed;
- 3 (B) the law enforcement agency's report number;
- 4 (C) the address and telephone number of the prosecutor's office the
5 victim should contact to obtain information about victims' rights pursuant
6 to K.S.A. 74-7333 and 74-7335, and amendments thereto;
- 7 (D) the name and address of the crime victims' compensation board
8 and information about possible compensation benefits;
- 9 (E) advise the victim that the details of the crime may be made
10 public;
- 11 (F) advise the victim of such victims' rights under K.S.A. 74-7333
12 and 74-7335, and amendments thereto; and
- 13 (G) advise the victim of known available resources which may assist
14 the victim; and
- 15 (9) whether an arrest is made or not, a standard offense report shall
16 be completed on all such incidents and sent to the Kansas bureau of
17 investigation.
- 18 (c) No law enforcement agency or employee of such agency acting
19 within the scope of employment shall be liable for damages resulting
20 from the adoption or enforcement of any policy adopted under this
21 section.
- 22 Sec. 114. K.S.A. 2010 Supp. 22-2410 is hereby amended to read as
23 follows: 22-2410. (a) Any person who has been arrested in this state may
24 petition the district court for the expungement of such arrest record.
- 25 (b) When a petition for expungement is filed, the court shall set a
26 date for hearing on such petition and shall cause notice of such hearing to
27 be given to the prosecuting attorney and the arresting law enforcement
28 agency. When a petition for expungement is filed, the official court file
29 shall be separated from the other records of the court, and shall be
30 disclosed only to a judge of the court and members of the staff of the
31 court designated by a judge of the district court, the prosecuting attorney,
32 the arresting law enforcement agency, or any other person when
33 authorized by a court order, subject to any conditions imposed by the
34 order. Except as otherwise provided by law, a petition for expungement
35 shall be accompanied by a docket fee in the amount of \$100. Except as
36 provided further, the docket fee established in this section shall be the
37 only fee collected or moneys in the nature of a fee collected for the
38 docket fee. Such fee shall only be established by an act of the legislature
39 and no other authority is established by law or otherwise to collect a fee.
40 On and after the effective date of this act through June 30, 2011, the
41 supreme court may impose an additional charge, not to exceed \$15 per
42 docket fee, to fund the costs of non-judicial personnel. The petition shall
43 state:

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

8 No surcharge or fee shall be imposed to any person filing a petition
9 pursuant to this section, who was arrested as a result of being a victim of
10 identity theft under K.S.A. 21-4018, *prior to its repeal, or section 177 of*
11 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto. Any person who may have relevant information about the
13 petitioner may testify at the hearing. The court may inquire into the
14 background of the petitioner.

15 (c) At the hearing on a petition for expungement, the court shall
16 order the arrest record and subsequent court proceedings, if any,
17 expunged upon finding: (1) The arrest occurred because of mistaken
18 identity;

19 (2) a court has found that there was no probable cause for the arrest;

20 (3) the petitioner was found not guilty in court proceedings; or

21 (4) the expungement would be in the best interests of justice and (A)
22 charges have been dismissed; or (B) no charges have been or are likely to
23 be filed.

24 (d) When the court has ordered expungement of an arrest record and
25 subsequent court proceedings, if any, the order shall state the information
26 required to be stated in the petition and shall state the grounds for
27 expungement under subsection (c). The clerk of the court shall send a
28 certified copy of the order to the Kansas bureau of investigation which
29 shall notify the federal bureau of investigation, the secretary of
30 corrections and any other criminal justice agency which may have a
31 record of the arrest. If an order of expungement is entered, the petitioner
32 shall be treated as not having been arrested.

33 (e) If the ground for expungement is as provided in subsection (c)
34 (4), the court shall determine whether, in the interests of public welfare,
35 the records should be available for any of the following purposes: (1) In
36 any application for employment as a detective with a private detective
37 agency, as defined in K.S.A. 75-7b01, and amendments thereto; as
38 security personnel with a private patrol operator, as defined by K.S.A. 75-
39 7b01, and amendments thereto; or with an institution, as defined in
40 K.S.A. 76-12a01, and amendments thereto, of the department of social
41 and rehabilitation services;

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

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

5 (4) to aid in determining the petitioner's qualifications for executive
6 director of the Kansas racing commission, for employment with the
7 commission or for work in sensitive areas in parimutuel racing as deemed
8 appropriate by the executive director of the commission, or to aid in
9 determining qualifications for licensure or renewal of licensure by the
10 commission;

11 (5) in any application for a commercial driver's license under K.S.A.
12 8-2,125 through 8-2,142, and amendments thereto;

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

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

18 (8) in any other circumstances which the court deems appropriate.

19 (f) Subject to any disclosures required under subsection (e), in any
20 application for employment, license or other civil right or privilege, or
21 any appearance as a witness, a person whose arrest records have been
22 expunged as provided in this section may state that such person has never
23 been arrested.

24 (g) Whenever a petitioner's arrest records have been expunged as
25 provided in this section, the custodian of the records of arrest,
26 incarceration due to arrest or court proceedings related to the arrest, shall
27 not disclose the arrest or any information related to the arrest, except as
28 directed by the order of expungement or when requested by the person
29 whose arrest record was expunged.

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

33 Sec. 115. K.S.A. 22-2411 is hereby amended to read as follows: 22-
34 2411. (a) A federal law enforcement officer who enters this state may
35 arrest a person, without a warrant, when in the judgment of the federal
36 law enforcement officer a person:

37 (1) Asserts physical force or uses forcible compulsion likely to cause
38 death or great bodily harm to any person; or

39 (2) is committing an inherently dangerous felony as defined in
40 ~~K.S.A. 21-3436~~ *section 37 of chapter 136 of the 2010 Session Laws of*
41 *Kansas*, and amendments thereto.

42 (b) To provide assistance to law enforcement officers, a federal law
43 enforcement officer shall have the same authority as a law enforcement

1 officer where:

2 (1) The federal law enforcement officer is rendering assistance at the
3 request of any law enforcement officer; or

4 (2) the federal law enforcement officer is effecting an arrest or
5 providing assistance as part of a bona fide task force or joint investigation
6 in which law enforcement officers are participating.

7 (c) Any lawful actions pursuant to this section shall be deemed to be
8 within the scope of the federal law enforcement officer's employment.

9 (d) As used in this section:

10 (1) "Federal law enforcement officer" means a person employed by
11 the United States government and assigned to the federal bureau of
12 investigation who is empowered to effect an arrest with or without a
13 warrant for violation of the United States code and who is authorized to
14 carry a firearm in the performance of the person's official duties as a
15 federal law enforcement officer.

16 (2) "Law enforcement officer" has the meaning ascribed thereto in
17 ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto.

19 (e) This section shall be a part of and supplemental to the Kansas
20 ~~criminal~~ *code of criminal procedure*.

21 Sec. 116. K.S.A. 2010 Supp. 22-2512 is hereby amended to read as
22 follows: 22-2512. (1) Property seized under a search warrant or validly
23 seized without a warrant shall be safely kept by the officer seizing the
24 same unless otherwise directed by the magistrate, and shall be so kept as
25 long as necessary for the purpose of being produced as evidence on any
26 trial. The property seized may not be taken from the officer having it in
27 custody so long as it is or may be required as evidence in any trial. The
28 officer seizing the property shall give a receipt to the person detained or
29 arrested particularly describing each article of property being held and
30 shall file a copy of such receipt with the magistrate before whom the
31 person detained or arrested is taken. Where seized property is no longer
32 required as evidence in the prosecution of any indictment or information,
33 the court which has jurisdiction of such property may transfer the same to
34 the jurisdiction of any other court, including courts of another state or
35 federal courts, where it is shown to the satisfaction of the court that such
36 property is required as evidence in any prosecution in such other court.

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

43 (b) In any prosecution, representative samples of hazardous

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

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

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

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

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

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

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

30 (d) articles of contraband shall be destroyed, except that any such
31 articles the disposition of which is otherwise provided by law shall be
32 dealt with as so provided and any such articles the disposition of which is
33 not otherwise provided by law and which may be capable of innocent use
34 may in the discretion of the court be sold and the proceeds disposed of as
35 provided in subsection (2)(b);

36 (e) firearms, ammunition, explosives, bombs and like devices, which
37 have been used in the commission of crime, may be returned to the
38 rightful owner, or in the discretion of the court having jurisdiction of the
39 property, destroyed or forfeited to the Kansas bureau of investigation as
40 provided in ~~K.S.A. 21-4206~~ *section 192 of chapter 136 of the 2010*
41 *Session Laws of Kansas*, and amendments thereto;

42 (f) controlled substances forfeited for violations of K.S.A. 2010
43 Supp. 21-36a01 through 21-36a17, and amendments thereto, shall be

1 dealt with as provided under K.S.A. 60-4101 through 60-4126, and
2 amendments thereto;

3 (g) unless otherwise provided by law, all other property shall be
4 disposed of in such manner as the court in its sound discretion shall
5 direct.

6 Sec. 117. K.S.A. 22-2615 is hereby amended to read as follows: 22-
7 2615. A person who has been released from custody upon an appearance
8 bond given in one county for appearance in another county, and who fails
9 to appear, as provided in ~~K.S.A. 21-3813 and 21-3814~~ *section 140 of*
10 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
11 *thereto*, may be prosecuted for such failure to appear either in the county
12 where the appearance bond was given or the county where the defendant
13 was bound to appear.

14 Sec. 118. K.S.A. 2010 Supp. 22-2802 is hereby amended to read as
15 follows: 22-2802. (1) Any person charged with a crime shall, at the
16 person's first appearance before a magistrate, be ordered released pending
17 preliminary examination or trial upon the execution of an appearance
18 bond in an amount specified by the magistrate and sufficient to assure the
19 appearance of such person before the magistrate when ordered and to
20 assure the public safety. If the person is being bound over for a felony, the
21 bond shall also be conditioned on the person's appearance in the district
22 court or by way of a two-way electronic audio-video communication as
23 provided in subsection (14) at the time required by the court to answer the
24 charge against such person and at any time thereafter that the court
25 requires. Unless the magistrate makes a specific finding otherwise, if the
26 person is being bonded out for a person felony or a person misdemeanor,
27 the bond shall be conditioned on the person being prohibited from having
28 any contact with the alleged victim of such offense for a period of at least
29 72 hours. The magistrate may impose such of the following additional
30 conditions of release as will reasonably assure the appearance of the
31 person for preliminary examination or trial:

32 (a) Place the person in the custody of a designated person or
33 organization agreeing to supervise such person;

34 (b) place restrictions on the travel, association or place of abode of
35 the person during the period of release;

36 (c) impose any other condition deemed reasonably necessary to
37 assure appearance as required, including a condition requiring that the
38 person return to custody during specified hours;

39 (d) place the person under a house arrest program pursuant to ~~K.S.A.~~
40 ~~21-4603b~~ *section 249 of chapter 136 of the 2010 Session Laws of Kansas,*
41 *and amendments thereto; or*

42 (e) place the person under the supervision of a court services officer
43 responsible for monitoring the person's compliance with any conditions

1 of release ordered by the magistrate.

2 (2) In addition to any conditions of release provided in subsection
3 (1), for any person charged with a felony, the magistrate may order such
4 person to submit to a drug abuse examination and evaluation in a public
5 or private treatment facility or state institution and, if determined by the
6 head of such facility or institution that such person is a drug abuser or
7 incapacitated by drugs, to submit to treatment for such drug abuse, as a
8 condition of release.

9 (3) The appearance bond shall be executed with sufficient solvent
10 sureties who are residents of the state of Kansas, unless the magistrate
11 determines, in the exercise of such magistrate's discretion, that requiring
12 sureties is not necessary to assure the appearance of the person at the time
13 ordered.

14 (4) A deposit of cash in the amount of the bond may be made in lieu
15 of the execution of the bond pursuant to paragraph (3). Except as
16 provided in paragraph (5), such deposit shall be in the full amount of the
17 bond and in no event shall a deposit of cash in less than the full amount
18 of bond be permitted. Any person charged with a crime who is released
19 on a cash bond shall be entitled to a refund of all moneys paid for the
20 cash bond, after deduction of any outstanding restitution, costs, fines and
21 fees, after the final disposition of the criminal case if the person complies
22 with all requirements to appear in court. The court may not exclude the
23 option of posting bond pursuant to paragraph (3).

24 (5) Except as provided further, the amount of the appearance bond
25 shall be the same whether executed as described in subsection (3) or
26 posted with a deposit of cash as described in subsection (4). When the
27 appearance bond has been set at \$2,500 or less and the most serious
28 charge against the person is a misdemeanor, a severity level 8, 9 or 10
29 nonperson felony, a drug severity level 4 felony or a violation of K.S.A.
30 8-1567, and amendments thereto, the magistrate may allow the person to
31 deposit cash with the clerk in the amount of 10% of the bond, provided
32 the person meets at least the following qualifications:

33 (A) Is a resident of the state of Kansas;

34 (B) has a criminal history score category of G, H or I;

35 (C) has no prior history of failure to appear for any court
36 appearances;

37 (D) has no detainer or hold from any other jurisdiction;

38 (E) has not been extradited from, and is not awaiting extradition to,
39 another state; and

40 (F) has not been detained for an alleged violation of probation.

41 (6) In the discretion of the court, a person charged with a crime may
42 be released upon the person's own recognizance by guaranteeing payment
43 of the amount of the bond for the person's failure to comply with all

1 requirements to appear in court. The release of a person charged with a
2 crime upon the person's own recognizance shall not require the deposit of
3 any cash by the person.

4 (7) The court shall not impose any administrative fee.

5 (8) In determining which conditions of release will reasonably
6 assure appearance and the public safety, the magistrate shall, on the basis
7 of available information, take into account the nature and circumstances
8 of the crime charged; the weight of the evidence against the defendant;
9 the defendant's family ties, employment, financial resources, character,
10 mental condition, length of residence in the community, record of
11 convictions, record of appearance or failure to appear at court
12 proceedings or of flight to avoid prosecution; the likelihood or propensity
13 of the defendant to commit crimes while on release, including whether
14 the defendant will be likely to threaten, harass or cause injury to the
15 victim of the crime or any witnesses thereto; and whether the defendant is
16 on probation or parole from a previous offense at the time of the alleged
17 commission of the subsequent offense.

18 (9) The appearance bond shall set forth all of the conditions of
19 release.

20 (10) A person for whom conditions of release are imposed and who
21 continues to be detained as a result of the person's inability to meet the
22 conditions of release shall be entitled, upon application, to have the
23 conditions reviewed without unnecessary delay by the magistrate who
24 imposed them. If the magistrate who imposed conditions of release is not
25 available, any other magistrate in the county may review such conditions.

26 (11) A magistrate ordering the release of a person on any conditions
27 specified in this section may at any time amend the order to impose
28 additional or different conditions of release. If the imposition of
29 additional or different conditions results in the detention of the person,
30 the provisions of subsection (10) shall apply.

31 (12) Statements or information offered in determining the conditions
32 of release need not conform to the rules of evidence. No statement or
33 admission of the defendant made at such a proceeding shall be received
34 as evidence in any subsequent proceeding against the defendant.

35 (13) The appearance bond and any security required as a condition
36 of the defendant's release shall be deposited in the office of the magistrate
37 or the clerk of the court where the release is ordered. If the defendant is
38 bound to appear before a magistrate or court other than the one ordering
39 the release, the order of release, together with the bond and security shall
40 be transmitted to the magistrate or clerk of the court before whom the
41 defendant is bound to appear.

42 (14) Proceedings before a magistrate as provided in this section to
43 determine the release conditions of a person charged with a crime

1 including release upon execution of an appearance bond may be
2 conducted by two-way electronic audio-video communication between
3 the defendant and the judge in lieu of personal presence of the defendant
4 or defendant's counsel in the courtroom in the discretion of the court. The
5 defendant may be accompanied by the defendant's counsel. The defendant
6 shall be informed of the defendant's right to be personally present in the
7 courtroom during such proceeding if the defendant so requests.
8 Exercising the right to be present shall in no way prejudice the defendant.

9 (15) The magistrate may order the person to pay for any costs
10 associated with the supervision of the conditions of release of the
11 appearance bond in an amount not to exceed \$15 per week of such
12 supervision.

13 Sec. 119. K.S.A. 2010 Supp. 22-2901 is hereby amended to read as
14 follows: 22-2901. (1) Except as provided in subsection (7), when an
15 arrest is made in the county where the crime charged is alleged to have
16 been committed, the person arrested shall be taken without unnecessary
17 delay before a magistrate of the court from which the warrant was issued.
18 If the arrest has been made on probable cause, without a warrant, he shall
19 be taken without unnecessary delay before the nearest available
20 magistrate and a complaint shall be filed forthwith.

21 (2) Except as provided in subsection (7), when an arrest is made in a
22 county other than where the crime charged is alleged to have been
23 committed, the person arrested may be taken directly to the county
24 wherein the crime is alleged to have been committed without unnecessary
25 delay or at the request of the defendant he shall be taken without
26 unnecessary delay before the nearest available magistrate. Such
27 magistrate shall ascertain the nature of the crime charged in the warrant
28 and the amount of the bond, if any, endorsed on the warrant. If no warrant
29 for the arrest of the person is before the magistrate he shall make use of
30 telephonic, telegraphic or radio communication to ascertain the nature of
31 the charge and the substance of any warrant that has been issued. If no
32 warrant has been issued, a complaint shall be filed and a warrant issued in
33 the county where the crime is alleged to have been committed, and the
34 nature of the charge, the substance of the warrant, and the amount of the
35 bond shall be communicated to the magistrate before whom the defendant
36 is in custody. Upon receipt of such information, the magistrate shall
37 proceed as hereinafter provided.

38 (3) The magistrate shall fix the terms and conditions of the
39 appearance bond upon which the defendant may be released. If the first
40 appearance is before a magistrate in a county other than where the crime
41 is alleged to have been committed, the magistrate may release the
42 defendant on an appearance bond in an amount not less than that
43 endorsed on the warrant. The defendant shall be required to appear before

1 the magistrate who issued the warrant or a magistrate of a court having
2 jurisdiction on a day certain, not more than 14 days thereafter.

3 (4) If the defendant is released on an appearance bond to appear
4 before the magistrate in another county, the magistrate who accepts the
5 appearance bond shall forthwith transmit such appearance bond and all
6 other papers relating to the case to the magistrate before whom the
7 defendant is to appear.

8 (5) If the person arrested cannot provide an appearance bond, or if
9 the crime is not bailable, the magistrate shall commit him to jail pending
10 further proceedings or shall order him delivered to a law enforcement
11 officer of the county where the crime is alleged to have been committed.

12 (6) The provisions of this section shall not apply to a person who is
13 arrested on a bench warrant. Such persons shall without unnecessary
14 delay be taken before the magistrate who issued the bench warrant.

15 (7) If a person is arrested on a warrant or arrested on probable cause
16 without a warrant, pursuant to a violation of subsection (a)(1)(C) of
17 ~~K.S.A. 21-3721~~ *section 94 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto, such person shall not be allowed to
19 post bond pending such person's first appearance in court provided that a
20 first appearance occurs within 48 hours after arrest. The magistrate may
21 fix as a condition of release on the appearance bond that such person
22 report to a court services officer. Nothing in this section shall be
23 construed to be an unnecessary delay as such term is used in this section.

24 Sec. 120. K.S.A. 22-2307, as amended by section 8 of chapter 101
25 of the 2010 Session Laws of Kansas, is hereby amended to read as
26 follows: 22-2307. (a) All law enforcement agencies in this state shall
27 adopt written policies regarding domestic violence calls as provided in
28 subsection (b). These policies shall be made available to all officers of
29 such agency.

30 (b) Such written policies shall include, but not be limited to, the
31 following:

32 (1) A statement directing that when a law enforcement officer
33 determines that there is probable cause to believe that a crime or offense
34 involving domestic violence, as defined in ~~K.S.A. 21-3110~~ *section 11 of*
35 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
36 thereto, has been committed, the officer shall, without undue delay, arrest
37 the person for which the officer has probable cause to believe committed
38 the crime or offense if such person's actions were not an act of defense of
39 a person or property as provided in ~~K.S.A. 21-3211, 21-3212, 21-3213,~~
40 ~~21-3218 or 21-3219~~ *section 21, section 22, section 23, section 28 or*
41 *section 29 of chapter 136 of the 2010 Session Laws of Kansas*, and
42 amendments thereto;

43 (2) a statement that nothing shall be construed to require a law

1 enforcement officer to:

2 (A) Arrest either party involved in an alleged act of domestic
3 violence when the law enforcement officer determines there is no
4 probable cause to believe that a crime or offense has been committed; or

5 (B) arrest both parties involved in an alleged act of domestic
6 violence when both claim to have been victims of such domestic
7 violence;

8 (3) a statement directing that if a law enforcement officer receives
9 complaints of domestic violence from two or more opposing persons, the
10 officer shall evaluate each complaint separately to determine if there is
11 probable cause that each accused person committed a crime or offense
12 and their actions were not an act of defense of a person or property as
13 provided in ~~K.S.A. 21-3211, 21-3212, 21-3213, 21-3218 or 21-~~
14 ~~3219~~section 21, section 22, section 23, section 28 or section 29 of
15 chapter 136 of the 2010 Session Laws of Kansas, and amendments
16 thereto;

17 (4) a statement defining domestic violence in accordance with
18 ~~K.S.A. 21-3110~~section 11 of chapter 136 of the 2010 Session Laws of
19 Kansas, and amendments thereto;

20 (5) a statement describing the dispatchers' responsibilities;

21 (6) a statement describing the responding officers' responsibilities
22 and procedures to follow when responding to a domestic violence call
23 and the suspect is at the scene;

24 (7) a statement regarding procedures when the suspect has left the
25 scene of the crime;

26 (8) procedures for both misdemeanor and felony cases;

27 (9) procedures for law enforcement officers to follow when handling
28 domestic violence calls involving court orders, including protection from
29 abuse orders, restraining orders and a protective order issued by a court of
30 any state or Indian tribe;

31 (10) a statement that the law enforcement agency shall provide the
32 following information to victims, in writing:

33 (A) Availability of emergency and medical telephone numbers, if
34 needed;

35 (B) the law enforcement agency's report number;

36 (C) the address and telephone number of the prosecutor's office the
37 victim should contact to obtain information about victims' rights pursuant
38 to K.S.A. 74-7333 and 74-7335 and amendments thereto;

39 (D) the name and address of the crime victims' compensation board
40 and information about possible compensation benefits;

41 (E) advise the victim that the details of the crime may be made
42 public;

43 (F) advise the victim of such victims' rights under K.S.A. 74-7333

1 and 74-7335 and amendments thereto; and

2 (G) advise the victim of known available resources which may assist
3 the victim; and

4 (11) whether an arrest is made or not, a standard offense report shall
5 be completed on all such incidents and sent to the Kansas bureau of
6 investigation.

7 Sec. 121. K.S.A. 22-2908, as amended by section 9 of chapter 101
8 of the 2010 Session Laws of Kansas, is hereby amended to read as
9 follows: 22-2908. (a) In determining whether diversion of a defendant is
10 in the interests of justice and of benefit to the defendant and the
11 community, the county or district attorney shall consider at least the
12 following factors among all factors considered:

13 (1) The nature of the crime charged and the circumstances
14 surrounding it;

15 (2) any special characteristics or circumstances of the defendant;

16 (3) whether the defendant is a first-time offender and if the
17 defendant has previously participated in diversion, according to the
18 certification of the Kansas bureau of investigation or the division of
19 vehicles of the department of revenue;

20 (4) whether there is a probability that the defendant will cooperate
21 with and benefit from diversion;

22 (5) whether the available diversion program is appropriate to the
23 needs of the defendant;

24 (6) the impact of the diversion of the defendant upon the
25 community;

26 (7) recommendations, if any, of the involved law enforcement
27 agency;

28 (8) recommendations, if any, of the victim;

29 (9) provisions for restitution; and

30 (10) any mitigating circumstances.

31 (b) A county or district attorney shall not enter into a diversion
32 agreement in lieu of further criminal proceedings on a complaint if:

33 (1) The complaint alleges a violation of K.S.A. 8-1567 and
34 amendments thereto and the defendant: (A) Has previously participated in
35 diversion upon a complaint alleging a violation of that statute or an
36 ordinance of a city in this state which prohibits the acts prohibited by that
37 statute; (B) has previously been convicted of or pleaded nolo contendere
38 to a violation of that statute or a violation of a law of another state or of a
39 political subdivision of this or any other state, which law prohibits the
40 acts prohibited by that statute; or (C) during the time of the alleged
41 violation was involved in a motor vehicle accident or collision resulting
42 in personal injury or death;

43 (2) the complaint alleges that the defendant committed a class A or B

1 felony or for crimes committed on or after July 1, 1993, an off-grid crime,
2 a severity level 1, 2 or 3 felony for nondrug crimes or drug severity level
3 1 or 2 felony for drug crimes; or

4 (3) the complaint alleges a domestic violence offense, as defined in
5 ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto, and the defendant has participated in
7 two or more diversions in the previous five year period upon complaints
8 alleging a domestic violence offense.

9 (c) A county or district attorney may enter into a diversion
10 agreement in lieu of further criminal proceedings on a complaint for
11 violations of article 10 of chapter 32 of the Kansas Statutes Annotated,
12 and amendments thereto, if such diversion carries the same penalties as
13 the conviction for the corresponding violations. If the defendant has
14 previously participated in one or more diversions for violations of article
15 10 of chapter 32 of the Kansas Statutes Annotated, and amendments
16 thereto, then each subsequent diversion shall carry the same penalties as
17 the conviction for the corresponding violations.

18 Sec. 122. K.S.A. 2009 Supp. 22-2909, as amended by section 10 of
19 chapter 101 of the 2010 Session Laws of Kansas, is hereby amended to
20 read as follows: 22-2909. (a) A diversion agreement shall provide that if
21 the defendant fulfills the obligations of the program described therein, as
22 determined by the attorney general or county or district attorney, such
23 attorney shall act to have the criminal charges against the defendant
24 dismissed with prejudice. The diversion agreement shall include
25 specifically the waiver of all rights under the law or the constitution of
26 Kansas or of the United States to a speedy arraignment, preliminary
27 examinations and hearings, and a speedy trial, and in the case of
28 diversion under subsection (c) waiver of the rights to counsel and trial by
29 jury. The diversion agreement may include, but is not limited to,
30 provisions concerning payment of restitution, including court costs and
31 diversion costs, residence in a specified facility, maintenance of gainful
32 employment, and participation in programs offering medical, educational,
33 vocational, social and psychological services, corrective and preventive
34 guidance and other rehabilitative services. If a county creates a local fund
35 under the property crime restitution and compensation act, a county or
36 district attorney may require in all diversion agreements as a condition of
37 diversion the payment of a diversion fee in an amount not to exceed
38 \$100. Such fees shall be deposited into the local fund and disbursed
39 pursuant to recommendations of the local board under the property crime
40 restitution and victims compensation act.

41 (b) The diversion agreement shall state: (1) The defendant's full
42 name; (2) the defendant's full name at the time the complaint was filed, if
43 different from the defendant's current name; (3) the defendant's sex, race

1 and date of birth; (4) the crime with which the defendant is charged; (5)
2 the date the complaint was filed; and (6) the district court with which the
3 agreement is filed.

4 (c) If a diversion agreement is entered into in lieu of further criminal
5 proceedings on a complaint alleging a violation of K.S.A. 8-1567, and
6 amendments thereto, the diversion agreement shall include a stipulation,
7 agreed to by the defendant, the defendant's attorney if the defendant is
8 represented by an attorney and the attorney general or county or district
9 attorney, of the facts upon which the charge is based and a provision that
10 if the defendant fails to fulfill the terms of the specific diversion
11 agreement and the criminal proceedings on the complaint are resumed,
12 the proceedings, including any proceedings on appeal, shall be conducted
13 on the record of the stipulation of facts relating to the complaint. In
14 addition, the agreement shall include a requirement that the defendant:

15 (1) Pay a fine specified by the agreement in an amount equal to an
16 amount authorized by K.S.A. 8-1567, and amendments thereto, for a first
17 offense or, in lieu of payment of the fine, perform community service
18 specified by the agreement, in accordance with K.S.A. 8-1567, and
19 amendments thereto; and

20 (2) enroll in and successfully complete an alcohol and drug safety
21 action program or a treatment program, or both, as provided in K.S.A. 8-
22 1008, and amendments thereto, and specified by the agreement, and pay
23 the assessment required by K.S.A. 8-1008, and amendments thereto.

24 (d) If a diversion agreement is entered into in lieu of further criminal
25 proceedings on a complaint alleging a domestic violence offense, as
26 defined in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session*
27 *Laws of Kansas*, and amendments thereto, the diversion agreement shall
28 include a requirement that the defendant undergo a domestic violence
29 offender assessment and follow all recommendations unless otherwise
30 agreed to with the prosecutor in the diversion agreement. The defendant
31 shall be required to pay for such assessment and, unless otherwise agreed
32 to with the prosecutor in the diversion agreement, for completion of all
33 recommendations.

34 (e) If a diversion agreement is entered into in lieu of further criminal
35 proceedings on a complaint alleging a violation other than K.S.A. 8-1567
36 and amendments thereto, the diversion agreement may include a
37 stipulation, agreed to by the defendant, the defendant's attorney if the
38 defendant is represented by an attorney and the attorney general or county
39 or district attorney, of the facts upon which the charge is based and a
40 provision that if the defendant fails to fulfill the terms of the specific
41 diversion agreement and the criminal proceedings on the complaint are
42 resumed, the proceedings, including any proceedings on appeal, shall be
43 conducted on the record of the stipulation of facts relating to the

1 complaint.

2 (f) If the person entering into a diversion agreement is a nonresident,
3 the attorney general or county or district attorney shall transmit a copy of
4 the diversion agreement to the division. The division shall forward a copy
5 of the diversion agreement to the motor vehicle administrator of the
6 person's state of residence.

7 (g) If the attorney general or county or district attorney elects to
8 offer diversion in lieu of further criminal proceedings on the complaint
9 and the defendant agrees to all of the terms of the proposed agreement,
10 the diversion agreement shall be filed with the district court and the
11 district court shall stay further proceedings on the complaint. If the
12 defendant declines to accept diversion, the district court shall resume the
13 criminal proceedings on the complaint.

14 (h) Except as provided in subsection (h), if a diversion agreement is
15 entered into in lieu of further criminal proceedings alleging commission
16 of a misdemeanor by the defendant, while under 21 years of age, under
17 K.S.A. ~~2009~~2010 Supp. 21-36a01 through 21-36a17, and amendments
18 thereto, or K.S.A. 41-719, 41-727, 41-804, 41-2719 or 41-2720, and
19 amendments thereto, the agreement shall require the defendant to submit
20 to and complete an alcohol and drug evaluation by a community-based
21 alcohol and drug safety action program certified pursuant to K.S.A. 8-
22 1008, and amendments thereto, and to pay a fee not to exceed the fee
23 established by that statute for such evaluation. If the attorney general or
24 county or district attorney finds that the defendant is indigent, the fee may
25 be waived.

26 (i) If the defendant is 18 or more years of age but less than 21 years
27 of age and allegedly committed a violation of K.S.A. 41-727, and
28 amendments thereto, involving cereal malt beverage, the provisions of
29 subsection (g) are permissive and not mandatory.

30 (j) Except diversion agreements reported under subsection (j), the
31 attorney general or county or district attorney shall forward to the Kansas
32 bureau of investigation a copy of the diversion agreement at the time such
33 agreement is filed with the district court. The copy of the agreement shall
34 be made available upon request to the attorney general or any county,
35 district or city attorney or court.

36 (k) At the time of filing the diversion agreement with the district
37 court, the attorney general or county or district attorney shall forward to
38 the division of vehicles of the state department of revenue a copy of any
39 diversion agreement entered into in lieu of further criminal proceedings
40 on a complaint alleging a violation of K.S.A. 8-1567, and amendments
41 thereto. The copy of the agreement shall be made available upon request
42 to the attorney general or any county, district or city attorney or court.

43 Sec. 123. K.S.A. 22-3008 is hereby amended to read as follows: 22-

1 3008. (1) Whenever required by any grand jury, its presiding juror or the
2 prosecuting attorney, the clerk of the court in which the jury is impaneled
3 shall issue subpoenas and other process to bring witnesses to testify
4 before the grand jury.

5 (2) If any witness duly summoned to appear and testify before a
6 grand jury fails or refuses to obey, compulsory process shall be issued to
7 enforce the witness' attendance, and the court may punish the delinquent
8 in the same manner and upon the same proceedings as provided by law
9 for disobedience of a subpoena issued out of the court in other cases.

10 (3) If any witness appearing before a grand jury refuses to testify or
11 to answer any questions asked in the course of the witness' examination,
12 the fact shall be communicated to a district judge of the judicial district in
13 writing, on which the question refused to be answered shall be stated. The
14 judge shall then determine whether the witness is bound to answer or not,
15 and the grand jury shall be immediately informed of the decision.

16 (4) No witness before a grand jury shall be required to incriminate
17 the witness' self.

18 (5) (a) The county or district attorney, or the attorney general, at any
19 time, on behalf of the state, and the district judge, upon determination that
20 the interest of justice requires, and after giving notice to the prosecuting
21 attorney and hearing the prosecuting attorney's recommendations on the
22 matter, may grant in writing to any person:

23 (i) Transactional immunity. Any person granted transactional
24 immunity shall not be prosecuted for any crime which has been
25 committed for which such immunity is granted or for any other
26 transactions arising out of the same incident.

27 (ii) Use and derivative immunity. Any person granted use and
28 derivative use immunity may be prosecuted for any crime, but the state
29 shall not use any testimony against such person provided under a grant of
30 such immunity or any evidence derived from such testimony. Any
31 defendant may file with the court a motion to suppress in writing to
32 prevent the state from using evidence on the grounds that the evidence
33 was derived from and obtained against the defendant as a result of
34 testimony or statements made under such grant of immunity. The motion
35 shall state facts supporting the allegations. Upon a hearing on such
36 motion, the state shall have the burden to prove by clear and convincing
37 evidence that the evidence was obtained independently and from a
38 collateral source.

39 (b) Any person granted immunity under either or both of subsections
40 (5)(a)(i) or (ii) may not refuse to testify on grounds that such testimony
41 may self incriminate unless such testimony may form the basis for a
42 violation of federal law for which immunity under federal law has not
43 been conferred. No person shall be compelled to testify in any proceeding

1 where the person is a defendant.

2 (c) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
3 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas*,
4 and amendments thereto, which was committed in giving such evidence.

5 (6) If the judge determines that the witness must answer and if the
6 witness persists in refusing to answer, the witness shall be brought before
7 the judge, who shall proceed in the same manner as if the witness had
8 been interrogated and had refused to answer in open court.

9 Sec. 124. K.S.A. 22-3102 is hereby amended to read as follows: 22-
10 3102. (a) No person called as a witness at an inquisition shall be required
11 to make any statement which will incriminate such person.

12 (b) The county or district attorney, or the attorney general, may at
13 any time, on behalf of the state, grant in writing to any person:

14 (1) Transactional immunity. Any person granted transactional
15 immunity shall not be prosecuted for any crime which has been
16 committed for which such immunity is granted or for any other
17 transactions arising out of the same incident.

18 (2) Use and derivative immunity. Any person granted use and
19 derivative use immunity may be prosecuted for any crime, but the state
20 shall not use any testimony against such person provided under a grant of
21 such immunity or any evidence derived from such testimony. Any
22 defendant may file with the court a motion to suppress in writing to
23 prevent the state from using evidence on the grounds that the evidence
24 was derived from and obtained against the defendant as a result of
25 testimony or statements made under such grant of immunity. The motion
26 shall state facts supporting the allegations. Upon a hearing on such
27 motion, the state shall have the burden to prove by clear and convincing
28 evidence that the evidence was obtained independently and from a
29 collateral source.

30 (c) Any person granted immunity under either or both subsections
31 (b)(1) or (2) may not refuse to testify on grounds that such testimony may
32 self incriminate unless such testimony may form the basis for a violation
33 of federal law for which immunity under federal law has not been
34 conferred. No person shall be compelled to testify in any proceeding
35 where the person is a defendant.

36 (d) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
37 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas*,
38 and amendments thereto, which was committed in giving such evidence.

39 Sec. 125. K.S.A. 2010 Supp. 22-3212 is hereby amended to read as
40 follows: 22-3212. (a) Upon request, the prosecuting attorney shall permit
41 the defendant to inspect and copy or photograph the following, if
42 relevant: (1) Written or recorded statements or confessions made by the
43 defendant, or copies thereof, which are or have been in the possession,

1 custody or control of the prosecution, the existence of which is known, or
2 by the exercise of due diligence may become known, to the prosecuting
3 attorney; (2) results or reports of physical or mental examinations, and of
4 scientific tests or experiments made in connection with the particular
5 case, or copies thereof, the existence of which is known, or by the
6 exercise of due diligence may become known, to the prosecuting
7 attorney; (3) recorded testimony of the defendant before a grand jury or at
8 an inquisition; and (4) memoranda of any oral confession made by the
9 defendant and a list of the witnesses to such confession, the existence of
10 which is known, or by the exercise of due diligence may become known
11 to the prosecuting attorney.

12 (b) (1) Upon request, the prosecuting attorney shall permit the
13 defendant to inspect and copy or photograph books, papers, documents,
14 tangible objects, buildings or places, or copies, or portions thereof, which
15 are or have been within the possession, custody or control of the
16 prosecution, and which are material to the case and will not place an
17 unreasonable burden upon the prosecution.

18 (2) Except as provided in subsections (a)(2) and (a)(4), this section
19 does not authorize the discovery or inspection of reports, memoranda or
20 other internal government documents made by officers in connection with
21 the investigation or prosecution of the case, or of statements made by
22 state witnesses or prospective state witnesses, other than the defendant,
23 except as may be provided by law.

24 (3) Except as provided in subsection (e), this section does not
25 require the prosecuting attorney to provide unredacted vehicle
26 identification numbers or personal identifiers of persons mentioned in
27 such books, papers or documents.

28 (4) As used in this subsection, personal identifiers include, but are
29 not limited to, birthdates, social security numbers, taxpayer identification
30 numbers, drivers license numbers, account numbers of active financial
31 accounts, home addresses and personal telephone numbers of any victims
32 or material witnesses.

33 (5) If the prosecuting attorney does provide the defendant's counsel
34 with unredacted vehicle identification numbers or personal identifiers, the
35 defendant's counsel shall not further disclose the unredacted numbers or
36 identifiers to the defendant or any other person, directly or indirectly,
37 except as authorized by order of the court.

38 (6) If the prosecuting attorney provides books, papers or documents
39 to the defendant's counsel with vehicle identification numbers or personal
40 identifiers redacted by the prosecuting attorney, the prosecuting attorney
41 shall provide notice to the defendant's counsel that such books, papers or
42 documents had such numbers or identifiers redacted by the prosecuting
43 attorney.

1 (7) Any redaction of vehicle identification numbers or personal
2 identifiers by the prosecuting attorney shall be by alteration or truncation
3 of such numbers or identifiers and shall not be by removal.

4 (c) If the defendant seeks discovery and inspection under subsection
5 (a)(2) or subsection (b), the defendant shall permit the attorney for the
6 prosecution to inspect and copy or photograph scientific or medical
7 reports, books, papers, documents, tangible objects, or copies or portions
8 thereof, which the defendant intends to produce at any hearing, and which
9 are material to the case and will not place an unreasonable burden on the
10 defense. Except as to scientific or medical reports, this subsection does
11 not authorize the discovery or inspection of reports, memoranda or other
12 internal defense documents made by the defendant, or the defendant's
13 attorneys or agents in connection with the investigation or defense of the
14 case, or of statements made by the defendant, or by prosecution or
15 defense witnesses, or by prospective prosecution or defense witnesses, to
16 the defendant, the defendant's agents or attorneys.

17 (d) The prosecuting attorney and the defendant shall cooperate in
18 discovery and reach agreement on the time, place and manner of making
19 the discovery and inspection permitted, so as to avoid the necessity for
20 court intervention.

21 (e) Upon a sufficient showing the court may at any time order that
22 the discovery or inspection be denied, restricted, enlarged or deferred or
23 make such other order as is appropriate. Upon motion, the court may
24 permit either party to make such showing, in whole or in part, in the form
25 of a written statement to be inspected privately by the court. If the court
26 enters an order granting relief following such a private showing, the
27 entire text of the statement shall be sealed and preserved in the records of
28 the court to be made available to the appellate court in the event of an
29 appeal.

30 (f) Discovery under this section must be completed no later than
31 ~~20~~21 days after arraignment or at such reasonable later time as the court
32 may permit.

33 (g) If, subsequent to compliance with an order issued pursuant to
34 this section, and prior to or during trial, a party discovers additional
35 material previously requested or ordered which is subject to discovery or
36 inspection under this section, the party shall promptly notify the other
37 party or the party's attorney or the court of the existence of the additional
38 material. If at any time during the course of the proceedings it is brought
39 to the attention of the court that a party has failed to comply with this
40 section or with an order issued pursuant to this section, the court may
41 order such party to permit the discovery or inspection of materials not
42 previously disclosed, grant a continuance, or prohibit the party from
43 introducing in evidence the material not disclosed, or it may enter such

1 other order as it deems just under the circumstances.

2 (h) For crimes committed on or after July 1, 1993, the prosecuting
3 attorney shall provide all prior convictions of the defendant known to the
4 prosecuting attorney that would affect the determination of the
5 defendant's criminal history for purposes of sentencing under a
6 presumptive sentencing guidelines system as provided in K.S.A. 21-4701
7 et seq., *prior to their repeal, or the revised Kansas sentencing guidelines*
8 *act, sections 282 through 305 of chapter 136 of the 2010 Session Laws of*
9 *Kansas*, and amendments thereto.

10 (i) The prosecuting attorney and defendant shall be permitted to
11 inspect and copy any juvenile files and records of the defendant for the
12 purpose of discovering and verifying the criminal history of the
13 defendant.

14 Sec. 126. K.S.A. 2010 Supp. 22-3303 is hereby amended to read as
15 follows: 22-3303. (1) A defendant who is charged with a felony and is
16 found to be incompetent to stand trial shall be committed for evaluation
17 and treatment to the state security hospital or any appropriate county or
18 private institution. A defendant who is charged with a misdemeanor and is
19 found to be incompetent to stand trial shall be committed for evaluation
20 and treatment to any appropriate state, county or private institution. At the
21 time of such commitment the institution of commitment shall notify the
22 secretary of corrections for the purpose of providing victim notification.
23 Any such commitment shall be for a period of not to exceed 90 days.
24 Within 90 days after the defendant's commitment to such institution, the
25 chief medical officer of such institution shall certify to the court whether
26 the defendant has a substantial probability of attaining competency to
27 stand trial in the foreseeable future. If such probability does exist, the
28 court shall order the defendant to remain in an appropriate state, county
29 or private institution until the defendant attains competency to stand trial
30 or for a period of six months from the date of the original commitment,
31 whichever occurs first. If such probability does not exist, the court shall
32 order the secretary of social and rehabilitation services to commence
33 involuntary commitment proceedings pursuant to article 29 of chapter 59
34 of the Kansas Statutes Annotated, and ~~any~~ amendments thereto. When a
35 defendant is charged with any off-grid felony, any nondrug severity level
36 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518,
37 21-3603 or 21-3719, *prior to their repeal, or subsection (b) of section 69,*
38 *subsection (b) of section 70, subsection (b) of section 72, subsection (b)*
39 *of section 81 or subsection (b) of section 98 of chapter 136 of the 2010*
40 *Session Laws of Kansas*, and amendments thereto, and commitment
41 proceedings have commenced, for such proceeding, "mentally ill person
42 subject to involuntary commitment for care and treatment" means a
43 mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and

1 amendments thereto, who is likely to cause harm to self and others, as
2 defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto.
3 The other provisions of subsection (f) of K.S.A. 59-2946, and
4 amendments thereto, shall not apply.

5 (2) If a defendant who was found to have had a substantial
6 probability of attaining competency to stand trial, as provided in
7 subsection (1), has not attained competency to stand trial within six
8 months from the date of the original commitment, the court shall order
9 the secretary of social and rehabilitation services to commence
10 involuntary commitment proceedings pursuant to article 29 of chapter 59
11 of the Kansas Statutes Annotated, and ~~any~~ amendments thereto. When a
12 defendant is charged with any off-grid felony, any nondrug severity level
13 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518,
14 21-3603 or 21-3719, *prior to their repeal, or subsection (b) of section 69,*
15 *subsection (b) of section 70, subsection (b) of section 72, subsection (b)*
16 *of section 81 or subsection (b) of section 98 of chapter 136 of the 2010*
17 *Session Laws of Kansas*, and amendments thereto, and commitment
18 proceedings have commenced, for such proceeding, "mentally ill person
19 subject to involuntary commitment for care and treatment" means a
20 mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and
21 amendments thereto, who is likely to cause harm to self and others, as
22 defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto.
23 The other provisions of subsection (f) of K.S.A. 59-2946, and
24 amendments thereto, shall not apply.

25 (3) When reasonable grounds exist to believe that a defendant who
26 has been adjudged incompetent to stand trial is competent, the court in
27 which the criminal case is pending shall conduct a hearing in accordance
28 with K.S.A. 22-3302, and amendments thereto, to determine the person's
29 present mental condition. Such court shall give reasonable notice of such
30 hearings to the prosecuting attorney, the defendant, the defendant's
31 attorney of record, if any, and the secretary of corrections for the purpose
32 of providing victim notification. If the court, following such hearing,
33 finds the defendant to be competent, the proceedings pending against the
34 defendant shall be resumed.

35 (4) A defendant committed to a public institution under the
36 provisions of this section who is thereafter sentenced for the crime
37 charged at the time of commitment may be credited with all or any part of
38 the time during which the defendant was committed and confined in such
39 public institution.

40 Sec. 127. K.S.A. 22-3414 is hereby amended to read as follows: 22-
41 3414. (1) The prosecuting attorney shall state the case and offer evidence
42 in support of the prosecution. The defendant may make an opening
43 statement prior to the prosecution's offer of evidence, or may make such

1 statement and offer evidence in support of such statement after the
2 prosecution rests.

3 (2) The parties may then respectively offer rebutting testimony only,
4 unless the court, for good cause, permits them to offer evidence upon
5 their original case.

6 (3) At the close of the evidence or at such earlier time during the
7 trial as the judge reasonably directs, any party may file written requests
8 that the court instruct the jury on the law as set forth in the requests. The
9 judge shall instruct the jury at the close of the evidence before argument
10 and the judge, in the judge's discretion, after the opening statements, may
11 instruct the jury on such matters as in the judge's opinion will assist the
12 jury in considering the evidence as it is presented. In cases where there is
13 some evidence which would reasonably justify a conviction of some
14 lesser included crime as provided in subsection ~~(2)~~ of *K.S.A. 21-3407 (b)*
15 *of section 9 of chapter 136 of the 2010 Session Laws of Kansas*, and
16 amendments thereto, the judge shall instruct the jury as to the crime
17 charged and any such lesser included crime.

18 The court shall pass upon the objections to the instructions and shall
19 either give each instruction as requested or proposed or refuse to do so, or
20 give the requested instruction with modification. All instructions given or
21 requested must be filed as a part of the record of the case.

22 The court reporter shall record all objections to the instructions given
23 or refused by the court, together with modifications made, and the rulings
24 of the court.

25 No party may assign as error the giving or failure to give an
26 instruction, including a lesser included crime instruction, unless the party
27 objects thereto before the jury retires to consider its verdict stating
28 distinctly the matter to which the party objects and the grounds of the
29 objection unless the instruction or the failure to give an instruction is
30 clearly erroneous. Opportunity shall be given to make the objections out
31 of the hearing of the jury.

32 (4) When the jury has been instructed, unless the case is submitted
33 to the jury on either side or on both sides without argument, the
34 prosecuting attorney may commence and may conclude the argument. If
35 there is more than one defendant, the court shall determine their relative
36 order in presentation of evidence and argument. In arguing the case,
37 comment may be made upon the law of the case as given in the
38 instructions, as well as upon the evidence.

39 Sec. 128. K.S.A. 22-3415 is hereby amended to read as follows: 22-
40 3415. (a) The provisions of law in civil cases relative to compelling the
41 attendance and testimony of witnesses, their examination, the
42 administration of oaths and affirmations, and proceedings as for
43 contempt, to enforce the remedies and protect the rights of the parties,

1 shall extend to criminal cases so far as they are in their nature applicable,
2 unless other provision is made by statute.

3 (b) The county or district attorney or the attorney general may at any
4 time, on behalf of the state, grant in writing to any person:

5 (1) Transactional immunity. Any person granted transactional
6 immunity shall not be prosecuted for any crime which has been
7 committed for which such immunity is granted or for any other
8 transactions arising out of the same incident.

9 (2) Use and derivative immunity. Any person granted use and
10 derivative use immunity may be prosecuted for any crime, but the state
11 shall not use any testimony against such person provided under a grant of
12 such immunity or any evidence derived from such testimony. Any
13 defendant may file with the court a motion to suppress in writing to
14 prevent the state from using evidence on the grounds that the evidence
15 was derived from and obtained against the defendant as a result of
16 testimony or statements made under such grant of immunity. The motion
17 shall state facts supporting the allegations. Upon a hearing on such
18 motion, the state shall have the burden to prove by clear and convincing
19 evidence that the evidence was obtained independently and from a
20 collateral source.

21 (c) Any person granted immunity under either or both of subsection
22 (b)(1) or (2) may not refuse to testify on grounds that such testimony may
23 self incriminate unless such testimony may form the basis for a violation
24 of federal law for which immunity under federal law has not been
25 conferred. No person shall be compelled to testify in any proceeding
26 where the person is a defendant.

27 (d) No immunity shall be granted for perjury as provided in ~~K.S.A.~~
28 ~~21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of Kansas,*
29 and amendments thereto, which was committed in giving such evidence.

30 Sec. 129. K.S.A. 2010 Supp. 22-3426 is hereby amended to read as
31 follows: 22-3426. (a) When judgment is rendered or sentence of
32 imprisonment is imposed, upon a plea or verdict of guilty, a record
33 thereof shall be made upon the journal of the court, reflecting, if
34 applicable, conviction or other judgment, the sentence if imposed, and the
35 commitment, which record among other things shall contain a statement
36 of the crime charged, and under what statute; the plea or verdict and the
37 judgment rendered or sentence imposed, and under what statute, and a
38 statement that the defendant was duly represented by counsel naming
39 such counsel, or a statement that the defendant has stated on the record or
40 in writing that the defendant did not want representation of counsel.

41 (b) If defendant is sentenced to the custody of the secretary of
42 corrections the journal entry shall record, in a judgment form, if used, all
43 the information required under ~~K.S.A. 21-4620~~ *section 280 of chapter 136*

1 *of the 2010 Session Laws of Kansas*, and amendments thereto, unless
2 such section is not applicable.

3 (c) It shall be the duty of the court personally to examine the journal
4 entry and to sign the same.

5 (d) For felony convictions for crimes committed on or after July 1,
6 1993, in addition to the provisions of subsections (a) through (c), the
7 journal entry shall contain the following information:

- 8 (1) Court case number;
- 9 (2) Kansas bureau of investigation number;
- 10 (3) case transaction number;
- 11 (4) court O.R.I. number;
- 12 (5) the type of counsel;
- 13 (6) type of trial, if any;
- 14 (7) pretrial status of the offender;
- 15 (8) the date of the sentencing hearing;
- 16 (9) a listing of offenses for which the defendant is convicted;
- 17 (10) the criminal history classification;
- 18 (11) the sentence imposed for each offense including postrelease or
19 probation supervision durations;
- 20 (12) whether the sentences run concurrently or consecutively;
- 21 (13) amount of credit for time spent incarcerated;
- 22 (14) period ordered in county jail as a condition of probation;
- 23 (15) a listing of offenses in which a departure sentence is imposed;
- 24 (16) type of departure sentence; and
- 25 (17) factors cited as a basis for departure sentence.

26 The journal entry shall be recorded on a form approved by the Kansas
27 sentencing commission.

28 Sec. 130. K.S.A. 22-3429 is hereby amended to read as follows: 22-
29 3429. After conviction and prior to sentence and as part of the
30 presentence investigation authorized by ~~K.S.A. 21-4604~~ *section 272 of*
31 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
32 thereto or for crimes committed on or after July 1, 1993, a presentence
33 investigation report as provided in ~~K.S.A. 21-4714~~ *section 294 of chapter*
34 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, the
35 trial judge may order the defendant committed for mental examination,
36 evaluation and report. If the defendant is convicted of a felony, the
37 commitment shall be to the state security hospital or any suitable local
38 mental health facility. If the defendant is convicted of a misdemeanor, the
39 commitment shall be to a state hospital or any suitable local mental health
40 facility. If adequate private facilities are available and if the defendant is
41 willing to assume the expense thereof, commitment may be to a private
42 hospital. A report of the examination and evaluation shall be furnished to
43 the judge and shall be made available to the prosecuting attorney and

1 counsel for the defendant. A defendant may not be detained for more than
2 120 days under a commitment made under this section.

3 Sec. 131. K.S.A. 22-3436 is hereby amended to read as follows: 22-
4 3436. If a defendant is charged with a crime pursuant to ~~article 34, 35 or~~
5 ~~36 of chapter 21 of the Kansas Statutes Annotated~~ *sections 36 through 86,*
6 *174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
7 *Laws of Kansas*, and amendments thereto;

8 (a) The prosecuting attorney, as defined in K.S.A. 22-2202, and
9 amendments thereto, shall: (1) inform the victim or the victim's family
10 before any dismissal or declining of prosecuting charges; (2) inform the
11 victim or the victim's family of the nature of any proposed plea
12 agreement; and (3) inform and give notice to the victim or the victim's
13 family of the rights established in subsection (b);

14 (b) The victim of a crime or the victim's family have the right to be
15 present at any hearing where a plea agreement is reviewed or accepted
16 and the parties may submit written arguments to the court prior to the
17 date of the hearing.

18 Sec. 132. K.S.A. 22-3439 is hereby amended to read as follows: 22-
19 3439. (a) For all felony convictions for offenses committed on or after
20 July 1, 1993, the court shall forward a signed copy of the journal entry,
21 attached together with the presentence investigation report as provided by
22 ~~K.S.A. 21-4714~~ *section 294 of chapter 136 of the 2010 Session Laws of*
23 *Kansas*, and amendments thereto, to the Kansas sentencing commission
24 within 30 days after sentencing.

25 (b) For probation revocations which result in the defendant's
26 imprisonment in the custody of the department of corrections, the court
27 shall forward a signed copy of the journal entry of revocation to the
28 Kansas sentencing commission within 30 days of final disposition.

29 (c) The court shall insure that information concerning dispositions
30 for all other felony probation revocations based upon crimes committed
31 on or after July 1, 1993, and for all class A and B misdemeanor crimes
32 and assault as defined in K.S.A. 21-3408, *prior to its repeal, or*
33 *subsection (a) of section 47 of chapter 136 of the 2010 Session Laws of*
34 *Kansas*, and amendments thereto, committed on or after July 1, 1993, is
35 forwarded to the Kansas bureau of investigation central repository. Such
36 information shall be transmitted on a form or in a format approved by the
37 attorney general within 30 days of that final disposition.

38 Sec. 133. K.S.A. 22-3602 is hereby amended to read as follows: 22-
39 3602. (a) Except as otherwise provided, an appeal to the appellate court
40 having jurisdiction of the appeal may be taken by the defendant as a
41 matter of right from any judgment against the defendant in the district
42 court and upon appeal any decision of the district court or intermediate
43 order made in the progress of the case may be reviewed. No appeal shall

1 be taken by the defendant from a judgment of conviction before a district
2 judge upon a plea of guilty or *nolo contendere*, except that jurisdictional
3 or other grounds going to the legality of the proceedings may be raised by
4 the defendant as provided in K.S.A. 60-1507, and amendments thereto.

5 (b) Appeals to the court of appeals may be taken by the prosecution
6 from cases before a district judge as a matter of right in the following
7 cases, and no others:

8 (1) From an order dismissing a complaint, information or
9 indictment;

10 (2) from an order arresting judgment;

11 (3) upon a question reserved by the prosecution; or

12 (4) upon an order granting a new trial in any case involving a class A
13 or B felony or for crimes committed on or after July 1, 1993, in any case
14 involving an off-grid crime.

15 (c) Procedures for appeals by the prosecution enumerated in
16 subsection (b) shall be as provided in supreme court rules.

17 (d) Appeals to a district judge may be taken by the prosecution from
18 cases before a district magistrate judge as a matter of right in the cases
19 enumerated in subsection (b) and from orders enumerated in K.S.A. 22-
20 3603, and amendments thereto.

21 (e) Any criminal case on appeal to the court of appeals may be
22 transferred to the supreme court as provided in K.S.A. 20-3016 and 20-
23 3017, and amendments thereto, and any party to such case may petition
24 the supreme court for review of any decision of the court of appeals as
25 provided in subsection (b) of K.S.A. 20-3018, and amendments thereto,
26 except that any such party may appeal to the supreme court as a matter of
27 right in any case in which a question under the constitution of either the
28 United States or the state of Kansas arises for the first time as a result of
29 the decision of the court of appeals.

30 (f) For crimes committed on or after July 1, 1993, an appeal by the
31 prosecution or the defendant relating to sentences imposed pursuant to a
32 presumptive sentencing guidelines system as provided in K.S.A. 21-4701
33 et seq., *prior to their repeal, or the revised Kansas sentencing guidelines*
34 *act, sections 282 through 305 of chapter 136 of the 2010 Session Laws of*
35 *Kansas*, and amendments thereto, shall be as provided in K.S.A. 21-4721,
36 *prior to its repeal, or section 301 of chapter 136 of the 2010 Session*
37 *Laws of Kansas*, and amendments thereto.

38 Sec. 134. K.S.A. 22-3701 is hereby amended to read as follows: 22-
39 3701. (1) The governor may pardon, or commute the sentence of, any
40 person convicted of a crime in any court of this state upon such terms and
41 conditions as prescribed in the order granting the pardon or commutation.

42 (2) The Kansas parole board, hereafter referred to as the board, shall
43 adopt rules and regulations governing the procedure for initiating,

1 processing, and reviewing applications for pardon, or commutation of
2 sentence filed by and on behalf of persons convicted of crime.

3 (3) Except as otherwise provided, no pardon or commutation of
4 sentence shall be granted until more than 30 days after written notice of
5 the application therefor has been given to: (a) The prosecuting attorney
6 and the judge of the court in which the defendant was convicted; and (b)
7 any victim of the person's crime or the victim's family, if the person was
8 convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the
9 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
10 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
11 *Laws of Kansas, and amendments thereto.* Notice of such application for
12 pardon or commutation of sentence shall be given by the secretary of
13 corrections to the victim who is alive and whose address is known to the
14 secretary of corrections, or if the victim is deceased, to the victim's family
15 if the family's address is known to the secretary of corrections. Notice of
16 the receipt of such application shall be given by publication in the official
17 county paper of the county of conviction. The form of notice shall be
18 prescribed by the board. If the applicant executes a poverty affidavit, the
19 cost of one publication of the notice during a twelve-month period shall
20 be paid by the state. If more than one notice of application is published
21 during any twelve-month period the additional cost of publication shall be
22 paid by the applicant. Subject to the provisions of subsection (4), if
23 written notification is not given to such victim who is alive and whose
24 address is known to the secretary of corrections or, if the victim is
25 deceased, to the victim's family if the family's address is known to the
26 secretary of corrections, the governor shall not grant or deny such
27 application until a time at least 30 days after notification is given by
28 publication as provided in this section.

29 (4) All applications for pardon or commutation of sentence shall be
30 referred to the board. The board shall examine each case and submit a
31 report, together with such information as the board may have concerning
32 the applicant, to the governor within 120 days after referral to the board.
33 The governor shall not grant or deny any such application until the
34 governor has received the report of the board or until 120 days after the
35 referral to the board, whichever time is the shorter and the provisions of
36 subsection (3) have been satisfied.

37 Sec. 135. K.S.A. 2010 Supp. 22-3716 is hereby amended to read as
38 follows: 22-3716. (a) At any time during probation, assignment to a
39 community correctional services program, suspension of sentence or
40 pursuant to subsection (d) for defendants who committed a crime prior to
41 July 1, 1993, and at any time during which a defendant is serving a
42 nonprison sanction for a crime committed on or after July 1, 1993, or
43 pursuant to subsection (d), the court may issue a warrant for the arrest of

1 a defendant for violation of any of the conditions of release or
2 assignment, a notice to appear to answer to a charge of violation or a
3 violation of the defendant's nonprison sanction. The notice shall be
4 personally served upon the defendant. The warrant shall authorize all
5 officers named in the warrant to return the defendant to the custody of the
6 court or to any certified detention facility designated by the court. Any
7 court services officer or community correctional services officer may
8 arrest the defendant without a warrant or may deputize any other officer
9 with power of arrest to do so by giving the officer a written or verbal
10 statement setting forth that the defendant has, in the judgment of the court
11 services officer or community correctional services officer, violated the
12 conditions of the defendant's release or a nonprison sanction. A written
13 statement delivered to the official in charge of a county jail or other place
14 of detention shall be sufficient warrant for the detention of the defendant.
15 After making an arrest, the court services officer or community
16 correctional services officer shall present to the detaining authorities a
17 similar statement of the circumstances of violation. Provisions regarding
18 release on bail of persons charged with a crime shall be applicable to
19 defendants arrested under these provisions.

20 (b) Upon arrest and detention pursuant to subsection (a), the court
21 services officer or community correctional services officer shall
22 immediately notify the court and shall submit in writing a report showing
23 in what manner the defendant has violated the conditions of release or
24 assignment or a nonprison sanction. Thereupon, or upon an arrest by
25 warrant as provided in this section, the court shall cause the defendant to
26 be brought before it without unnecessary delay for a hearing on the
27 violation charged. The hearing shall be in open court and the state shall
28 have the burden of establishing the violation. The defendant shall have
29 the right to be represented by counsel and shall be informed by the judge
30 that, if the defendant is financially unable to obtain counsel, an attorney
31 will be appointed to represent the defendant. The defendant shall have the
32 right to present the testimony of witnesses and other evidence on the
33 defendant's behalf. Relevant written statements made under oath may be
34 admitted and considered by the court along with other evidence presented
35 at the hearing. Except as otherwise provided, if the violation is
36 established, the court may continue or revoke the probation, assignment
37 to a community correctional services program, suspension of sentence or
38 nonprison sanction and may require the defendant to serve the sentence
39 imposed, or any lesser sentence, and, if imposition of sentence was
40 suspended, may impose any sentence which might originally have been
41 imposed. Except as otherwise provided, no offender for whom a violation
42 of conditions of release or assignment or a nonprison sanction has been
43 established as provided in this section shall be required to serve any time

1 for the sentence imposed or which might originally have been imposed in
2 a state facility in the custody of the secretary of corrections for such
3 violation, unless such person has already at least one prior assignment to
4 a community correctional services program related to the crime for which
5 the original sentence was imposed, except these provisions shall not
6 apply to offenders who violate a condition of release or assignment or a
7 nonprison sanction by committing a new misdemeanor or felony offense.
8 The provisions of this subsection shall not apply to adult felony offenders
9 as described in subsection (a)(3) of K.S.A. 75-5291, and amendments
10 thereto. The court may require an offender for whom a violation of
11 conditions of release or assignment or a nonprison sanction has been
12 established as provided in this section to serve any time for the sentence
13 imposed or which might originally have been imposed in a state facility
14 in the custody of the secretary of corrections without a prior assignment
15 to a community correctional services program if the court finds and sets
16 forth with particularity the reasons for finding that the safety of the
17 members of the public will be jeopardized or that the welfare of the
18 inmate will not be served by such assignment to a community
19 correctional services program. When a new felony is committed while the
20 offender is on probation or assignment to a community correctional
21 services program, the new sentence shall be imposed pursuant to the
22 consecutive sentencing requirements of ~~K.S.A. 21-4608~~ *section 246 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, and the court may sentence the offender to imprisonment for the
25 new conviction, even when the new crime of conviction otherwise
26 presumes a nonprison sentence. In this event, imposition of a prison
27 sentence for the new crime does not constitute a departure.

28 (c) A defendant who is on probation, assigned to a community
29 correctional services program, under suspension of sentence or serving a
30 nonprison sanction and for whose return a warrant has been issued by the
31 court shall be considered a fugitive from justice if it is found that the
32 warrant cannot be served. If it appears that the defendant has violated the
33 provisions of the defendant's release or assignment or a nonprison
34 sanction, the court shall determine whether the time from the issuing of
35 the warrant to the date of the defendant's arrest, or any part of it, shall be
36 counted as time served on probation, assignment to a community
37 correctional services program, suspended sentence or pursuant to a
38 nonprison sanction.

39 (d) The court shall have 30 days following the date probation,
40 assignment to a community correctional service program, suspension of
41 sentence or a nonprison sanction was to end to issue a warrant for the
42 arrest or notice to appear for the defendant to answer a charge of a
43 violation of the conditions of probation, assignment to a community

1 correctional service program, suspension of sentence or a nonprison
2 sanction.

3 (e) Notwithstanding the provisions of any other law to the contrary,
4 an offender whose nonprison sanction is revoked and a term of
5 imprisonment imposed pursuant to either the sentencing guidelines grid
6 for nondrug or drug crimes shall not serve a period of postrelease
7 supervision upon the completion of the prison portion of that sentence.
8 The provisions of this subsection shall not apply to offenders sentenced to
9 a nonprison sanction pursuant to a dispositional departure, whose offense
10 falls within a border box of either the sentencing guidelines grid for
11 nondrug or drug crimes, offenders sentenced for a "sexually violent
12 crime" or a "sexually motivated crime" as defined by K.S.A. 22-3717,
13 and amendments thereto, offenders sentenced pursuant to ~~K.S.A. 21-~~
14 ~~4704~~*section 285 of chapter 136 of the 2010 Session Laws of Kansas*, and
15 amendments thereto, wherein the sentence is presumptive imprisonment
16 but a nonprison sanction may be imposed without a departure or
17 offenders whose nonprison sanction was revoked as a result of a
18 conviction for a new misdemeanor or felony offense. The provisions of
19 this subsection shall not apply to offenders who are serving or are to
20 begin serving a sentence for any other felony offense that is not excluded
21 from postrelease supervision by this subsection on the effective date of
22 this subsection. The provisions of this subsection shall be applied
23 retroactively. The department of corrections shall conduct a review of all
24 persons who are in the custody of the department as a result of only a
25 revocation of a nonprison sanction. On or before September 1, 2000, the
26 department shall have discharged from postrelease supervision those
27 offenders as required by this subsection.

28 (f) Offenders who have been sentenced pursuant to ~~K.S.A. 21-~~
29 ~~4729~~*section 305 of chapter 136 of the 2010 Session Laws of Kansas*, and
30 amendments thereto, and who subsequently violate a condition of the
31 drug and alcohol abuse treatment program shall be subject to an
32 additional nonprison sanction for any such subsequent violation. Such
33 nonprison sanctions shall include, but not be limited to, up to 60 days in a
34 county jail, fines, community service, intensified treatment, house arrest
35 and electronic monitoring.

36 Sec. 136. K.S.A. 2010 Supp. 22-3717 is hereby amended to read as
37 follows: 22-3717. (a) Except as otherwise provided by this section;
38 K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through
39 21-4638, *prior to their repeal*; K.S.A. 21-4624, *prior to its repeal*; K.S.A.
40 21-4642, *prior to its repeal*; sections 257, 260, 263, 264, 265 and 266 of
41 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
42 thereto; and K.S.A. 8-1567, and amendments thereto; ~~K.S.A. 21-4642,~~
43 ~~and amendments thereto; and K.S.A. 21-4624, and amendments thereto;~~

1 an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618,
2 *prior to its repeal, or section 276 of chapter 136 of the 2010 Session*
3 *Laws of Kansas*, and amendments thereto, shall be eligible for parole
4 after serving the entire minimum sentence imposed by the court, less
5 good time credits.

6 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638,
7 *prior to their repeal, and sections 260, 263, 264 and 265 of chapter 136*
8 *of the 2010 Session Laws of Kansas*, and amendments thereto, an inmate
9 sentenced to imprisonment for the crime of capital murder, or an inmate
10 sentenced for the crime of murder in the first degree based upon a finding
11 of premeditated murder, committed on or after July 1, 1994, shall be
12 eligible for parole after serving 25 years of confinement, without
13 deduction of any good time credits.

14 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
15 Supp. 21-4628, prior to its repeal, ~~and~~ K.S.A. 21-4635 through 21-4638,
16 *prior to their repeal, and sections 260, 263, 264 and 265 of chapter 136*
17 *of the 2010 Session Laws of Kansas*, and amendments thereto, an inmate
18 sentenced to imprisonment for an off-grid offense committed on or after
19 July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after
20 serving 15 years of confinement, without deduction of any good time
21 credits and an inmate sentenced to imprisonment for an off-grid offense
22 committed on or after July 1, 1999, shall be eligible for parole after
23 serving 20 years of confinement without deduction of any good time
24 credits.

25 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
26 repeal, an inmate sentenced for a class A felony committed before July 1,
27 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, *prior to*
28 *its repeal, or section 276 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto, shall be eligible for parole after serving
30 15 years of confinement, without deduction of any good time credits.

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

36 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
37 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010*
38 *Session Laws of Kansas*, and amendments thereto, committed on or after
39 July 1, 2006, shall be eligible for parole after serving the mandatory term
40 of imprisonment without deduction of any good time credits.

41 (c) (1) Except as provided in subsection (e), if an inmate is
42 sentenced to imprisonment for more than one crime and the sentences run
43 consecutively, the inmate shall be eligible for parole after serving the total

1 of:

2 (A) The aggregate minimum sentences, as determined pursuant to
3 K.S.A. 21-4608, *prior to its repeal, or section 246 of chapter 136 of the*
4 *2010 Session Laws of Kansas*, and amendments thereto, less good time
5 credits for those crimes which are not class A felonies; and

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

8 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
9 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010*
10 *Session Laws of Kansas*, and amendments thereto, for crimes committed
11 on or after July 1, 2006, the inmate shall be eligible for parole after
12 serving the mandatory term of imprisonment.

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

18 (A) Except as provided in subparagraphs (D) and (E), persons
19 sentenced for nondrug severity level 1 through 4 crimes and drug severity
20 levels 1 and 2 crimes must serve 36 months, plus the amount of good
21 time and program credit earned and retained pursuant to K.S.A. 21-4722,
22 *prior to its repeal, or section 302 of chapter 136 of the 2010 Session*
23 *Laws of Kansas*, and amendments thereto, on postrelease supervision.

24 (B) Except as provided in subparagraphs (D) and (E), persons
25 sentenced for nondrug severity levels 5 and 6 crimes and drug severity
26 level 3 crimes must serve 24 months, plus the amount of good time and
27 program credit earned and retained pursuant to K.S.A. 21-4722, *prior to*
28 *its repeal, or section 302 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto, on postrelease supervision.

30 (C) Except as provided in subparagraphs (D) and (E), persons
31 sentenced for nondrug severity level 7 through 10 crimes and drug
32 severity level 4 crimes must serve 12 months, plus the amount of good
33 time and program credit earned and retained pursuant to K.S.A. 21-4722,
34 *prior to its repeal, or section 302 of chapter 136 of the 2010 Session*
35 *Laws of Kansas*, and amendments thereto, on postrelease supervision.

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

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

1 supervision period, the judge shall state on the record at the time of
2 sentencing the substantial and compelling reasons for the departure.
3 Departures in this section are subject to appeal pursuant to K.S.A. 21-
4 4721, *prior to its repeal, or section 301 of chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto.

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

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

10 (b) any evidence received during the proceeding;

11 (c) the presentence report, the victim's impact statement and any
12 psychological evaluation as ordered by the court pursuant to subsection
13 (e) of K.S.A. 21-4714, *prior to its repeal, or subsection (e) of section 294*
14 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
15 thereto; and

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

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

21 (v) In carrying out the provisions of subparagraph (d)(1)(D), the
22 court shall refer to K.S.A. 21-4718, *prior to its repeal, or section 298 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto.

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

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

35 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, *prior to their*
36 *repeal, or section 72 of chapter 136 of the 2010 Session Laws of Kansas*,
37 and amendments thereto, shall be required to participate in a treatment
38 program for sex offenders during the postrelease supervision period.

39 (E) The period of postrelease supervision provided in subparagraphs
40 (A) and (B) may be reduced by up to 12 months and the period of
41 postrelease supervision provided in subparagraph (C) may be reduced by
42 up to six months based on the offender's compliance with conditions of
43 supervision and overall performance while on postrelease supervision.

1 The reduction in the supervision period shall be on an earned basis
2 pursuant to rules and regulations adopted by the secretary of corrections.

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

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

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

13 (A) Rape, K.S.A. 21-3502, *prior to its repeal, or section 67 of*
14 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
15 thereto;

16 (B) indecent liberties with a child, K.S.A. 21-3503, *prior to its*
17 *repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session*
18 *Laws of Kansas*, and amendments thereto;

19 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, *prior*
20 *to its repeal, or subsection (b) of section 70 of chapter 136 of the 2010*
21 *Session Laws of Kansas*, and amendments thereto;

22 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-
23 3505, *prior to its repeal, or subsection (a)(3) and (a)(4) of section 68 of*
24 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
25 thereto;

26 (E) aggravated criminal sodomy, K.S.A. 21-3506, *prior to its repeal,*
27 *or subsection (b) of section 68 of chapter 136 of the 2010 Session Laws*
28 *of Kansas*, and amendments thereto;

29 (F) indecent solicitation of a child, K.S.A. 21-3510, *prior to its*
30 *repeal, or subsection (a) of section 72 of chapter 136 of the 2010 Session*
31 *Laws of Kansas*, and amendments thereto;

32 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511,
33 *prior to its repeal, or subsection (b) of section 72 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto;

35 (H) sexual exploitation of a child, K.S.A. 21-3516, *prior to its*
36 *repeal, or section 74 of chapter 136 of the 2010 Session Laws of Kansas,*
37 and amendments thereto;

38 (I) aggravated sexual battery, K.S.A. 21-3518, *prior to its repeal, or*
39 *subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of*
40 *Kansas*, and amendments thereto;

41 (J) aggravated incest, K.S.A. 21-3603, *prior to its repeal, or*
42 *subsection (b) of section 81 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto; or

1 (K) an attempt, conspiracy or criminal solicitation, as defined in
2 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or sections*
3 *33, 34 or 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
4 amendments thereto, of a sexually violent crime as defined in this section.

5 "Sexually motivated" means that one of the purposes for which the
6 defendant committed the crime was for the purpose of the defendant's
7 sexual gratification.

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

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

36 (g) Subject to the provisions of this section, the Kansas parole board
37 may release on parole those persons confined in institutions who are
38 eligible for parole when: (1) The board believes that the inmate should be
39 released for hospitalization, for deportation or to answer the warrant or
40 other process of a court and is of the opinion that there is reasonable
41 probability that the inmate can be released without detriment to the
42 community or to the inmate; or (2) the secretary of corrections has
43 reported to the board in writing that the inmate has satisfactorily

1 completed the programs required by any agreement entered under K.S.A.
2 75-5210a, and amendments thereto, or any revision of such agreement,
3 and the board believes that the inmate is able and willing to fulfill the
4 obligations of a law abiding citizen and is of the opinion that there is
5 reasonable probability that the inmate can be released without detriment
6 to the community or to the inmate. Parole shall not be granted as an
7 award of clemency and shall not be considered a reduction of sentence or
8 a pardon.

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

1 factors revealed by any risk assessment of the inmate; comments of the
2 victim and the victim's family including in person comments,
3 contemporaneous comments and prerecorded comments made by any
4 technological means; comments of the public; official comments; any
5 recommendation by the staff of the facility where the inmate is
6 incarcerated; proportionality of the time the inmate has served to the
7 sentence a person would receive under the Kansas sentencing guidelines
8 for the conduct that resulted in the inmate's incarceration; and capacity of
9 state correctional institutions.

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

20 (j) (1) Before ordering the parole of any inmate, the Kansas parole
21 board shall have the inmate appear either in person or via a video
22 conferencing format and shall interview the inmate unless impractical
23 because of the inmate's physical or mental condition or absence from the
24 institution. Every inmate while on parole shall remain in the legal custody
25 of the secretary of corrections and is subject to the orders of the secretary.
26 Whenever the Kansas parole board formally considers placing an inmate
27 on parole and no agreement has been entered into with the inmate under
28 K.S.A. 75-5210a, and amendments thereto, the board shall notify the
29 inmate in writing of the reasons for not granting parole. If an agreement
30 has been entered under K.S.A. 75-5210a, and amendments thereto, and
31 the inmate has not satisfactorily completed the programs specified in the
32 agreement, or any revision of such agreement, the board shall notify the
33 inmate in writing of the specific programs the inmate must satisfactorily
34 complete before parole will be granted. If parole is not granted only
35 because of a failure to satisfactorily complete such programs, the board
36 shall grant parole upon the secretary's certification that the inmate has
37 successfully completed such programs. If an agreement has been entered
38 under K.S.A. 75-5210a, and amendments thereto, and the secretary of
39 corrections has reported to the board in writing that the inmate has
40 satisfactorily completed the programs required by such agreement, or any
41 revision thereof, the board shall not require further program participation.
42 However, if the board determines that other pertinent information
43 regarding the inmate warrants the inmate's not being released on parole,

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

18 (2) Inmates sentenced for a class A or class B felony who have not
19 had a parole board hearing in the five years prior to July 1, 2010, shall
20 have such inmates' cases reviewed by the parole board on or before July
21 1, 2012. Such review shall begin with the inmates with the oldest deferral
22 date and progress to the most recent. Such review shall be done utilizing
23 existing resources unless the parole board determines that such resources
24 are insufficient. If the parole board determines that such resources are
25 insufficient, then the provisions of this paragraph are subject to
26 appropriations therefor.

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

30 (l) The Kansas parole board shall adopt rules and regulations in
31 accordance with K.S.A. 77-415 et seq., and amendments thereto, not
32 inconsistent with the law and as it may deem proper or necessary, with
33 respect to the conduct of parole hearings, postrelease supervision reviews,
34 revocation hearings, orders of restitution, reimbursement of expenditures
35 by the state board of indigents' defense services and other conditions to
36 be imposed upon parolees or releasees. Whenever an order for parole or
37 postrelease supervision is issued it shall recite the conditions thereof.

38 (m) Whenever the Kansas parole board orders the parole of an
39 inmate or establishes conditions for an inmate placed on postrelease
40 supervision, the board:

41 (1) Unless it finds compelling circumstances which would render a
42 plan of payment unworkable, shall order as a condition of parole or
43 postrelease supervision that the parolee or the person on postrelease

1 supervision pay any transportation expenses resulting from returning the
2 parolee or the person on postrelease supervision to this state to answer
3 criminal charges or a warrant for a violation of a condition of probation,
4 assignment to a community correctional services program, parole,
5 conditional release or postrelease supervision;

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

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

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

19 (5) unless it finds compelling circumstances which would render a
20 plan of payment unworkable, shall order that the parolee or person on
21 postrelease supervision reimburse the state for all or part of the
22 expenditures by the state board of indigents' defense services to provide
23 counsel and other defense services to the person. In determining the
24 amount and method of payment of such sum, the parole board shall take
25 account of the financial resources of the person and the nature of the
26 burden that the payment of such sum will impose. Such amount shall not
27 exceed the amount claimed by appointed counsel on the payment voucher
28 for indigents' defense services or the amount prescribed by the board of
29 indigents' defense services reimbursement tables as provided in K.S.A.
30 22-4522, and amendments thereto, whichever is less, minus any previous
31 payments for such services.

32 (n) If the court which sentenced an inmate specified at the time of
33 sentencing the amount and the recipient of any restitution ordered as a
34 condition of parole or postrelease supervision, the Kansas parole board
35 shall order as a condition of parole or postrelease supervision that the
36 inmate pay restitution in the amount and manner provided in the journal
37 entry unless the board finds compelling circumstances which would
38 render a plan of restitution unworkable.

39 (o) Whenever the Kansas parole board grants the parole of an
40 inmate, the board, within ~~10~~ 14 days of the date of the decision to grant
41 parole, shall give written notice of the decision to the county or district
42 attorney of the county where the inmate was sentenced.

43 (p) When an inmate is to be released on postrelease supervision, the

1 secretary, within 30 days prior to release, shall provide the county or
2 district attorney of the county where the inmate was sentenced written
3 notice of the release date.

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

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

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

17 (t) For offenders sentenced prior to the effective date of this act who
18 are eligible for modification of their postrelease supervision obligation,
19 the department of corrections shall modify the period of postrelease
20 supervision as provided for by this section for offenders convicted of
21 severity level 9 and 10 crimes on the sentencing guidelines grid for
22 nondrug crimes and severity level 4 crimes on the sentencing guidelines
23 grid for drug crimes on or before September 1, 2000; for offenders
24 convicted of severity level 7 and 8 crimes on the sentencing guidelines
25 grid for nondrug crimes on or before November 1, 2000; and for
26 offenders convicted of severity level 5 and 6 crimes on the sentencing
27 guidelines grid for nondrug crimes and severity level 3 crimes on the
28 sentencing guidelines grid for drug crimes on or before January 1, 2001.

29 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
30 4643, *prior to its repeal, or section 267 of chapter 136 of the 2010*
31 *Session Laws of Kansas*, and amendments thereto, for crimes committed
32 on or after July 1, 2006, shall be placed on parole for life and shall not be
33 discharged from supervision by the Kansas parole board. When the board
34 orders the parole of an inmate pursuant to this subsection, the board shall
35 order as a condition of parole that the inmate be electronically monitored
36 for the duration of the inmate's natural life.

37 (v) Whenever the Kansas parole board or the court orders a person
38 to be electronically monitored, the board or court shall order the person to
39 reimburse the state for all or part of the cost of such monitoring. In
40 determining the amount and method of payment of such sum, the board
41 or court shall take account of the financial resources of the person and the
42 nature of the burden that the payment of such sum will impose.

43 Sec. 137. K.S.A. 22-3725 is hereby amended to read as follows: 22-

1 3725. (a) Except as otherwise provided for crimes committed by
 2 inmates on or after July 1, 1993, for the purpose of determining an
 3 inmate's eligibility for parole or conditional release, regardless of when
 4 the inmate was sentenced or committed the crime for which sentenced,
 5 good time credits shall be allocated as follows:

6 GOOD TIME TABLE
 7 (Assumed 360-Day Years, 30-Day Months)
 8

	SENTENCE		GOOD TIME EARNED		MUST SERVE	
	Minimum (or)	Maximum	Years	Months	Years	Months
9						
10						
11	1		0	4	0	8
12	2		1	0	1	0
13	3		1	6	1	6
14	4		2	0	2	0
15	5		2	6	2	6
16	6		3	0	3	0
17	7		3	6	3	6
18	8		4	0	4	0
19	9		4	6	4	6
20	10		5	0	5	0
21	11		5	6	5	6
22	12		6	0	6	0
23	13		6	6	6	6
24	14		7	0	7	0
25	15		7	6	7	6
26	16		8	0	8	0
27	17		8	6	8	6
28	18		9	0	9	0
29	19		9	6	9	6
30	20		10	0	10	0
31	21		10	6	10	6
32	22		11	0	11	0
33	23		11	6	11	6
34	24		12	0	12	0
35	25		12	6	12	6
36	26		13	0	13	0
37	27		13	6	13	6
38	28		14	0	14	0
39	29		14	6	14	6
40	30		15	0	15	0
41	31		15	6	15	6
42	32		16	0	16	0
43	33		16	6	16	6

1	34	17	0	17	0
2	35	17	6	17	6
3	36	18	0	18	0
4	37	18	6	18	6
5	38	19	0	19	0
6	39	19	6	19	6
7	40	20	0	20	0
8	41	20	6	20	6
9	42	21	0	21	0
10	43	21	6	21	6
11	44	22	0	22	0
12	45	22	6	22	6
13	46	23	0	23	0
14	47	23	6	23	6
15	48	24	0	24	0
16	49	24	6	24	6
17	50	25	0	25	0
18	51	25	6	25	6
19	52	26	0	26	0
20	53	26	6	26	6
21	54	27	0	27	0
22	55	27	6	27	6
23	56	28	0	28	0
24	57	28	6	28	6
25	58	29	0	29	0
26	59	29	6	29	6
27	60	30	0	30	0
28	61	30	6	30	6
29	62	31	0	31	0
30	63	31	6	31	6
31	64	32	0	32	0
32	65	32	6	32	6
33	66	33	0	33	0
34	67	33	6	33	6
35	68	34	0	34	0
36	69	34	6	34	6
37	70	35	0	35	0
38	71	35	6	35	6
39	72	36	0	36	0
40	73	36	6	36	6
41	74	37	0	37	0
42	75	37	6	37	6
43	76	38	0	38	0

1	77	38	6	38	6
2	78	39	0	39	0
3	79	39	6	39	6
4	80	40	0	40	0
5	81	40	6	40	6
6	82	41	0	41	0
7	83	41	6	41	6
8	84	42	0	42	0
9	85	42	6	42	6
10	86	43	0	43	0
11	87	43	6	43	6
12	88	44	0	44	0
13	89	44	6	44	6
14	90	45	0	45	0
15	91	45	6	45	6
16	92	46	0	46	0
17	93	46	6	46	6
18	94	47	0	47	0
19	95	47	6	47	6
20	96	48	0	48	0
21	97	48	6	48	6
22	98	49	0	49	0
23	99	49	6	49	6
24	100	50	0	50	0
25					

26 (b) Maximum good time credits for sentences of less than two years
 27 shall be computed as follows: One day for every two days served and one
 28 month for every year served.

29 (c) Maximum good time credits for sentences two years or greater
 30 shall be computed as follows: One-half of the sentence.

31 (d) Good time credits shall be awarded on an earned basis pursuant
 32 to rules and regulations adopted by the secretary of corrections.

33 (e) The provisions of this section shall not apply to crimes
 34 committed by inmates on or after July 1, 1993. Good time calculations
 35 for such crimes shall be as provided in K.S.A. 21-4722, *prior to its*
 36 *repeal, or section 302 of chapter 136 of the 2010 Session Laws of*
 37 *Kansas*, and amendments thereto.

38 (f) An inmate shall not be awarded good time credits pursuant to this
 39 section for any review period established by the secretary of corrections
 40 in which a court finds that the inmate has done any of the following while
 41 in the custody of the secretary of corrections:

- 42 (1) Filed a false or malicious action or claim with the court;
- 43 (2) brought an action or claim with the court solely or primarily for

1 delay or harassment;

2 (3) testified falsely or otherwise submitted false evidence or
3 information to the court;

4 (4) attempted to create or obtain a false affidavit, testimony or
5 evidence; or

6 (5) abused the discovery process in any judicial action or
7 proceeding.

8 Sec. 138. K.S.A. 2010 Supp. 22-3727 is hereby amended to read as
9 follows: 22-3727. (a) Prior to the release of any inmate on parole,
10 conditional release, expiration of sentence or postrelease supervision, if
11 an inmate is released into the community under a program under the
12 supervision of the secretary of corrections, or after the escape of an
13 inmate or death of an inmate while in the secretary of corrections'
14 custody, the secretary of corrections shall give written notice of such
15 release, escape or death to any victim of the inmate's crime who is alive
16 and whose address is known to the secretary or, if the victim is deceased,
17 to the victim's family if the family's address is known to the secretary.
18 Such notice shall be required to be given to the victim or the victim's
19 family only if the inmate was convicted of any crime in article 33, 34, 35
20 or 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
21 *repeal, or sections 33 through 86, 174, 210, 211 or 229 through 231 of*
22 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto. Failure to notify the victim or the victim's family as provided in
24 this section shall not be a reason for postponement of parole, conditional
25 release or other forms of release.

26 (b) As used in this section, "victim's family" means a spouse,
27 surviving spouse, children, parents, legal guardian, siblings, stepparent or
28 grandparents.

29 Sec. 139. K.S.A. 2010 Supp. 22-3727a is hereby amended to read as
30 follows: 22-3727a. (a) The secretary of corrections shall, as soon as
31 practicable, provide notification as provided in K.S.A. 22-3303, 22-3305,
32 22-3428, 22-3428a, 22-3430, 22-3431 and 22-3727, and amendments
33 thereto, and upon the escape or death of a committed defendant or inmate
34 while in the custody of the secretary of social and rehabilitation services,
35 to any victim of the defendant or inmate's crime whose address is known
36 to the secretary of corrections, and the victim's family, if so requested and
37 the family's addresses are known to the secretary of corrections. Such
38 notice shall be required to be given only if the defendant was charged
39 with, or the inmate was convicted of, any crime in article 33, 34, 35 or 36
40 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
41 *sections 33 through 86, 174, 210, 211 or 229 through 231 of chapter 136*
42 *of the 2010 Session Laws of Kansas*, and amendments thereto.

43 (b) As used in this section, "victim's family" means a spouse,

1 surviving spouse, children, parents, legal guardian, siblings, stepparent or
2 grandparents.

3 Sec. 140. K.S.A. 2010 Supp. 22-4614 is hereby amended to read as
4 follows: 22-4614. No law enforcement officer, government official or
5 prosecutor shall request or require any person who is alleged to be a
6 victim of an offense described in ~~article 35 of chapter 21 of the Kansas~~
7 ~~Statutes Annotated~~ *sections 65 through 77 or 229 through 231 of chapter*
8 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, incest
9 as defined in ~~K.S.A. 21-3602~~ *subsection (a) of section 81 of chapter 136*
10 *of the 2010 Session Laws of Kansas*, and amendments thereto, or
11 aggravated incest as defined in subsection (a)(2) of ~~K.S.A. 21-~~
12 ~~3603~~ *subsection (b)(2) of section 81 of chapter 136 of the 2010 Session*
13 *Laws of Kansas*, and amendments thereto, to submit to a polygraph
14 examination or similar truth telling device as a condition for proceeding
15 with an investigation, or charging or prosecuting such an offense.

16 Sec. 141. K.S.A. 2010 Supp. 22-4616 is hereby amended to read as
17 follows: 22-4616. (a) On and after July 1, 2011, in all criminal cases, if
18 there is evidence that the defendant committed a domestic violence
19 offense, the trier of fact shall determine whether the defendant committed
20 a domestic violence offense.

21 (1) Except as provided further, if the trier of fact determines that the
22 defendant committed a domestic violence offense, the court shall place a
23 domestic violence designation on the criminal case and the defendant
24 shall be subject to the provisions of subsection (p) of ~~K.S.A. 21-~~
25 ~~4603~~ *section 244 of chapter 136 of the 2010 Session Laws of Kansas*,
26 and amendments thereto.

27 (2) The court shall not place a domestic violence designation on the
28 criminal case and the defendant shall not be subject to the provisions of
29 subsection (p) of ~~K.S.A. 21-4603~~ *section 244 of chapter 136 of the 2010*
30 *Session Laws of Kansas*, and amendments thereto, only if the court finds
31 on the record that:

32 (A) The defendant has not previously committed a domestic
33 violence offense or participated in a diversion upon a complaint alleging
34 a domestic violence offense; and

35 (B) the domestic violence offense was not used to coerce, control,
36 punish, intimidate or take revenge against a person with whom the
37 offender is involved or has been involved in a dating relationship or
38 against a family or household member.

39 (b) The term "domestic violence offense" shall have the meaning
40 provided in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session*
41 *Laws of Kansas*, and amendments thereto.

42 (c) This section shall be a part of and supplemental to the Kansas
43 code for criminal procedure.

1 Sec. 142. K.S.A. 2010 Supp. 22-4617 is hereby amended to read as
2 follows: 22-4617. In all criminal cases, when a complaint is filed
3 charging a defendant with commission of any crime whereby the
4 underlying factual basis includes an act of domestic violence, as defined
5 in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto, the court may place a "DV" designation
7 in the unique identifying case number assigned to such case. Nothing in
8 this section shall be construed to limit the courts of this state from
9 adopting a system of case designation deemed by the courts to be
10 beneficial to the efficient administration of justice.

11 Sec. 143. K.S.A. 22-4807a is hereby amended to read as follows:
12 22-4807a. (a) The following property is subject to forfeiture pursuant to
13 this act:

14 (1) Contraband property used or intended to be used in the
15 commission of theft of livestock;

16 (2) the proceeds gained from the commission of theft of livestock;

17 (3) personal property acquired with proceeds gained from the
18 commission of theft of livestock;

19 (4) all conveyances, including aircraft, vehicles, vessels, horses or
20 dogs which are used or intended for the use to transport or in any manner
21 to facilitate the transportation for the purpose of the commission of theft
22 of livestock. No conveyance used by any person as a common carrier in
23 the transportation of business as a common carrier is subject to forfeiture
24 under this section unless it appears that the owner or other person in
25 charge of the conveyance is a consenting party or privy to a violation of
26 this act. No conveyance is subject to forfeiture under this section by
27 reason of any act or omission established by the owners thereof to have
28 been committed or omitted without the owners knowledge or consent. A
29 forfeiture of a conveyance encumbered by a bona fide security interest is
30 subject to the interest of the secured party or parties;

31 (5) all books, records and research products and materials including
32 microfilm, tapes and data which are used or intended for the use in the
33 theft of livestock;

34 (6) everything of value furnished, or intended to be furnished or
35 traded or used as payment or invested for anything of value but shall not
36 include real property. It may be presumed that this property was acquired
37 with proceeds gained from the commission of theft of livestock and are
38 subject to forfeiture;

39 (b) Property which is used in the commission of theft of livestock
40 which has title of ownership with two parties on the title or a cosigner is
41 subject to forfeiture, if one party on the title uses the property in the
42 commission of theft of livestock or receives titled property as the
43 proceeds of such felony even if the second party claims that such second

1 party did not have knowledge or involvement in such felony.

2 (c) As used in this act: (1) "Contraband property" means property of
3 any nature including personal, tangible or intangible but shall not include
4 real property.

5 (2) "Livestock" means cattle, swine, sheep, goats, horses, mules,
6 domesticated deer and all creatures of the ratite family that are not
7 indigenous to this state, including but not limited to ostriches, emus and
8 rheas, and any carcass, skin or part of such animal.

9 (3) "Theft of livestock" means theft which is classified as a felony
10 violation, pursuant to ~~K.S.A. 21-3701~~ *section 87 of chapter 136 of the*
11 *2010 Session Laws of Kansas*, and amendments thereto, in which the
12 property taken was livestock.

13 (4) "Domesticated deer" means any member of the family cervidae
14 which was legally obtained and is being sold or raised in a confined area
15 for breeding stock; for any carcass, skin or part of such animal; for
16 exhibition; or for companionship.

17 Sec. 144. K.S.A. 2010 Supp. 22-4902 is hereby amended to read as
18 follows: 22-4902. As used in the Kansas offender registration act, unless
19 the context otherwise requires:

20 (a) "Offender" means: (1) A sex offender as defined in subsection
21 (b);

22 (2) a violent offender as defined in subsection (d);

23 (3) a sexually violent predator as defined in subsection (f);

24 (4) any person who, on and after May 29, 1997, is convicted of any
25 of the following crimes when the victim is less than 18 years of age:

26 (A) Kidnapping as defined in K.S.A. 21-3420, *prior to its repeal, or*
27 *subsection (a) of section 43 of chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto, except by a parent;

29 (B) aggravated kidnapping as defined in K.S.A. 21-3421, *prior to its*
30 *repeal, or subsection (b) of section 43 of chapter 136 of the 2010 Session*
31 *Laws of Kansas*, and amendments thereto; or

32 (C) criminal restraint as defined in K.S.A. 21-3424, *prior to its*
33 *repeal, or section 46 of chapter 136 of the 2010 Session Laws of Kansas*,
34 and amendments thereto, except by a parent;

35 (5) any person convicted of any of the following criminal sexual
36 conduct if one of the parties involved is less than 18 years of age:

37 (A) Adultery as defined by K.S.A. 21-3507, *prior to its repeal, or*
38 *section 75 of chapter 136 of the 2010 Session Laws of Kansas*, and
39 amendments thereto;

40 (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-
41 3505, *prior to its repeal, or subsection (a)(1) or (a)(2) of section 68 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto;

1 (C) promoting prostitution as defined by K.S.A. 21-3513, *prior to*
2 *its repeal, or section 230 of chapter 136 of the 2010 Session Laws of*
3 *Kansas*, and amendments thereto;

4 (D) patronizing a prostitute as defined by K.S.A. 21-3515, *prior to*
5 *its repeal, or section 231 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto; or

7 (E) lewd and lascivious behavior as defined by K.S.A. 21-3508,
8 *prior to its repeal, or section 77 of chapter 136 of the 2010 Session Laws*
9 *of Kansas*, and amendments thereto;

10 (6) any person who has been required to register under any federal,
11 military or other state's law or is otherwise required to be registered;

12 (7) any person who, on or after July 1, 2006, is convicted of any
13 person felony and the court makes a finding on the record that a deadly
14 weapon was used in the commission of such person felony;

15 (8) any person who has been convicted of an offense in effect at any
16 time prior to May 29, 1997, that is comparable to any crime defined in
17 subsection (4), (5), (7) or (11), or any federal, military or other state
18 conviction for an offense that under the laws of this state would be an
19 offense defined in subsection (4), (5), (7) or (11);

20 (9) any person who has been convicted of an attempt, conspiracy or
21 criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303,
22 *prior to their repeal, or section 33, 34 or 35 of chapter 136 of the 2010*
23 *Session Laws of Kansas*, and amendments thereto, of an offense defined
24 in subsection (4), (5), (7) or (10);

25 (10) any person who has been convicted of aggravated human
26 trafficking as defined in K.S.A. 21-3447, *prior to its repeal, or subsection*
27 *(b) of section 61 of chapter 136 of the 2010 Session Laws of Kansas*, and
28 amendments thereto; or

29 (11) any person who has been convicted of: (A) Unlawful
30 manufacture or attempting such of any controlled substance or controlled
31 substance analog as defined by K.S.A. 65-4159, prior to its repeal, or
32 K.S.A. 2010 Supp. 21-36a03, and amendments thereto, unless the court
33 makes a finding on the record that the manufacturing or attempting to
34 manufacture such controlled substance was for such person's personal
35 use;

36 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
37 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
38 ammonia or phenylpropanolamine, or their salts, isomers or salts of
39 isomers with intent to use the product to manufacture a controlled
40 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
41 repeal, or subsection (a) of K.S.A. 2010 Supp. 21-36a09, and
42 amendments thereto, unless the court makes a finding on the record that
43 the possession of such product was intended to be used to manufacture a

1 controlled substance for such person's personal use; or

2 (C) K.S.A. 65-4161, prior to its repeal, or subsection (a)(1) of
3 K.S.A. 2010 Supp. 21-36a05, and amendments thereto. The provisions of
4 this paragraph shall not apply to violations of subsections (a)(2) through
5 (a)(6) or (b) of K.S.A. 2010 Supp. 21-36a05, and amendments thereto,
6 which occurred on and after July 1, 2009, through ~~the effective date of~~
7 ~~this act~~ *April 15, 2010.*

8 Convictions which result from or are connected with the same act, or
9 result from crimes committed at the same time, shall be counted for the
10 purpose of this section as one conviction. Any conviction set aside
11 pursuant to law is not a conviction for purposes of this section. A
12 conviction from another state shall constitute a conviction for purposes of
13 this section.

14 (b) "Sex offender" includes any person who, on or after April 14,
15 1994, is convicted of any sexually violent crime set forth in subsection (c)
16 or is adjudicated as a juvenile offender for an act which if committed by
17 an adult would constitute the commission of a sexually violent crime set
18 forth in subsection (c).

19 (c) "Sexually violent crime" means:

20 (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or section*
21 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
22 thereto;

23 (2) indecent liberties with a child as defined in K.S.A. 21-3503,
24 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
25 *2010 Session Laws of Kansas*, and amendments thereto;

26 (3) aggravated indecent liberties with a child as defined in K.S.A.
27 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter*
28 *136 of the 2010 Session Laws of Kansas*, and amendments thereto;

29 (4) criminal sodomy as defined in subsection (a)(2) ~~and~~ (a)(3) of
30 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of*
31 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
32 amendments thereto;

33 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior*
34 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
35 *Session Laws of Kansas*, and amendments thereto;

36 (6) indecent solicitation of a child as defined by K.S.A. 21-3510,
37 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
38 *2010 Session Laws of Kansas*, and amendments thereto;

39 (7) aggravated indecent solicitation of a child as defined by K.S.A.
40 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
41 *of the 2010 Session Laws of Kansas*, and amendments thereto;

42 (8) sexual exploitation of a child as defined by K.S.A. 21-3516,
43 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*

- 1 *of Kansas, and amendments thereto;*
2 (9) *sexual battery as defined by K.S.A. 21-3517, prior to its repeal,*
3 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws*
4 *of Kansas, and amendments thereto;*
5 (10) *aggravated sexual battery as defined by K.S.A. 21-3518, prior*
6 *to its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
7 *Session Laws of Kansas, and amendments thereto;*
8 (11) *aggravated incest as defined by K.S.A. 21-3603, prior to its*
9 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
10 *Laws of Kansas, and amendments thereto;*
11 (12) *electronic solicitation as defined by K.S.A. 21-3523, prior to its*
12 *repeal, and section 73 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto, committed on or after April 17, 2008;*
14 (13) *unlawful sexual relations as defined by K.S.A. 21-3520, prior*
15 *to its repeal, or section 76 of chapter 136 of the 2010 Session Laws of*
16 *Kansas, and amendments thereto, committed on or after July 1, 2010;*
17 (14) *any conviction for an offense in effect at any time prior to April*
18 *29, 1993, that is comparable to a sexually violent crime as defined in*
19 *subparagraphs (1) through (11), or any federal, military or other state*
20 *conviction for an offense that under the laws of this state would be a*
21 *sexually violent crime as defined in this section;*
22 (15) *an attempt, conspiracy or criminal solicitation, as defined in*
23 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33,*
24 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and*
25 *amendments thereto, of a sexually violent crime, as defined in this*
26 *section; or*
27 (16) *any act which at the time of sentencing for the offense has been*
28 *determined beyond a reasonable doubt to have been sexually motivated.*
29 *As used in this subparagraph, "sexually motivated" means that one of the*
30 *purposes for which the defendant committed the crime was for the*
31 *purpose of the defendant's sexual gratification.*
32 (d) *"Violent offender" includes any person who, on or after May 29,*
33 *1997, is convicted of any of the following crimes:*
34 (1) *Capital murder as defined by K.S.A. 21-3439, prior to its repeal,*
35 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas, and*
36 *amendments thereto;*
37 (2) *murder in the first degree as defined by K.S.A. 21-3401, prior to*
38 *its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
39 *Kansas, and amendments thereto;*
40 (3) *murder in the second degree as defined by K.S.A. 21-3402, prior*
41 *to its repeal, or section 38 of chapter 136 of the 2010 Session Laws of*
42 *Kansas, and amendments thereto;*
43 (4) *voluntary manslaughter as defined by K.S.A. 21-3403, prior to*

1 *its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
2 *Kansas, and amendments thereto;*

3 (5) *involuntary manslaughter as defined by K.S.A. 21-3404, prior to*
4 *its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
5 *Kansas, and amendments thereto;*

6 (6) *any conviction for an offense in effect at any time prior to May*
7 *29, 1997, that is comparable to any crime defined in this subsection, or*
8 *any federal, military or other state conviction for an offense that under the*
9 *laws of this state would be an offense defined in this subsection; or*

10 (7) *an attempt, conspiracy or criminal solicitation, as defined in*
11 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or section 33,*
12 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and*
13 *amendments thereto, of an offense defined in this subsection.*

14 (e) "Law enforcement agency having jurisdiction" means the sheriff
15 of the county in which the offender expects to reside upon the offender's
16 discharge, parole or release.

17 (f) "Sexually violent predator" means any person who, on or after
18 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
19 59-29a01 et seq., and amendments thereto.

20 (g) "Nonresident student or worker" includes any offender who
21 crosses into the state or county for more than 14 days, or for an aggregate
22 period exceeding 30 days in a calendar year, for the purposes of
23 employment, with or without compensation, or to attend school as a
24 student.

25 (h) "Aggravated offenses" means engaging in sexual acts involving
26 penetration with victims of any age through the use of force or the threat
27 of serious violence, or engaging in sexual acts involving penetration with
28 victims less than 14 years of age, and includes the following offenses:

29 (1) Rape as defined in subsection (a)(1)(A) ~~and subsection (a)(2)~~
30 *of K.S.A. 21-3502, prior to its repeal, or subsection (a)(1)(A) or (a)(3) of*
31 *section 67 of chapter 136 of the 2010 Session Laws of Kansas, and*
32 *amendments thereto;*

33 (2) aggravated criminal sodomy as defined in subsection (a)(1) ~~and~~
34 ~~subsection (a)(3)(A)~~ of K.S.A. 21-3506, *prior to its repeal, or*
35 *subsection (b)(1) or (b)(3)(A) of section 68 of chapter 136 of the 2010*
36 *Session Laws of Kansas, and amendments thereto; and*

37 (3) any attempt, conspiracy or criminal solicitation, as defined in
38 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
39 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas, and*
40 *amendments thereto, of an offense defined in this subsection.*

41 (i) "Institution of higher education" means any postsecondary school
42 under the supervision of the Kansas board of regents.

43 Sec. 145. K.S.A. 2010 Supp. 22-4906 is hereby amended to read as

1 follows: 22-4906. (a) Except as provided in subsection (d), any person
2 required to register as provided in this act shall be required to register: (1)
3 Upon the first conviction of a sexually violent crime as defined in
4 subsection (c) of K.S.A. 22-4902, and amendments thereto, any offense
5 as defined in subsection (a) of K.S.A. 22-4902, and amendments thereto,
6 or any offense as defined in subsection (d) of K.S.A. 22-4902, and
7 amendments thereto, if not confined, for a period of 10 years after
8 conviction, or, if confined, for a period of 10 years after paroled,
9 discharged or released, whichever date is most recent. The ten-year
10 period shall not apply to any person while the person is incarcerated in
11 any jail or correctional facility. The ten-year registration requirement does
12 not include any time period when any person who is required to register
13 under this act knowingly or willfully fails to comply with the registration
14 requirement; or (2) upon a second or subsequent conviction for such
15 person's lifetime.

16 (b) Upon the first conviction, liability for registration terminates, if
17 not confined, at the expiration of 10 years from the date of conviction, or,
18 if confined, at the expiration of 10 years from the date of parole,
19 discharge or release, whichever date is most recent. The ten-year period
20 shall not apply to any person while the person is incarcerated in any jail
21 or correctional facility. The ten-year registration requirement does not
22 include any time period when any person who is required to register
23 under this act knowingly or willfully fails to comply with the registration
24 requirement. Liability for registration does not terminate if the convicted
25 offender again becomes liable to register as provided by this act during
26 that period.

27 (c) Any person who has been convicted of an aggravated offense
28 shall be required to register for such person's lifetime.

29 (d) Any person who has been convicted of any of the following
30 offenses shall be required to register for such person's lifetime:

31 (1) Aggravated human trafficking, as defined in K.S.A. 21-3447,
32 *prior to its repeal, or section 61 of chapter 136 of the 2010 Session Laws*
33 *of Kansas*, and amendments thereto, if the victim is less than 14 years of
34 age;

35 (2) rape, as defined in subsection (a)(2) of K.S.A. 21-3502, *prior to*
36 *its repeal, or subsection (a)(3) of section 67 of chapter 136 of the 2010*
37 *Session Laws of Kansas*, and amendments thereto;

38 (3) aggravated indecent liberties with a child, as defined in
39 subsection (a)(3) of K.S.A. 21-3504, *prior to its repeal, or subsection (b)*
40 *(3) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and
41 amendments thereto;

42 (4) aggravated criminal sodomy, as defined in subsection (a)(1) or
43 (a)(2) of K.S.A. 21-3506, *prior to its repeal, or subsection (b)(1) or (b)*

1 (2) of section 68 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto;

3 (5) promoting prostitution, as defined in K.S.A. 21-3513, *prior to its*
4 *repeal, or section 230 of chapter 136 of the 2010 Session Laws of Kansas,*
5 and amendments thereto, if the prostitute is less than 14 years of age;

6 (6) sexual exploitation of a child, as defined in subsection (a)(5) or
7 (a)(6) of K.S.A. 21-3516, *prior to its repeal, or subsection (a)(1) or (a)*
8 *(4) of section 74 of chapter 136 of the 2010 Session Laws of Kansas, and*
9 *amendments thereto, if the child is less than 14 years of age and*
10 ~~amendments thereto~~; or

11 (7) any attempt, conspiracy or criminal solicitation, as defined in
12 K.S.A. 21-3301, 21-3302 or 21-3303, *prior to their repeal, or section 33,*
13 *34 or 35 of chapter 136 of the 2010 Session Laws of Kansas,* and
14 amendments thereto, of an offense defined in this subsection.

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

18 (f) Any nonresident worker shall register for the duration of such
19 person's employment. The provisions of this subsection are in addition to
20 subsections (a) and (b).

21 (g) Any nonresident student shall register for the duration of such
22 person's attendance at a school or educational institution as provided in
23 this act. The provisions of this subsection are in addition to subsections
24 (a) and (b).

25 (h) (1) Notwithstanding any other provisions of this section, a
26 person who is adjudicated as a juvenile offender for an act which if
27 committed by an adult would constitute the commission of a sexually
28 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
29 amendments thereto, and such crime is an off-grid felony or a felony
30 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
31 4704, *prior to its repeal, or section 285 of chapter 136 of the 2010*
32 *Session Laws of Kansas,* and amendments thereto, shall be required to
33 register until such person reaches 18 years of age, at the expiration of five
34 years from the date of adjudication or, if confined, from release from
35 confinement, whichever date occurs later. The five-year period shall not
36 apply to any person while that person is incarcerated in any jail, juvenile
37 facility or correctional facility. The five-year registration requirement
38 does not include any time period when any person who is required to
39 register under this act knowingly or willfully fails to comply with the
40 registration requirement.

41 (2) (A) A person who is adjudicated as a juvenile offender for an act
42 which if committed by an adult would constitute the commission of a
43 sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and

1 amendments thereto, and such crime is not an off-grid felony or a felony
2 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
3 4704, *prior to its repeal, or section 285 of chapter 136 of the 2010*
4 *Session Laws of Kansas*, and amendments thereto, may, by the court:

5 (i) Be required to register pursuant to the provisions of paragraph
6 (1);

7 (ii) not be required to register if the judge, on the record, finds
8 substantial and compelling reasons therefor; or

9 (iii) be required to register with the sheriff pursuant to K.S.A. 22-
10 4904, and amendments thereto, but such registration information shall not
11 be open to inspection by the public or posted on any internet website, as
12 provided in K.S.A. 22-4909, and amendments thereto. If the court
13 requires the juvenile to register but such registration is not open to the
14 public, the juvenile shall provide a copy of such court order to the sheriff
15 at the time of registration. The sheriff shall forward a copy of such court
16 order to the Kansas bureau of investigation.

17 (B) If such juvenile offender violates a condition of release during
18 the term of the conditional release, the judge may require the juvenile
19 offender to register pursuant to paragraph (1).

20 (3) Liability for registration does not terminate if the adjudicated
21 offender again becomes liable to register as provided by this act during
22 the required period.

23 (4) The provisions of paragraph (2)(A)(ii) shall apply to
24 adjudications on and after July 1, 2007, and retroactively to adjudications
25 prior to July 1, 2007.

26 (i) Any person moving to the state of Kansas who has been
27 convicted in another state, and who was required to register under that
28 state's laws, shall register for the same length of time required by that
29 state or Kansas, whichever length of time is longer. The provisions of this
30 subsection shall apply to convictions prior to June 1, 2006, and to persons
31 who moved to Kansas prior to June 1, 2006.

32 Sec. 146. K.S.A. 2010 Supp. 28-177 is hereby amended to read as
33 follows: 28-177. (a) Except as provided further, the fees established by
34 legislative enactment shall be the only fee collected or moneys in the
35 nature of a fee collected for court procedures. Such fee shall only be
36 established by an act of the legislature and no other authority is
37 established by law or otherwise to collect a fee. Court procedures shall
38 include docket fees, filing fees or other fees related to access to court
39 procedures. On and after the effective date of this act through June 30,
40 2011, the supreme court may impose an additional charge, not to exceed
41 \$21 per fee or the amount established by the applicable statute, whichever
42 amount is less, to fund the costs of non-judicial personnel.

43 (b) Any additional charge imposed by the court pursuant to K.S.A.

1 8-2107, 8-2110, ~~21-4619~~, 22-2410, 23-108a, 28-170, 28-172a, 59-104,
2 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and, K.S.A. 2010
3 Supp. 28-178, 38-2215, 38-2312 and 38-2314, *and section 254 of chapter*
4 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
5 be remitted to the state treasurer in accordance with the provisions of
6 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
7 remittance, the state treasurer shall deposit the entire amount in the state
8 treasury to the credit of the judicial branch surcharge fund, which is
9 hereby created in the state treasury.

10 (c) All moneys credited to the judicial branch surcharge fund shall
11 be used for compensation of non-judicial personnel and shall not be
12 expended for compensation of judges or justices of the judicial branch.

13 (d) All expenditures from the judicial branch surcharge fund shall be
14 made in accordance with appropriation acts and upon warrants of the
15 director of accounts and reports issued pursuant to payrolls approved by
16 the chief justice of the Kansas supreme court or by a person or persons
17 designated by the chief justice.

18 Sec. 147. K.S.A. 2010 Supp. 32-1013 is hereby amended to read as
19 follows: 32-1013. (a) Any landowner or person in lawful possession of
20 any land may post such land with signs stating that hunting, trapping or
21 fishing on such land shall be by written permission only. It is unlawful for
22 any person to take wildlife on land which is posted as provided in this
23 subsection, without having in the person's possession the written
24 permission of the owner or person in lawful possession thereof.

25 (b) Instead of posting land as provided in subsection (a), any
26 landowner or person in lawful possession of any land may post such land
27 by placing identifying purple paint marks on trees or posts around the
28 area to be posted. Each paint mark shall be a vertical line of at least eight
29 inches in length and the bottom of the mark shall be no less than three
30 feet nor more than five feet high. Such paint marks shall be readily visible
31 to any person approaching the land. Land posted as provided in this
32 subsection shall be considered to be posted by written permission only as
33 provided in subsection (a).

34 (c) A person licensed to hunt or furharvest who is following or
35 pursuing a wounded animal on land as provided in this section posted
36 without written permission of the landowner or person in lawful
37 possession thereof shall not be in violation of this section while in such
38 pursuit, except that the provisions of this subsection shall not authorize a
39 person to remain on such land if instructed to leave by the owner or
40 person in lawful possession of the land. Any person who fails to leave
41 such land when instructed is subject to the provisions of subsection (b) of
42 ~~K.S.A. 21-3728~~*section 96 of chapter 136 of the 2010 Session Laws of*
43 *Kansas*, and amendments thereto.

1 (d) Any person convicted of violating provisions of this section shall
2 be subject to the penalties prescribed in K.S.A. 32-1031, and amendments
3 thereto, except as provided in K.S.A. 32-1032, and amendments thereto,
4 relating to big game and wild turkey.

5 Sec. 148. K.S.A. 2010 Supp. 32-1047 is hereby amended to read as
6 follows: 32-1047. The department is hereby empowered and directed to
7 seize and possess any wildlife which is taken, possessed, sold or
8 transported unlawfully, and any steel trap, snare or other device or
9 equipment used in taking or transporting wildlife unlawfully or during
10 closed season. The department is hereby authorized and directed to:

11 (a) Sell the seized item, including wildlife parts with a dollar value,
12 and remit the proceeds to the state treasurer in accordance with the
13 provisions of K.S.A. 75-4215, and amendments thereto. If the seized item
14 is a firearm that has been forfeited pursuant to ~~K.S.A. 21-4206~~*section*
15 *192 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
16 thereto, then it may be sold unless: (1) The firearm is significantly altered
17 in any manner; or (2) the sale and public possession of such firearm is
18 otherwise prohibited by law. Upon receipt of each such remittance, the
19 state treasurer shall deposit the entire amount in the state treasury to the
20 credit of the wildlife fee fund; or

21 (b) retain the seized item for educational, scientific or department
22 operational purposes.

23 Sec. 149. K.S.A. 2010 Supp. 32-1063 is hereby amended to read as
24 follows: 32-1063. It shall be unlawful for any person whose license,
25 privilege, or right to hunt, fish, trap, possess, or transport wildlife, having
26 been suspended or revoked pursuant to the wildlife violator compact, to
27 exercise that right or privilege within this state or to purchase or possess
28 such a license which grants such right or privilege.

29 (a) Any person who knowingly hunts, fishes, traps, possesses, or
30 transports any wildlife, or attempts to do any of the same, within this state
31 in violation of such suspension or revocation pursuant to the wildlife
32 violator compact shall be guilty of a class A nonperson misdemeanor and
33 sentenced to the following:

34 (1) A fine of not less than \$1,500 nor more than \$5,000; and

35 (2) any privilege or right to hunt, fish, trap or otherwise take,
36 possess or transport any wildlife in this state, or purchase or possess any
37 license, permit, stamp or other issue of the Kansas department of wildlife
38 and parks shall be forfeited or suspended for a period of not less than two
39 years nor more than five years in addition to and consecutive to the
40 original revocation or suspension set forth by the provisions of the
41 compact;

42 (3) the sentencing judge may impose other sanctions pursuant to
43 ~~K.S.A. 21-4502 and 21-4603~~*sections 242 and 244 of chapter 136 of the*

1 *2010 Session Laws of Kansas*, and amendments thereto.

2 (b) Any person who knowingly purchases or possesses, or attempts
3 to purchase or possess, a license to hunt, fish, trap, possess or transport
4 wildlife in this state in violation of such suspension or revocation
5 pursuant to the wildlife violator compact shall be guilty of a class A
6 nonperson misdemeanor and sentenced to the following:

7 (1) A fine of not less than \$750 nor more than \$2,500; and

8 (2) any privilege or right to hunt, fish, trap or otherwise take,
9 possess or transport any wildlife in this state, or purchase or possess any
10 license, permit, stamp or other issue of the Kansas department of wildlife
11 and parks shall be forfeited or suspended for a period of not less than two
12 years in addition to and consecutive to the original revocation or
13 suspension set forth by the provisions of the compact;

14 (3) the sentencing judge may impose other sanctions pursuant to
15 ~~K.S.A. 21-4502 and 21-4603~~ *sections 242 and 244 of chapter 136 of the*
16 *2010 Session Laws of Kansas*, and amendments thereto.

17 Sec. 150. K.S.A. 34-228 is hereby amended to read as follows: 34-
18 228. (a) Any person desiring to engage in business as a public
19 warehouseman in this state shall, before the transaction of any such
20 business, make written application to the secretary for a license for each
21 separate warehouse or, if the applicant owns more than one warehouse at
22 one point, all of such warehouses may be incorporated in one application,
23 at which the person desires to engage in such business. The application
24 for a license shall be on a form designated by the secretary and shall
25 contain the individual name and address of each person interested as
26 principal in the business and, if the business is operated or to be operated
27 by a corporation, setting forth the names of the president and secretary,
28 and such further information as the secretary may require.

29 (b) (1) Every application for a public warehouse license shall be
30 accompanied by a current financial statement. The statement shall include
31 such information as required by the secretary to administer and enforce
32 the public warehouse laws of this state, including, but not limited to a
33 current balance sheet, statement of income, including profit and loss,
34 statement of retained earnings and statement of changes in financial
35 position. The applicant shall certify under oath that the statement as
36 prepared accurately reflects the financial condition of the applicant as of
37 the date specified and presents fairly the results of operations of the
38 applicant's public warehouse business for the period specified. The
39 financial statement shall be prepared in accordance with generally
40 accepted accounting principles and shall be accompanied by: (A) A report
41 of audit or review conducted by an independent certified public
42 accountant or an independent public accountant in accordance with
43 standards established by the American institute of certified public

1 accountants and the accountant's certifications, assurances, opinions,
2 comments and notes with respect to the statement; or (B) a compilation
3 report of the financial statement, prepared by a grain commission firm or
4 management firm which is authorized pursuant to rules and regulations of
5 the federal commodity credit corporation to provide compilation reports
6 of financial statements of warehousemen.

7 (2) Except as otherwise provided, the secretary, upon request of an
8 applicant, may grant a waiver of the requirements of this subsection for a
9 period of not more than 30 days if the applicant furnishes evidence of
10 good and substantial reasons for the waiver. The secretary may extend
11 such waiver beyond 30 days for grain stored in an alternative location
12 other than a location identified in the public warehouse license, if the
13 secretary determines that the owner of the grain would suffer substantial
14 hardship to require the grain to be stored at a location identified in the
15 license. The secretary may determine what constitutes substantial
16 hardship and what length of time the grain may be stored at such
17 alternative location.

18 (c) (1) Every applicant for a license to operate one or more public
19 warehouses and every person licensed to operate one or more warehouses
20 shall at all times maintain total net worth liable for the payment of any
21 indebtedness arising from the conduct of the warehouse or warehouses
22 equal to at least \$.25 per bushel of the storage capacity of the warehouse
23 or warehouses except: (A) No person shall be granted a license or shall
24 continue to be licensed unless the person has a net worth of at least
25 \$25,000; and (B) any deficiency in net worth required above the \$25,000
26 minimum may be supplied by an increase in the amount of the applicant's
27 or licensee's bond or letter of credit as provided by K.S.A. 34-229 and
28 amendments thereto.

29 (2) In determining total net worth: (A) Credit may be given for
30 insurable property such as buildings, machinery, equipment and
31 merchandise inventory only to the extent that the property is protected by
32 insurance against loss or damage by fire; and (B) capital stock, as such,
33 shall not be considered a liability.

34 (d) No license shall be issued to a person or entity not previously
35 licensed in this state and making application for an original license who,
36 in this state or any other jurisdiction, within the 10 years immediately
37 prior to the date of the application of the person or entity for a license, has
38 been convicted of or has pleaded guilty or *nolo contendere* to any crime
39 which would constitute:

40 (1) Embezzlement;

41 (2) any felony defined in any statute contained in article 37 of
42 chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
43 *sections 87 through 125 and subsection (a)(6) of section 223 of chapter*

1 *136 of the 2010 Session Laws of Kansas*, and amendments thereto;
 2 (3) unauthorized delivery of stored goods;
 3 (4) any felony defined in any statute contained in chapter 34 of the
 4 Kansas Statutes Annotated, and amendments thereto; or
 5 (5) a violation of the United States warehouse act (7 U.S.C. § 241 *et*
 6 *seq.*).
 7 (e) The secretary may investigate any applicant making application
 8 for an original license for the purpose of determining if such person
 9 would be qualified to receive such license under the provisions of this
 10 section.

11 (f) (1) Every application for a public warehouse license shall be
 12 accompanied by a license fee which shall be determined and fixed by the
 13 secretary by rules and regulations. The license fee shall not be more than
 14 the applicable amount shown in the following fee schedule plus not more
 15 than \$500 for each functional unit:

Capacity in Bushels	ANNUAL FEE
	Not more than
19 1 to 100,000.....	\$500.00
20 100,001 to 150,000.....	525
21 150,001 to 250,000.....	550
22 250,001 to 300,000.....	600
23 300,001 to 350,000.....	625
24 350,001 to 400,000.....	650
25 400,001 to 450,000.....	700
26 450,001 to 500,000.....	725
27 500,001 to 600,000.....	775
28 600,001 to 700,000.....	800
29 700,001 to 800,000.....	850
30 800,001 to 900,000.....	875
31 900,001 to 1,000,000.....	900
32 1,000,001 to 1,750,000.....	1225
33 1,750,001 to 2,500,000.....	1400
34 2,500,001 to 5,000,000.....	1750
35 5,000,001 to 7,500,000.....	2100
36 7,500,001 to 10,000,000.....	2375
37 10,000,001 to 12,500,000.....	2600
38 12,500,001 to 15,000,000.....	2800
39 15,000,001 to 17,500,000.....	3000
40 17,500,001 to 20,000,000.....	3225
41 For each 2,500,000 bushels or fraction over	
42 20,000,000 bushels.....	350

1 (2) Whenever a licensed warehouseman purchases or acquires
2 additional facilities, the warehouseman, if otherwise qualified, may
3 acquire a license for the remainder of an unexpired license period by
4 paying to the secretary a license fee computed as follows: If the
5 unexpired license period is nine months or more, the annual fee; if the
6 unexpired license period is more than six months and less than nine
7 months, 75% of the annual fee; if the unexpired license period is more
8 than three months and not more than six months, 50% of the annual fee;
9 and if the unexpired license period is three months or less than three
10 months, 25% of the annual fee.

11 (3) In addition to any other applicable fee, the secretary shall charge
12 and collect a fee each time a public warehouse license is amended in an
13 amount of not more than \$300 which shall be determined and fixed by the
14 secretary by rules and regulations.

15 (4) Nothing in this subsection shall be construed to authorize a
16 refund for any unused portion of an issued license.

17 (g) The secretary shall examine each warehouse operated by a
18 licensed public warehouseman at least once in each 12-month period. The
19 licensed public warehouseman may request additional examinations of
20 any warehouse operated by the warehouseman. The cost of additional
21 examinations when requested by the warehouseman shall be charged to
22 the warehouseman requesting the examination. The cost of each
23 additional examination requested by a warehouseman shall be an amount
24 determined therefor in accordance with an hourly rate fixed by the
25 secretary of not more than \$50 per hour, subject to a minimum charge of
26 four hours for the examination, plus amounts for subsistence expense at
27 the rate fixed under K.S.A. 75-3207a, and amendments thereto and for
28 mileage expense in accordance with the schedule of charges established
29 under K.S.A. 75-4607, and amendments thereto. The secretary, at the
30 secretary's discretion, may make additional examinations of a warehouse
31 and if a discrepancy is found on that examination, or if one was found on
32 the last previous examination, the cost of the examination shall be paid by
33 the warehouseman.

34 (h) When the secretary authorizes a grain handling facility to be
35 physically monitored, pursuant to subsection (a)(3) of K.S.A. 34-102, and
36 amendments thereto, the cost and expenses of the monitoring shall be
37 paid by the owner of the facility at the same rates fixed in subsection (g).

38 (i) As used in this section, "functional unit" means a public
39 warehouse which has the capacity to store, weigh in and weigh out grain.
40 Any outlying storage facility which is not a functional unit shall have its
41 storage capacity included as part of the combined capacity of the
42 warehouseman's nearest functional unit.

43 Sec. 151. K.S.A. 34-249a is hereby amended to read as follows: 34-

1 249a. (a) Every public warehouseman conducting a public warehouse,
2 upon demand of the secretary, shall furnish such secretary, in such form
3 as may be required, information regarding receipts issued or canceled,
4 amounts of grain liabilities, amounts of unencumbered grain and total
5 amounts of grain in the public warehouse.

6 (b) The secretary shall require from each public warehouseman a
7 monthly statement of stocks of grain as of the last day of the preceding
8 month for each licensed warehouse location. The statement shall contain
9 such information and be in such form as may be prescribed by the
10 secretary ~~and shall include a statement setting forth the penalty for~~
11 ~~making false public warehouse reports as provided in K.S.A. 21-3754 and~~
12 ~~amendments thereto.~~ Each such statement shall be signed by the licensed
13 public warehouseman.

14 Sec. 152. K.S.A. 36-602 is hereby amended to read as follows: 36-
15 602. An innkeeper shall have the right to refuse or deny any
16 accommodations, facilities or privileges of a hotel to:

17 (a) Any person who is unwilling or unable to pay for
18 accommodations and services of the hotel. The innkeeper shall have the
19 right to require the prospective guest to demonstrate such prospective
20 guest's ability to pay by cash, valid credit card or a validated check;

21 (b) any minor. The innkeeper may require a parent or legal guardian
22 of a minor or a representative of the entity responsible for payment of the
23 accommodation to: (1) Accept in writing liability of the guest room costs,
24 taxes, all charges by the minor and any damages to the guest room, hotel
25 and its furnishings caused by the minor while a guest at the hotel; and (2)
26 provide the innkeeper with a valid credit card number to cover the guest
27 room costs, taxes, charges by the minor and any damages to the guest
28 room or its furnishings caused by the minor; or (3) if the credit card is not
29 an option, give the innkeeper an advance cash payment to cover the guest
30 room costs and taxes for all room nights reserved for the minor, plus
31 reasonable cash deposit not to exceed \$250 towards the payment of any
32 charges by the minor for any damages to the guest room, hotel and its
33 furnishings. The innkeeper shall refund such cash deposit to the extent
34 not used to cover any such charges or any damages as determined by the
35 innkeeper following room inspection at check-out;

36 (c) any person who is engaged in disorderly conduct as defined in
37 ~~K.S.A. 21-4101~~ *section 181 of chapter 136 of the 2010 Session Laws of*
38 *Kansas*, and amendments thereto; and

39 (d) any person who is on record by the hotel as having violated the
40 provisions contained in K.S.A. 36-604, *and amendments thereto*, in the
41 past.

42 Any innkeeper who refuses or denies such accommodations, facilities
43 or privileges of a hotel for any of the reasons specified in subsections (a)

1 through (d) shall not be liable in any civil or criminal action or for any
2 fine or penalty based upon such refusal or denial, except that such
3 accommodation, facilities or privilege of a hotel shall not be refused or
4 denied based upon the person's race, religion, color, sex, disability, origin
5 or ancestry.

6 Sec. 153. K.S.A. 2010 Supp. 36-604 is hereby amended to read as
7 follows: 36-604. An innkeeper may eject a person from the hotel
8 premises, without return of such person's room rental payment, for any of
9 the following reasons:

10 (a) Nonpayment of the hotel's charges for accommodations or
11 services;

12 (b) the person is engaged in disorderly conduct as defined in ~~K.S.A.~~
13 ~~21-4101~~*section 181 of chapter 136 of the 2010 Session Laws of Kansas*,
14 and amendments thereto, or has been the subject of complaints from other
15 guests of the hotel;

16 (c) the person is using the premises for an unlawful act, including
17 but not limited to the unlawful use or possession of controlled substances
18 by such person in violation of K.S.A. 2010 Supp. 21-36a01 through 21-
19 36a17, and amendments thereto, or the use of the premises for the
20 consumption of alcoholic liquor or cereal malt beverage by any person
21 under the age of 21 years in violation of K.S.A. 41-727, and amendments
22 thereto;

23 (d) the person has brought property onto the hotel premises which
24 may be dangerous to other persons ~~as defined in K.S.A. 21-4201 et~~
25 ~~seq.~~*pursuant to sections 186 through 197 of chapter 136 of the 2010*
26 *Session Laws of Kansas*, and amendments thereto;

27 (e) the person is not a registered guest of the hotel;

28 (f) the person has exceeded the limitations for guest room occupancy
29 established by the hotel;

30 (g) the person has obtained the accommodation under false
31 pretenses;

32 (h) the person is a minor and is not under the supervision of the adult
33 who has obtained the accommodation;

34 (i) the person has violated any federal, state or local laws or
35 regulations relating to the hotel; or

36 (j) the person has violated any rule of the hotel which is posted in a
37 conspicuous place and manner in the hotel as provided in K.S.A. 36-605,
38 *and amendments thereto*, except that no such rule may authorize the
39 innkeeper to eject or to refuse or deny service or accommodations to a
40 person because of race, religion, color, sex, disability, national origin or
41 ancestry.

42 Sec. 154. K.S.A. 38-1132 is hereby amended to read as follows: 38-
43 1132. (a) Except as provided in subsection (d), a parent granted rights

1 pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto,
2 shall give written notice to the other parent who has been granted rights
3 pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto,
4 not less than 30 days prior to: (1) Changing the residence of the child; or
5 (2) removing the child from this state for a period of time exceeding 90
6 days. Such notice shall be sent by restricted mail, return receipt requested,
7 to the last known address of the other parent.

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

13 (c) A change of the residence or the removal of a child from this
14 state as described in subsection (a) may be considered a material change
15 of circumstances which justifies modification of a prior order of child
16 support, custody or parenting time. In determining any such motion, the
17 court shall consider all factors the court deems appropriate including, but
18 not limited to:

19 (1) The effect of the move on the best interests of the child;

20 (2) the effect of the move on any party having rights granted
21 pursuant to subsection (d) of K.S.A. 38-1121, and amendments thereto;
22 and

23 (3) the increased cost the move will impose on any party seeking to
24 exercise rights granted under subsection (d) of K.S.A. 38-1121, and
25 amendments thereto.

26 (d) A parent who has been granted rights pursuant to subsection (d) of
27 K.S.A. 38-1121, and amendments thereto, shall not be required to give
28 the notice required by this section to the other parent when the other
29 parent has been convicted of any crime specified in article 34, 35 or 36 of
30 chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
31 *sections 36 through 86, 174, 210, 211 or 229 through 231 of chapter 136*
32 *of the 2010 Session Laws of Kansas*, and amendments thereto, in which
33 the child is the victim of such crime.

34 (e) This section shall be part of and supplemental to the Kansas
35 parentage act.

36 Sec. 155. K.S.A. 2010 Supp. 38-2202 is hereby amended to read as
37 follows: 38-2202. As used in the revised Kansas code for care of children,
38 unless the context otherwise indicates:

39 (a) "Abandon" or "abandonment" means to forsake, desert or,
40 without making appropriate provision for substitute care, cease providing
41 care for the child.

42 (b) "Adult correction facility" means any public or private facility,
43 secure or nonsecure, which is used for the lawful custody of accused or

1 convicted adult criminal offenders.

2 (c) "Aggravated circumstances" means the abandonment, torture,
3 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

4 (d) "Child in need of care" means a person less than 18 years of age
5 at the time of filing of the petition or issuance of an ex parte protective
6 custody order pursuant to K.S.A. 2010 Supp. 38-2242, and amendments
7 thereto, who:

8 (1) Is without adequate parental care, control or subsistence and the
9 condition is not due solely to the lack of financial means of the child's
10 parents or other custodian;

11 (2) is without the care or control necessary for the child's physical,
12 mental or emotional health;

13 (3) has been physically, mentally or emotionally abused or neglected
14 or sexually abused;

15 (4) has been placed for care or adoption in violation of law;

16 (5) has been abandoned or does not have a known living parent;

17 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
18 and amendments thereto;

19 (7) except in the case of a violation of K.S.A. ~~21-4204a~~, 41-727,
20 subsection (j) of K.S.A. 74-8810, ~~or~~ subsection (m) or (n) of K.S.A. 79-
21 3321, *or subsection (a)(14) of section 186 of chapter 136 of the 2010*
22 *Session Laws of Kansas*, and amendments thereto, or, except as provided
23 in paragraph (12), does an act which, when committed by a person under
24 18 years of age, is prohibited by state law, city ordinance or county
25 resolution but which is not prohibited when done by an adult;

26 (8) while less than 10 years of age, commits any act which if done
27 by an adult would constitute the commission of a felony or misdemeanor
28 as defined by ~~K.S.A. 21-3105~~ *section 2 of chapter 136 of the 2010*
29 *Session Laws of Kansas*, and amendments thereto;

30 (9) is willfully and voluntarily absent from the child's home without
31 the consent of the child's parent or other custodian;

32 (10) is willfully and voluntarily absent at least a second time from a
33 court ordered or designated placement, or a placement pursuant to court
34 order, if the absence is without the consent of the person with whom the
35 child is placed or, if the child is placed in a facility, without the consent of
36 the person in charge of such facility or such person's designee;

37 (11) has been residing in the same residence with a sibling or
38 another person under 18 years of age, who has been physically, mentally
39 or emotionally abused or neglected, or sexually abused;

40 (12) while less than 10 years of age commits the offense defined in
41 ~~K.S.A. 21-4204a~~ *or subsection (a)(14) of section 186 of chapter 136 of*
42 *the 2010 Session Laws of Kansas*, and amendments thereto; or

43 (13) has had a permanent custodian appointed and the permanent

1 custodian is no longer able or willing to serve.

2 (e) "Citizen review board" is a group of community volunteers
3 appointed by the court and whose duties are prescribed by K.S.A. 2010
4 Supp. 38-2207 and 38-2208, and amendments thereto.

5 (f) "Civil custody case" includes any case filed under article 11, of
6 chapter 38 of the Kansas Statutes Annotated, and amendments thereto
7 (determination of parentage), article 21 of chapter 59 of the Kansas
8 Statutes Annotated, and amendments thereto (adoption and
9 relinquishment act), article 30 of chapter 59 of the Kansas Statutes
10 Annotated, and amendments thereto (guardians and conservators), or
11 article 16 of chapter 60 of the Kansas Statutes Annotated, and
12 amendments thereto (divorce).

13 (g) "Court-appointed special advocate" means a responsible adult
14 other than an attorney guardian ad litem who is appointed by the court to
15 represent the best interests of a child, as provided in K.S.A. 2010 Supp.
16 38-2206, and amendments thereto, in a proceeding pursuant to this code.

17 (h) "Custody" whether temporary, protective or legal, means the
18 status created by court order or statute which vests in a custodian,
19 whether an individual or an agency, the right to physical possession of the
20 child and the right to determine placement of the child, subject to
21 restrictions placed by the court.

22 (i) "Extended out of home placement" means a child has been in the
23 custody of the secretary and placed with neither parent for 15 of the most
24 recent 22 months beginning 60 days after the date at which a child in the
25 custody of the secretary was removed from the home.

26 (j) "Educational institution" means all schools at the elementary and
27 secondary levels.

28 (k) "Educator" means any administrator, teacher or other
29 professional or paraprofessional employee of an educational institution
30 who has exposure to a pupil specified in subsection (a) of K.S.A. 72-
31 89b03, and amendments thereto.

32 (l) "Harm" means physical or psychological injury or damage.

33 (m) "Interested party" means the grandparent of the child, a person
34 with whom the child has been living for a significant period of time when
35 the child in need of care petition is filed, and any person made an
36 interested party by the court pursuant to K.S.A. 2010 Supp. 38-2241, and
37 amendments thereto or Indian tribe seeking to intervene that is not a
38 party.

39 (n) "Jail" means:

40 (1) An adult jail or lockup; or

41 (2) a facility in the same building or on the same grounds as an adult
42 jail or lockup, unless the facility meets all applicable standards and
43 licensure requirements under law and there is: (A) Total separation of the

1 juvenile and adult facility spatial areas such that there could be no
2 haphazard or accidental contact between juvenile and adult residents in
3 the respective facilities; (B) total separation in all juvenile and adult
4 program activities within the facilities, including recreation, education,
5 counseling, health care, dining, sleeping and general living activities; and
6 (C) separate juvenile and adult staff, including management, security staff
7 and direct care staff such as recreational, educational and counseling.

8 (o) "Juvenile detention facility" means any secure public or private
9 facility used for the lawful custody of accused or adjudicated juvenile
10 offenders which must not be a jail.

11 (p) "Juvenile intake and assessment worker" means a responsible
12 adult authorized to perform intake and assessment services as part of the
13 intake and assessment system established pursuant to K.S.A. 75-7023,
14 and amendments thereto.

15 (q) "Kinship care" means the placement of a child in the home of the
16 child's relative or in the home of another adult with whom the child or the
17 child's parent already has a close emotional attachment.

18 (r) "Law enforcement officer" means any person who by virtue of
19 office or public employment is vested by law with a duty to maintain
20 public order or to make arrests for crimes, whether that duty extends to
21 all crimes or is limited to specific crimes.

22 (s) "Multidisciplinary team" means a group of persons, appointed by
23 the court under K.S.A. 2010 Supp. 38-2228, and amendments thereto,
24 which has knowledge of the circumstances of a child in need of care.

25 (t) "Neglect" means acts or omissions by a parent, guardian or
26 person responsible for the care of a child resulting in harm to a child, or
27 presenting a likelihood of harm, and the acts or omissions are not due
28 solely to the lack of financial means of the child's parents or other
29 custodian. Neglect may include, but shall not be limited to:

30 (1) Failure to provide the child with food, clothing or shelter
31 necessary to sustain the life or health of the child;

32 (2) failure to provide adequate supervision of a child or to remove a
33 child from a situation which requires judgment or actions beyond the
34 child's level of maturity, physical condition or mental abilities and that
35 results in bodily injury or a likelihood of harm to the child; or

36 (3) failure to use resources available to treat a diagnosed medical
37 condition if such treatment will make a child substantially more
38 comfortable, reduce pain and suffering, or correct or substantially
39 diminish a crippling condition from worsening. A parent legitimately
40 practicing religious beliefs who does not provide specified medical
41 treatment for a child because of religious beliefs shall not for that reason
42 be considered a negligent parent; however, this exception shall not
43 preclude a court from entering an order pursuant to subsection (a)(2) of

1 K.S.A. 2010 Supp. 38-2217, and amendments thereto.

2 (u) "Parent" when used in relation to a child or children, includes a
3 guardian and every person who is by law liable to maintain, care for or
4 support the child.

5 (v) "Party" means the state, the petitioner, the child, any parent of
6 the child and an Indian child's tribe intervening pursuant to the Indian
7 child welfare act.

8 (w) "Permanency goal" means the outcome of the permanency
9 planning process which may be reintegration, adoption, appointment of a
10 permanent custodian or another planned permanent living arrangement.

11 (x) "Permanent custodian" means a judicially approved permanent
12 guardian of a child pursuant to K.S.A. 2010 Supp. 38-2272, and
13 amendments thereto.

14 (y) "Physical, mental or emotional abuse" means the infliction of
15 physical, mental or emotional harm or the causing of a deterioration of a
16 child and may include, but shall not be limited to, maltreatment or
17 exploiting a child to the extent that the child's health or emotional well-
18 being is endangered.

19 (z) "Placement" means the designation by the individual or agency
20 having custody of where and with whom the child will live.

21 (aa) "Relative" means a person related by blood, marriage or
22 adoption but, when referring to a relative of a child's parent, does not
23 include the child's other parent.

24 (bb) "Secretary" means the secretary of social and rehabilitation
25 services or the secretary's designee.

26 (cc) "Secure facility" means a facility which is operated or
27 structured so as to ensure that all entrances and exits from the facility are
28 under the exclusive control of the staff of the facility, whether or not the
29 person being detained has freedom of movement within the perimeters of
30 the facility, or which relies on locked rooms and buildings, fences or
31 physical restraint in order to control behavior of its residents. No secure
32 facility shall be in a city or county jail.

33 (dd) "Sexual abuse" means any contact or interaction with a child in
34 which the child is being used for the sexual stimulation of the perpetrator,
35 the child or another person. Sexual abuse shall include allowing,
36 permitting or encouraging a child to engage in prostitution or to be
37 photographed, filmed or depicted in pornographic material.

38 (ee) "Shelter facility" means any public or private facility or home
39 other than a juvenile detention facility that may be used in accordance
40 with this code for the purpose of providing either temporary placement
41 for children in need of care prior to the issuance of a dispositional order
42 or longer term care under a dispositional order.

43 (ff) "Transition plan" means, when used in relation to a youth in the

1 custody of the secretary, an individualized strategy for the provision of
2 medical, mental health, education, employment and housing supports as
3 needed for the adult and, if applicable, for any minor child of the adult, to
4 live independently and specifically provides for the supports and any
5 services for which an adult with a disability is eligible including, but not
6 limited to, funding for home and community based services waivers.

7 (gg) "Youth residential facility" means any home, foster home or
8 structure which provides 24-hour-a-day care for children and which is
9 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
10 Annotated, and amendments thereto.

11 Sec. 156. K.S.A. 2010 Supp. 38-2255 is hereby amended to read as
12 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
13 disposition, the court shall give consideration to:

- 14 (1) The child's physical, mental and emotional condition;
- 15 (2) the child's need for assistance;
- 16 (3) the manner in which the parent participated in the abuse, neglect
17 or abandonment of the child;
- 18 (4) any relevant information from the intake and assessment process;
- 19 and
- 20 (5) the evidence received at the dispositional hearing.

21 (b) *Custody with a parent*. The court may place the child in the
22 custody of either of the child's parents subject to terms and conditions
23 which the court prescribes to assure the proper care and protection of the
24 child, including, but not limited to:

- 25 (1) Supervision of the child and the parent by a court services
26 officer;
- 27 (2) participation by the child and the parent in available programs
28 operated by an appropriate individual or agency; and
- 29 (3) any special treatment or care which the child needs for the child's
30 physical, mental or emotional health and safety.

31 (c) *Removal of a child from custody of a parent*. The court shall not
32 enter the initial order removing a child from the custody of a parent
33 pursuant to this section unless the court first finds probable cause that: (1)

- 34 (A) The child is likely to sustain harm if not immediately removed
35 from the home;
- 36 (B) allowing the child to remain in home is contrary to the welfare
37 of the child; or
- 38 (C) immediate placement of the child is in the best interest of the
39 child; and

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

43 (d) *Custody of a child removed from the custody of a parent*. If the

1 court has made the findings required by subsection (c), the court shall
2 enter an order awarding custody to a relative of the child or to a person
3 with whom the child has close emotional ties who shall not be required to
4 be licensed under article 5 of chapter 65 of the Kansas Statutes
5 Annotated, and amendments thereto, to any other suitable person, to a
6 shelter facility, to a youth residential facility or, if the child is 15 years of
7 age or younger, or 16 or 17 years of age if the child has no identifiable
8 parental or family resources or shows signs of physical, mental,
9 emotional or sexual abuse, to the secretary. Custody awarded under this
10 subsection shall continue until further order of the court.

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

24 (2) The custodian designated under this subsection shall notify the
25 court in writing at least ~~10~~14 days prior to any planned placement with a
26 parent. The written notice shall state the basis for the custodian's belief
27 that placement with a parent is no longer contrary to the welfare or best
28 interest of the child. Upon reviewing the notice, the court may allow the
29 custodian to proceed with the planned placement or may set the date for a
30 hearing to determine if the child shall be allowed to return home. If the
31 court sets a hearing on the matter, the custodian shall not return the child
32 home without written consent of the court.

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

36 (4) The court may enter an order restraining any alleged perpetrator
37 of physical, mental or emotional abuse or sexual abuse of the child from
38 residing in the child's home; visiting, contacting, harassing or
39 intimidating the child, other family member or witness; or attempting to
40 visit, contact, harass or intimidate the child, other family member or
41 witness. Such restraining order shall be served by personal service
42 pursuant to subsection (a) of K.S.A. 2010 Supp. 38-2237, and
43 amendments thereto, on any alleged perpetrator to whom the order is

1 directed.

2 (5) The court shall provide a copy of any orders entered within ~~10~~14
3 days of entering the order to the custodian designated under this
4 subsection.

5 (e) *Further determinations regarding a child removed from the*
6 *home.* If custody has been awarded under subsection (d) to a person other
7 than a parent, a permanency plan shall be provided or prepared pursuant
8 to K.S.A. 2010 Supp. 38-2264, and amendments thereto. If a permanency
9 plan is provided at the dispositional hearing, the court may determine
10 whether reintegration is a viable alternative or, if reintegration is not a
11 viable alternative, whether the child should be placed for adoption or a
12 permanent custodian appointed. In determining whether reintegration is a
13 viable alternative, the court shall consider:

14 (1) Whether a parent has been found by a court to have committed
15 one of the following crimes or to have violated the law of another state
16 prohibiting such crimes or to have aided and abetted, attempted,
17 conspired or solicited the commission of one of these crimes: Murder in
18 the first degree, K.S.A. 21-3401, *prior to its repeal, or section 37 of*
19 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
20 thereto, murder in the second degree, K.S.A. 21-3402, *prior to its repeal,*
21 *or section 38 of chapter 136 of the 2010 Session Laws of Kansas,* and
22 amendments thereto, capital murder, K.S.A. 21-3439, *prior to its repeal,*
23 *or section 36 of chapter 136 of the 2010 Session Laws of Kansas,* and
24 amendments thereto, voluntary manslaughter, K.S.A. 21-3403, *prior to*
25 *its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
26 *Kansas,* and amendments thereto, or a felony battery that resulted in
27 bodily injury;

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

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

33 (4) whether the child has been in extended out of home placement;

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

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

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

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

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

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

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

19 (2) If the court has reason to believe that a child is before the court
20 due, in whole or in part, to the use or misuse of alcohol or a violation of
21 K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and amendments thereto,
22 by the child, a parent of the child, or another person responsible for the
23 care of the child, the court may order the child, parent of the child or
24 other person responsible for the care of the child to submit to and
25 complete an alcohol and drug evaluation by a qualified person or agency
26 and comply with any recommendations. If the evaluation is performed by
27 a community-based alcohol and drug safety program certified pursuant to
28 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
29 other person responsible for the care of the child shall pay a fee not to
30 exceed the fee established by that statute. If the court finds that the child
31 and those legally liable for the child's support are indigent, the fee may be
32 waived. In no event shall the fee be assessed against the secretary.

33 (3) If child support has been requested and the parent or parents
34 have a duty to support the child, the court may order one or both parents
35 to pay child support and, when custody is awarded to the secretary, the
36 court shall order one or both parents to pay child support. The court shall
37 determine, for each parent separately, whether the parent is already
38 subject to an order to pay support for the child. If the parent is not
39 presently ordered to pay support for any child who is subject to the
40 jurisdiction of the court and the court has personal jurisdiction over the
41 parent, the court shall order the parent to pay child support in an amount
42 determined under K.S.A. 2010 Supp. 38-2277, and amendments thereto.
43 Except for good cause shown, the court shall issue an immediate income

1 withholding order pursuant to K.S.A. 23-4,105 et seq., and amendments
2 thereto, for each parent ordered to pay support under this subsection,
3 regardless of whether a payor has been identified for the parent. A parent
4 ordered to pay child support under this subsection shall be notified, at the
5 hearing or otherwise, that the child support order may be registered
6 pursuant to K.S.A. 2010 Supp. 38-2279, and amendments thereto. The
7 parent shall also be informed that, after registration, the income
8 withholding order may be served on the parent's employer without further
9 notice to the parent and the child support order may be enforced by any
10 method allowed by law. Failure to provide this notice shall not affect the
11 validity of the child support order.

12 Sec. 157. K.S.A. 2010 Supp. 38-2271 is hereby amended to read as
13 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
14 414, and amendments thereto, that a parent is unfit by reason of conduct
15 or condition which renders the parent unable to fully care for a child, if
16 the state establishes, by clear and convincing evidence, that:

17 (1) A parent has previously been found to be an unfit parent in
18 proceedings under K.S.A. 2010 Supp. 38-2266 et seq., and amendments
19 thereto, or comparable proceedings under the laws of another jurisdiction;

20 (2) a parent has twice before been convicted of a crime specified in
21 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, *prior*
22 *to their repeal, or sections 36 through 86, 174, 210, 211 or 229 through*
23 *231 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, or comparable offenses under the laws of another jurisdiction, or
25 an attempt or attempts to commit such crimes and the victim was under
26 the age of 18 years;

27 (3) on two or more prior occasions a child in the physical custody of
28 the parent has been adjudicated a child in need of care as defined by
29 subsection (d)(1),(d)(3), (d)(5) or (d)(11) of K.S.A. 2010 Supp. 38-2202,
30 and amendments thereto, or comparable proceedings under the laws of
31 another jurisdiction.

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

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

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

1 near future;

2 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
3 *prior to its repeal, or section 36 of chapter 136 of the 2010 Session Laws*
4 *of Kansas*, and amendments thereto, murder in the first degree, K.S.A.
5 21-3401, *prior to its repeal, or section 37 of chapter 136 of the 2010*
6 *Session Laws of Kansas*, and amendments thereto, murder in the second
7 degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of chapter 136*
8 *of the 2010 Session Laws of Kansas*, and amendments thereto, or
9 voluntary manslaughter, K.S.A. 21-3403, *prior to its repeal, or section 39*
10 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
11 thereto, or comparable proceedings under the laws of another jurisdiction
12 or, has been adjudicated a juvenile offender because of an act which if
13 committed by an adult would be an offense as provided in this subsection,
14 and the victim of such murder was the other parent of the child;

15 (8) a parent abandoned or neglected the child after having
16 knowledge of the child's birth or either parent has been granted immunity
17 from prosecution for abandonment of the child under subsection (b) of
18 K.S.A. 21-3604, *prior to its repeal, or subsection (d) of section 82 of*
19 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
20 thereto; or

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

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

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

28 (12) a parent has been convicted of rape, K.S.A. 21-3502, *prior to*
29 *its repeal, or section 67 of chapter 136 of the 2010 Session Laws of*
30 *Kansas*, and amendments thereto, or comparable proceedings under the
31 laws of another jurisdiction resulting in the conception of the child; or

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

36 (b) The burden of proof is on the parent to rebut the presumption of
37 unfitness by a preponderance of the evidence. In the absence of proof that
38 the parent is presently fit and able to care for the child or that the parent
39 will be fit and able to care for the child in the foreseeable future, the court
40 shall terminate parental rights in proceedings pursuant to K.S.A. 2010
41 Supp. 38-2266 et seq., and amendments thereto.

42 Sec. 158. K.S.A. 2010 Supp. 38-2302 is hereby amended to read as
43 follows: 38-2302. As used in this code, unless the context otherwise

1 requires:

2 (a) "Commissioner" means the commissioner of juvenile justice or
3 the commissioner's designee.

4 (b) "Conditional release" means release from a term of commitment
5 in a juvenile correctional facility for an aftercare term pursuant to K.S.A.
6 2010 Supp. 38-2369, and amendments thereto, under conditions
7 established by the commissioner.

8 (c) "Court-appointed special advocate" means a responsible adult,
9 other than an attorney appointed pursuant to K.S.A. 2010 Supp. 38-2306,
10 and amendments thereto, who is appointed by the court to represent the
11 best interests of a child, as provided in K.S.A. 2010 Supp. 38-2307, and
12 amendments thereto, in a proceeding pursuant to this code.

13 (d) "Educational institution" means all schools at the elementary and
14 secondary levels.

15 (e) "Educator" means any administrator, teacher or other
16 professional or paraprofessional employee of an educational institution
17 who has exposure to a pupil specified in subsections (a)(1) through (5) of
18 K.S.A. 72-89b03, and amendments thereto.

19 (f) "Institution" means the following institutions: The Atchison
20 juvenile correctional facility, the Larned juvenile correctional facility and
21 the Kansas juvenile correctional complex.

22 (g) "Investigator" means an employee of the juvenile justice
23 authority assigned by the commissioner with the responsibility for
24 investigations concerning employees at the juvenile correctional facilities
25 and juveniles in the custody of the commissioner at a juvenile
26 correctional facility.

27 (h) "Jail" means: (1) An adult jail or lockup; or

28 (2) a facility in the same building as an adult jail or lockup, unless
29 the facility meets all applicable licensure requirements under law and
30 there is: (A) Total separation of the juvenile and adult facility spatial
31 areas such that there could be no haphazard or accidental contact between
32 juvenile and adult residents in the respective facilities; (B) total
33 separation in all juvenile and adult program activities within the facilities,
34 including recreation, education, counseling, health care, dining, sleeping
35 and general living activities; and (C) separate juvenile and adult staff,
36 including management, security staff and direct care staff such as
37 recreational, educational and counseling.

38 (i) "Juvenile" means a person to whom one or more of the following
39 applies, the person: (1) Is 10 or more years of age but less than 18 years
40 of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated
41 as a juvenile offender and continues to be subject to the jurisdiction of the
42 court.

43 (j) "Juvenile correctional facility" means a facility operated by the

1 commissioner for the commitment of juvenile offenders.

2 (k) "Juvenile corrections officer" means a certified employee of the
3 juvenile justice authority working at a juvenile correctional facility
4 assigned by the commissioner with responsibility for maintaining
5 custody, security and control of juveniles in the custody of the
6 commissioner at a juvenile correctional facility.

7 (l) "Juvenile detention facility" means a public or private facility
8 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
9 Annotated, and amendments thereto, which is used for the lawful custody
10 of alleged or adjudicated juvenile offenders.

11 (m) "Juvenile intake and assessment worker" means a responsible
12 adult authorized to perform intake and assessment services as part of the
13 intake and assessment system established pursuant to K.S.A. 75-7023,
14 and amendments thereto.

15 (n) "Juvenile offender" means a person who commits an offense
16 while 10 or more years of age but less than 18 years of age which if
17 committed by an adult would constitute the commission of a felony or
18 misdemeanor as defined by ~~K.S.A. 21-3105~~ *section 2 of chapter 136 of*
19 *the 2010 Session Laws of Kansas*, and amendments thereto, or who
20 violates the provisions of K.S.A. ~~21-4204a~~ or 41-727 or, subsection (j) of
21 K.S.A. 74-8810 or subsection (a)(14) of section 186 of chapter 136 of the
22 *2010 Session Laws of Kansas*, and amendments thereto, but does not
23 include: (1) A person 14 or more years of age who commits a traffic
24 offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments
25 thereto;

26 (2) a person 16 years of age or over who commits an offense defined
27 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

28 (3) a person under 18 years of age who previously has been:

29 (A) Convicted as an adult under the Kansas criminal code;

30 (B) sentenced as an adult under the Kansas criminal code following
31 termination of status as an extended jurisdiction juvenile pursuant to
32 K.S.A. 2010 Supp. 38-2364, and amendments thereto; or

33 (C) convicted or sentenced as an adult in another state or foreign
34 jurisdiction under substantially similar procedures described in K.S.A.
35 2010 Supp. 38-2347, and amendments thereto, or because of attaining the
36 age of majority designated in that state or jurisdiction.

37 (o) "Law enforcement officer" means any person who by virtue of
38 that person's office or public employment is vested by law with a duty to
39 maintain public order or to make arrests for crimes, whether that duty
40 extends to all crimes or is limited to specific crimes.

41 (p) "Parent" when used in relation to a juvenile, includes a guardian
42 and every person who is, by law, liable to maintain, care for or support
43 the juvenile.

1 (q) "Risk assessment tool" means an instrument administered to
2 juveniles which delivers a score, or group of scores, describing, but not
3 limited to describing, the juvenile's potential risk to the community.

4 (r) "Sanctions house" means a facility which is operated or
5 structured so as to ensure that all entrances and exits from the facility are
6 under the exclusive control of the staff of the facility, whether or not the
7 person being detained has freedom of movement within the perimeters of
8 the facility, or which relies on locked rooms and buildings, fences or
9 physical restraint in order to control the behavior of its residents. Upon an
10 order from the court, a licensed juvenile detention facility may serve as a
11 sanctions house.

12 (s) "Warrant" means a written order by a judge of the court directed
13 to any law enforcement officer commanding the officer to take into
14 custody the juvenile named or described therein.

15 (t) "Youth residential facility" means any home, foster home or
16 structure which provides 24-hour-a-day care for juveniles and which is
17 licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of
18 the Kansas Statutes Annotated, and amendments thereto.

19 Sec. 159. K.S.A. 2010 Supp. 38-2303 is hereby amended to read as
20 follows: 38-2303. (a) Proceedings under this code involving acts
21 committed by a juvenile which, if committed by an adult, would
22 constitute a violation of K.S.A. 21-3401 or 21-3402, *prior to their repeal,*
23 *or section 37 or 38 of chapter 136 of the 2010 Session Laws of Kansas,*
24 and amendments thereto, may be commenced at any time.

25 (b) Except as provided by subsections (d) and (f), a proceeding
26 under this code for any act committed by a juvenile which, if committed
27 by an adult, would constitute a violation of any of the following statutes
28 shall be commenced within five years after its commission if the victim is
29 less than 16 years of age: (1) Indecent liberties with a child as defined in
30 K.S.A. 21-3503, *prior to its repeal, or subsection (a) of section 70 of*
31 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
32 thereto; (2) aggravated indecent liberties with a child as defined in K.S.A.
33 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter*
34 *136 of the 2010 Session Laws of Kansas,* and amendments thereto; (3)
35 lewd and lascivious behavior as defined in K.S.A. 21-3508, *prior to its*
36 *repeal, or section 77 of chapter 136 of the 2010 Session Laws of Kansas,*
37 and amendments thereto; (4) indecent solicitation of a child as defined in
38 K.S.A. 21-3510, *prior to its repeal, or subsection (a) of section 72 of*
39 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
40 thereto; (5) aggravated indecent solicitation of a child as defined in
41 K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section 72 of*
42 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
43 thereto; (6) sexual exploitation of a child as defined in K.S.A. 21-3516,

1 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
2 *of Kansas, and amendments thereto; (7) unlawful voluntary sexual*
3 *relations as defined in K.S.A. 21-3522, prior to its repeal, or section 71*
4 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
5 *thereto; or (8) aggravated incest as defined in K.S.A. 21-3603, prior to its*
6 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
7 *Laws of Kansas, and amendments thereto.*

8 (c) Except as provided by subsections (d) and (f), a prosecution for
9 rape, as defined in K.S.A. 21-3502, *prior to its repeal, or section 67 of*
10 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
11 *thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-3506,*
12 *prior to its repeal, or subsection (b) of section 68 of chapter 136 of the*
13 *2010 Session Laws of Kansas, and amendments thereto, shall be*
14 *commenced within five years after its commission.*

15 (d) (1) Except as provided in subsection (f), a prosecution for any
16 offense provided in subsection (b) or a sexually violent offense as defined
17 in K.S.A. 22-3717, and amendments thereto, shall be commenced within
18 the limitation of time provided by the law pertaining to such offense or
19 one year from the date on which the identity of the suspect is
20 conclusively established by DNA testing, whichever is later.

21 (2) For the purposes of this subsection, "DNA" means
22 deoxyribonucleic acid.

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

26 (f) The period within which the proceedings must be commenced
27 shall not include any period in which:

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

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

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

32 (4) whether or not the fact of the offense is concealed by the active
33 act or conduct of the accused, there is substantial competent evidence to
34 believe two or more of the following factors are present: (A) The victim
35 was a child under 15 years of age at the time of the offense; (B) the
36 victim was of such age or intelligence that the victim was unable to
37 determine that the acts constituted an offense; (C) the victim was
38 prevented by a parent or other legal authority from making known to law
39 enforcement authorities the fact of the offense whether or not the parent
40 or other legal authority is the accused; and (D) there is substantial
41 competent expert testimony indicating the victim psychologically
42 repressed such victim's memory of the fact of the offense, and in the
43 expert's professional opinion the recall of such memory is accurate, free

1 of undue manipulation, and substantial corroborating evidence can be
2 produced in support of the allegations contained in the complaint or
3 information; but in no event may a proceeding be commenced as
4 provided in subsection (f)(4) later than the date the victim turns 28 years
5 of age. Corroborating evidence may include, but is not limited to,
6 evidence the alleged juvenile offender committed similar acts against
7 other persons or evidence of contemporaneous physical manifestations of
8 the offense. Parent or other legal authority shall include, but not be
9 limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

10 Sec. 160. K.S.A. 2010 Supp. 38-2309 is hereby amended to read as
11 follows: 38-2309. (a) *Official file*. The official file of proceedings
12 pursuant to this code shall consist of the complaint, process, service of
13 process, orders, writs and journal entries reflecting hearings held,
14 judgments and decrees entered by the court. The official file shall be kept
15 separate from other records of the court.

16 (b) The official file shall be open for public inspection, unless the
17 judge determines that opening the official file for public inspection is not
18 in the best interests of a juvenile who is less than 14 years of age.
19 Information identifying victims and alleged victims of sex offenses, as
20 defined in article 35 of chapter 21 of the Kansas Statutes Annotated,
21 *prior to their repeal, or sections 65 through 77 or 229 through 231 of*
22 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto, shall not be disclosed or open to public inspection under any
24 circumstances. Nothing in this section shall prohibit the victim or alleged
25 victim of any sex offense from voluntarily disclosing such victim's
26 identity. An official file closed pursuant to this section and information
27 identifying the victim or alleged victim of any sex offense shall be
28 disclosed only to the following:

29 (1) A judge of the district court and members of the staff of the court
30 designated by the judge;

31 (2) parties to the proceedings and their attorneys;

32 (3) any individual or any public or private agency or institution: (A)
33 Having custody of the juvenile under court order; or (B) providing
34 educational, medical or mental health services to the juvenile;

35 (4) the juvenile's court appointed special advocate;

36 (5) any placement provider or potential placement provider as
37 determined by the commissioner or court services officer;

38 (6) law enforcement officers or county or district attorneys, or their
39 staff, when necessary for the discharge of their official duties;

40 (7) the Kansas racing commission, upon written request of the
41 commission chairperson, for the purpose provided by K.S.A. 74-8804,
42 and amendments thereto, except that information identifying the victim or
43 alleged victim of any sex offense shall not be disclosed pursuant to this

1 subsection;

2 (8) juvenile intake and assessment workers;

3 (9) the commissioner;

4 (10) any other person when authorized by a court order, subject to
5 any conditions imposed by the order; and

6 (11) the commission on judicial performance in the discharge of the
7 commission's duties pursuant to article 32 of chapter 20 of the Kansas
8 Statutes Annotated, and amendments thereto.

9 (c) *Social file*. Reports and information received by the court, other
10 than the official file, shall be privileged and open to inspection only by
11 attorneys for the parties, juvenile intake and assessment workers, court
12 appointed special advocates, juvenile community corrections officers, the
13 juvenile's guardian ad litem, if any, or upon order of a judge of the district
14 court or appellate court. The reports shall not be further disclosed without
15 approval of the court or by being presented as admissible evidence.

16 (d) *Preservation of records*. The Kansas state historical society shall
17 be allowed to take possession for preservation in the state archives of any
18 court records related to proceedings under the Kansas juvenile justice
19 code or the revised Kansas juvenile justice code whenever such records
20 otherwise would be destroyed. The Kansas state historical society shall
21 make available for public inspection any unexpunged docket entry or
22 official file in its custody concerning any juvenile 14 or more years of age
23 at the time an offense is alleged to have been committed by the juvenile.
24 No other such records in the custody of the Kansas state historical society
25 shall be disclosed directly or indirectly to anyone for 70 years after
26 creation of the records, except as provided in subsections (b) and (c). A
27 judge of the district court may allow inspection for research purposes of
28 any court records in the custody of the Kansas state historical society
29 related to proceedings under the Kansas juvenile justice code or the
30 revised Kansas juvenile justice code.

31 (e) Relevant information, reports and records, shall be made
32 available to the department of corrections upon request, and a showing
33 that the former juvenile has been convicted of a crime and placed in the
34 custody of the secretary of corrections.

35 Sec. 161. K.S.A. 2010 Supp. 38-2310 is hereby amended to read as
36 follows: 38-2310. (a) All records of law enforcement officers and
37 agencies and municipal courts concerning an offense committed or
38 alleged to have been committed by a juvenile under 14 years of age shall
39 be kept readily distinguishable from criminal and other records and shall
40 not be disclosed to anyone except:

41 (1) The judge of the district court and members of the staff of the
42 court designated by the judge;

43 (2) parties to the proceedings and their attorneys;

- 1 (3) the department of social and rehabilitation services;
 - 2 (4) the juvenile's court appointed special advocate, any officer of a
3 public or private agency or institution or any individual having custody of
4 a juvenile under court order or providing educational, medical or mental
5 health services to a juvenile;
 - 6 (5) any educational institution, to the extent necessary to enable the
7 educational institution to provide the safest possible environment for its
8 pupils and employees;
 - 9 (6) any educator, to the extent necessary to enable the educator to
10 protect the personal safety of the educator and the educator's pupils;
 - 11 (7) law enforcement officers or county or district attorneys, or their
12 staff, when necessary for the discharge of their official duties;
 - 13 (8) the central repository, as defined by K.S.A. 22-4701, and
14 amendments thereto, for use only as a part of the juvenile offender
15 information system established under K.S.A. 2010 Supp. 38-2326, and
16 amendments thereto;
 - 17 (9) juvenile intake and assessment workers;
 - 18 (10) the juvenile justice authority;
 - 19 (11) juvenile community corrections officers;
 - 20 (12) any other person when authorized by a court order, subject to
21 any conditions imposed by the order; and
 - 22 (13) as provided in subsection (c).
- 23 (b) The provisions of this section shall not apply to records
24 concerning:
- 25 (1) A violation, by a person 14 or more years of age, of any
26 provision of chapter 8 of the Kansas Statutes Annotated, and amendments
27 thereto, or of any city ordinance or county resolution which relates to the
28 regulation of traffic on the roads, highways or streets or the operation of
29 self-propelled or nonself-propelled vehicles of any kind;
 - 30 (2) a violation, by a person 16 or more years of age, of any provision
31 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
32 or
 - 33 (3) an offense for which the juvenile is prosecuted as an adult.
- 34 (c) All records of law enforcement officers and agencies and
35 municipal courts concerning an offense committed or alleged to have
36 been committed by a juvenile 14 or more years of age shall be subject to
37 the same disclosure restrictions as the records of adults. Information
38 identifying victims and alleged victims of sex offenses, as defined in
39 article 35 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
40 *repeal, or sections 65 through 77 or 229 through 231 of chapter 136 of*
41 *the 2010 Session Laws of Kansas*, and amendments thereto, shall not be
42 disclosed or open to public inspection under any circumstances. Nothing
43 in this section shall prohibit the victim or any alleged victim of any sex

1 offense from voluntarily disclosing such victim's identity.

2 (d) Relevant information, reports and records, shall be made
3 available to the department of corrections upon request and a showing
4 that the former juvenile has been convicted of a crime and placed in the
5 custody of the secretary of corrections.

6 (e) All records, reports and information obtained as a part of the
7 juvenile intake and assessment process for juveniles shall be confidential,
8 and shall not be disclosed except as provided by statutory law and rules
9 and regulations promulgated by the commissioner thereunder.

10 (1) Any court of record may order the disclosure of such records,
11 reports and other information to any person or entity.

12 (2) The head of any juvenile intake and assessment program,
13 certified by the commissioner of juvenile justice, may authorize
14 disclosure of such records, reports and other information to:

15 (A) A person licensed to practice the healing arts who has before
16 that person a juvenile whom the person reasonably suspects may be
17 abused or neglected;

18 (B) a court-appointed special advocate for a juvenile or an agency
19 having the legal responsibility or authorization to care for, treat or
20 supervise a juvenile;

21 (C) a parent or other person responsible for the welfare of a juvenile,
22 or such person's legal representative, with protection for the identity of
23 persons reporting and other appropriate persons;

24 (D) the juvenile, the attorney and a guardian *ad litem*, if any, for
25 such juvenile;

26 (E) the police or other law enforcement agency;

27 (F) an agency charged with the responsibility of preventing or
28 treating physical, mental or emotional abuse or neglect or sexual abuse of
29 children, if the agency requesting the information has standards of
30 confidentiality as strict or stricter than the requirements of the Kansas
31 code for care of children or the revised Kansas juvenile justice code,
32 whichever is applicable;

33 (G) members of a multidisciplinary team under this code;

34 (H) an agency authorized by a properly constituted authority to
35 diagnose, care for, treat or supervise a child who is the subject of a report
36 or record of child abuse or neglect;

37 (I) any individual, or public or private agency authorized by a
38 properly constituted authority to diagnose, care for, treat or supervise a
39 juvenile who is the subject of a report or record of child abuse or neglect,
40 specifically including the following: Physicians, psychiatrists, nurses,
41 nurse practitioners, psychologists, licensed social workers, child
42 development specialists, physicians' assistants, community mental health
43 workers, alcohol and drug abuse counselors and licensed or registered

1 child care providers;

2 (J) a citizen review board pursuant to K.S.A. 2010 Supp. 38-2207,
3 and amendments thereto;

4 (K) an educational institution to the extent necessary to enable such
5 institution to provide the safest possible environment for pupils and
6 employees of the institution;

7 (L) any educator to the extent necessary for the protection of the
8 educator and pupils; and

9 (M) any juvenile intake and assessment worker of another certified
10 juvenile intake and assessment program.

11 Sec. 162. K.S.A. 2010 Supp. 38-2312 is hereby amended to read as
12 follows: 38-2312. (a) Except as provided in subsection (b), any records or
13 files specified in this code concerning a juvenile may be expunged upon
14 application to a judge of the court of the county in which the records or
15 files are maintained. The application for expungement may be made by
16 the juvenile, if 18 years of age or older or, if the juvenile is less than 18
17 years of age, by the juvenile's parent or next friend.

18 (b) There shall be no expungement of records or files concerning
19 acts committed by a juvenile which, if committed by an adult, would
20 constitute a violation of K.S.A. 21-3401, *prior to its repeal, or section 37*
21 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
22 thereto, murder in the first degree, K.S.A. 21-3402, *prior to its repeal, or*
23 *section 38 of chapter 136 of the 2010 Session Laws of Kansas*, and
24 amendments thereto, murder in the second degree, K.S.A. 21-3403, *prior*
25 *to its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
26 *Kansas*, and amendments thereto, voluntary manslaughter, K.S.A. 21-
27 3404, *prior to its repeal, or section 40 of chapter 136 of the 2010 Session*
28 *Laws of Kansas*, and amendments thereto, involuntary manslaughter,
29 K.S.A. 21-3439, *prior to its repeal, or section 36 of chapter 136 of the*
30 *2010 Session Laws of Kansas*, and amendments thereto, capital murder,
31 K.S.A. 21-3442, *prior to its repeal, and amendments thereto*, involuntary
32 manslaughter while driving under the influence of alcohol or drugs,
33 K.S.A. 21-3502, *prior to its repeal, or section 67 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto, rape, K.S.A. 21-
35 3503, *prior to its repeal, or subsection (a) of section 70 of chapter 136 of*
36 *the 2010 Session Laws of Kansas*, and amendments thereto, indecent
37 liberties with a child, K.S.A. 21-3504, *prior to its repeal, or subsection*
38 *(b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and
39 amendments thereto, aggravated indecent liberties with a child, K.S.A.
40 21-3506, *prior to its repeal, or subsection (b) of section 68 of chapter*
41 *136 of the 2010 Session Laws of Kansas*, and amendments thereto,
42 aggravated criminal sodomy, K.S.A. 21-3510, *prior to its repeal, or*
43 *subsection (a) of section 72 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto, indecent solicitation of a child, K.S.A.
2 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
3 *of the 2010 Session Laws of Kansas*, and amendments thereto, aggravated
4 indecent solicitation of a child, K.S.A. 21-3516, *prior to its repeal, or*
5 *section 74 of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto, sexual exploitation, K.S.A. 21-3603, *prior to its*
7 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
8 *Laws of Kansas*, and amendments thereto, aggravated incest, K.S.A. 21-
9 3608, *prior to its repeal, or subsection (a) of section 78 of chapter 136 of*
10 *the 2010 Session Laws of Kansas*, and amendments thereto, endangering
11 a child, K.S.A. 21-3608a, *prior to its repeal, or subsection (b) of section*
12 *78 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
13 *thereto, aggravated endangering a child*, K.S.A. 21-3609, *prior to its*
14 *repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas*,
15 and amendments thereto, abuse of a child, or which would constitute an
16 attempt to commit a violation of any of the offenses specified in this
17 subsection.

18 (c) When a petition for expungement is filed, the court shall set a
19 date for a hearing on the petition and shall give notice thereof to the
20 county or district attorney. The petition shall state: (1) The juvenile's full
21 name; (2) the full name of the juvenile as reflected in the court record, if
22 different than (1); (3) the juvenile's sex and date of birth; (4) the offense
23 for which the juvenile was adjudicated; (5) the date of the trial; and (6)
24 the identity of the trial court. Except as otherwise provided by law, a
25 petition for expungement shall be accompanied by a docket fee in the
26 amount of \$100. On and after the effective date of this act through June
27 30, 2011, the supreme court may impose a charge, not to exceed \$15 per
28 case, to fund the costs of non-judicial personnel. All petitions for
29 expungement shall be docketed in the original action. Any person who
30 may have relevant information about the petitioner may testify at the
31 hearing. The court may inquire into the background of the petitioner.

32 (d) (1) After hearing, the court shall order the expungement of the
33 records and files if the court finds that:

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

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

41 (C) the circumstances and behavior of the petitioner warrant
42 expungement.

43 (2) The court may require that all court costs, fees and restitution

1 shall be paid.

2 (e) Upon entry of an order expunging records or files, the offense
3 which the records or files concern shall be treated as if it never occurred,
4 except that upon conviction of a crime or adjudication in a subsequent
5 action under this code the offense may be considered in determining the
6 sentence to be imposed. The petitioner, the court and all law enforcement
7 officers and other public offices and agencies shall properly reply on
8 inquiry that no record or file exists with respect to the juvenile. Inspection
9 of the expunged files or records thereafter may be permitted by order of
10 the court upon petition by the person who is the subject thereof. The
11 inspection shall be limited to inspection by the person who is the subject
12 of the files or records and the person's designees.

13 (f) Copies of any order made pursuant to subsection (a) or (c) shall
14 be sent to each public officer and agency in the county having possession
15 of any records or files ordered to be expunged. If the officer or agency
16 fails to comply with the order within a reasonable time after its receipt,
17 the officer or agency may be adjudged in contempt of court and punished
18 accordingly.

19 (g) The court shall inform any juvenile who has been adjudicated a
20 juvenile offender of the provisions of this section.

21 (h) Nothing in this section shall be construed to prohibit the
22 maintenance of information relating to an offense after records or files
23 concerning the offense have been expunged if the information is kept in a
24 manner that does not enable identification of the juvenile.

25 (i) Nothing in this section shall be construed to permit or require
26 expungement of files or records related to a child support order registered
27 pursuant to the revised Kansas juvenile justice code.

28 (j) Whenever the records or files of any adjudication have been
29 expunged under the provisions of this section, the custodian of the
30 records or files of adjudication relating to that offense shall not disclose
31 the existence of such records or files, 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 of social and rehabilitation services, or a designee
40 of the secretary, for the purpose of obtaining information relating to
41 employment in an institution, as defined in K.S.A. 76-12a01, and
42 amendments thereto, of the department of social and rehabilitation
43 services of any person whose record has been expunged;

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

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

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

15 (8) the Kansas sentencing commission.

16 Sec. 163. K.S.A. 2010 Supp. 38-2313 is hereby amended to read as
17 follows: 38-2313. (a) Fingerprints or photographs shall not be taken of
18 any juvenile who is taken into custody for any purpose, except that:

19 (1) Fingerprints or photographs of a juvenile may be taken if
20 authorized by a judge of the district court having jurisdiction;

21 (2) a juvenile's fingerprints shall be taken, and photographs of a
22 juvenile may be taken, immediately upon taking the juvenile into custody
23 or upon first appearance or in any event before final sentencing, before
24 the court for an offense which, if committed by an adult, would constitute
25 the commission of a felony, a class A or B misdemeanor or assault, as
26 defined by ~~K.S.A. 21-3408~~ *in subsection (a) of section 47 of chapter 136*
27 *of the 2010 Session Laws of Kansas*, and amendments thereto;

28 (3) fingerprints or photographs of a juvenile may be taken under
29 K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A)
30 Prosecuted as an adult pursuant to K.S.A. 2010 Supp. 38-2347, and
31 amendments thereto; or (B) taken into custody for an offense described in
32 subsection (n)(1) or (n)(2) of K.S.A. 2010 Supp. 38-2302, and
33 amendments thereto;

34 (4) fingerprints or photographs shall be taken of any juvenile
35 admitted to a juvenile correctional facility; and

36 (5) photographs may be taken of any juvenile placed in a juvenile
37 detention facility. Photographs taken under this paragraph shall be used
38 solely by the juvenile detention facility for the purposes of identification,
39 security and protection and shall not be disseminated to any other person
40 or agency except after an escape and necessary to assist in apprehension.

41 (b) Fingerprints and photographs taken under subsection (a)(1) or (a)
42 (2) shall be kept readily distinguishable from those of persons of the age
43 of majority. Fingerprints and photographs taken under subsections (a)(3)

1 and (a)(4) may be kept in the same manner as those of persons of the age
2 of majority.

3 (c) Fingerprints and photographs of a juvenile shall not be sent to a
4 state or federal repository, except that:

5 (1) Fingerprints and photographs may be sent to the state and federal
6 repository if authorized by a judge of the district court having
7 jurisdiction;

8 (2) a juvenile's fingerprints shall, and photographs of a juvenile may,
9 be sent to the state and federal repository if taken under subsection (a)(2)
10 or (a)(4); and

11 (3) fingerprints or photographs taken under subsection (a)(3) shall
12 be processed and disseminated in the same manner as those of persons of
13 the age of majority.

14 (d) Fingerprints or photographs of a juvenile may be furnished to
15 another juvenile justice agency, as defined by K.S.A. 2010 Supp. 38-
16 2325, and amendments thereto, if the other agency has a legitimate need
17 for the fingerprints or photographs.

18 (e) Any fingerprints or photographs of an alleged juvenile offender
19 taken under the provisions of subsection (a)(2) of K.S.A. 38-1611, prior
20 to its repeal, may be sent to a state or federal repository on or before
21 December 31, 2006.

22 (f) Any law enforcement agency that willfully fails to submit any
23 fingerprints or photographs required by this section shall be liable to the
24 state for the payment of a civil penalty, recoverable in an action brought
25 by the attorney general, in an amount not exceeding \$500 for each report
26 not made. Any civil penalty recovered under this subsection shall be paid
27 into the state general fund.

28 (g) The director of the Kansas bureau of investigation shall adopt
29 any rules and regulations necessary to implement, administer and enforce
30 the provisions of this section, including time limits within which
31 fingerprints shall be sent to a state or federal repository when required by
32 this section.

33 (h) Nothing in this section shall preclude the custodian of a juvenile
34 from authorizing photographs or fingerprints of the juvenile to be used in
35 any action under the Kansas parentage act.

36 Sec. 164. K.S.A. 2010 Supp. 38-2326 is hereby amended to read as
37 follows: 38-2326. (a) In order to properly advise the three branches of
38 government on the operation of the juvenile justice system, there is
39 hereby established within and as a part of the central repository, a
40 juvenile offender information system. The system shall serve as a
41 repository of juvenile offender information which is collected by juvenile
42 justice agencies and reported to the system.

43 (b) Except as otherwise provided by this subsection, every juvenile

1 justice agency shall report juvenile offender information, whether
2 collected manually or by means of an automated system, to the central
3 repository, in accordance with rules and regulations adopted pursuant to
4 this section. A juvenile justice agency shall report to the central repository
5 those reportable events involving a violation of a county resolution or city
6 ordinance only when required by rules and regulations adopted by the
7 director.

8 (c) Reporting methods may include:

9 (1) Submission of juvenile offender information by a juvenile justice
10 agency directly to the central repository;

11 (2) if the information can readily be collected and reported through
12 the court system, submission to the central repository by the office of
13 judicial administrator; or

14 (3) if the information can readily be collected and reported through
15 juvenile justice agencies that are part of a geographically based
16 information system, submission to the central repository by the agencies.

17 (d) The director may determine, by rules and regulations, the
18 statutorily required reportable events to be reported by each juvenile
19 justice agency, in order to avoid duplication in reporting.

20 (e) Juvenile offender information maintained in the juvenile offender
21 information system is confidential and shall not be disseminated or
22 publicly disclosed in a manner which enables identification of any
23 individual who is a subject of the information, except that the information
24 shall be open to inspection by law enforcement agencies of this state, by
25 the department of social and rehabilitation services if related to an
26 individual in the secretary's custody or control, by the juvenile justice
27 authority if related to an individual in the commissioner's custody or
28 control, by the department of corrections if related to an individual in the
29 custody and control of the secretary of corrections, by educational
30 institutions to the extent necessary to provide the safest possible
31 environment for pupils and employees, by any educator to the extent
32 necessary for the protection of the educator and pupils, by the officers of
33 any public institution to which the individual is committed, by county and
34 district attorneys, by attorneys for the parties to a proceeding under this
35 code, by an intake and assessment worker or upon order of a judge of the
36 district court or an appellate court. Such information shall reflect the
37 offense level and whether such offense is a person or nonperson offense.

38 (f) Any journal entry of a trial of adjudication shall state the number
39 of the statute under which the juvenile is adjudicated to be a juvenile
40 offender and specify whether each offense, if done by an adult, would
41 constitute a felony or misdemeanor, as defined by ~~K.S.A. 21-3105~~
42 *section 2 of chapter 136 of the 2010 Session Laws of Kansas*, and
43 amendments thereto.

1 (g) Any law enforcement agency that willfully fails to make any
2 report required by this section shall be liable to the state for the payment
3 of a civil penalty, recoverable in an action brought by the attorney
4 general, in an amount not exceeding \$500 for each report not made. Any
5 civil penalty recovered under this subsection shall be paid into the state
6 general fund.

7 (h) The director shall adopt any rules and regulations necessary to
8 implement, administer and enforce the provisions of this section.

9 (i) The director shall develop incentives to encourage the timely
10 entry of juvenile offender information into the central repository.

11 Sec. 165. K.S.A. 2010 Supp. 38-2331 is hereby amended to read as
12 follows: 38-2331. (a) If no prior order removing a juvenile from the
13 juvenile's home pursuant to K.S.A. 2010 Supp. 38-2334 or 38-2335, and
14 amendments thereto, has been made, the court shall not enter an order
15 removing a juvenile from the custody of a parent pursuant to this section
16 unless the court first finds probable cause that: (1)(A) The juvenile is
17 likely to sustain harm if not immediately removed from the home;

18 (B) allowing the juvenile to remain in home is contrary to the
19 welfare of the juvenile; or

20 (C) immediate placement of the juvenile is in the juvenile's best
21 interest; and

22 (2) reasonable efforts have been made to maintain the family unit
23 and prevent the unnecessary removal of the juvenile from the juvenile's
24 home or that an emergency exists which threatens the safety of the
25 juvenile. The court shall state the basis for each finding in writing.

26 (b) Except as provided in subsection (c), a juvenile may be placed in
27 a juvenile detention facility pursuant to subsection (c) or (d) of K.S.A.
28 2010 Supp. 38-2330 or subsection (e) of K.S.A. 2010 Supp. 38-2343, and
29 amendments thereto, if one or more of the following conditions are met:

30 (1) There is oral or written verification that the juvenile is a fugitive
31 sought for an offense in another jurisdiction, that the juvenile is currently
32 an escapee from a juvenile detention facility or that the juvenile has
33 absconded from a placement that is court ordered or designated by the
34 juvenile justice authority.

35 (2) The juvenile is alleged to have committed an offense which if
36 committed by an adult would constitute a felony or any crime described
37 in ~~article 35 of chapter 21 of the Kansas Statutes Annotated~~ *sections 65*
38 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
39 *of Kansas*, and amendments thereto.

40 (3) The juvenile has been adjudicated for a nonstatus offense and is
41 awaiting final court action on that offense.

42 (4) The juvenile has a record of failure to appear in court or there is
43 probable cause to believe that the juvenile will flee the jurisdiction of the

1 court.

2 (5) The juvenile has a history of violent behavior toward others.

3 (6) The juvenile exhibited seriously assaultive or destructive
4 behavior or self-destructive behavior at the time of being taken into
5 custody.

6 (7) The juvenile has a record of adjudication or conviction of one or
7 more offenses which if committed by an adult would constitute a felony.

8 (8) The juvenile is a juvenile offender who has been expelled from
9 placement in a nonsecure facility as a result of the current alleged
10 offense.

11 (9) The juvenile has been taken into custody by any court services
12 officer, juvenile community corrections officer or other person authorized
13 to supervise juveniles subject to this code pursuant to subsection (b) of
14 K.S.A. 2010 Supp. 38-2330, and amendments thereto.

15 (10) The juvenile has violated probation or conditions of release.

16 (c) No person 18 years of age or more shall be placed in a juvenile
17 detention center.

18 Sec. 166. K.S.A. 2010 Supp. 38-2355 is hereby amended to read as
19 follows: 38-2355. In all proceedings on complaints pursuant to the code
20 the state must prove beyond a reasonable doubt that the juvenile
21 committed the act or acts charged in the complaint or a lesser included
22 offense as defined in subsection ~~(2) of K.S.A. 21-3107(b)~~ of section 9 of
23 chapter 136 of the 2010 Session Laws of Kansas, and amendments
24 thereto.

25 Sec. 167. K.S.A. 2010 Supp. 38-2356 is hereby amended to read as
26 follows: 38-2356. (a) If the court finds that the evidence fails to prove an
27 offense charged or a lesser included offense as defined in subsection ~~(2)~~
28 ~~of K.S.A. 21-3107(b)~~ of section 9 of chapter 136 of the 2010 Session
29 Laws of Kansas, and amendments thereto, the court shall enter an order
30 dismissing the charge.

31 (b) If the court finds that the juvenile committed the offense charged
32 or a lesser included offense as defined in subsection ~~(2) of K.S.A. 21-~~
33 ~~3107(b)~~ of section 9 of chapter 136 of the 2010 Session Laws of Kansas,
34 and amendments thereto, the court shall adjudicate the juvenile to be a
35 juvenile offender and may issue a sentence as authorized by this code.

36 (c) If the court finds that the juvenile committed the acts constituting
37 the offense charged or a lesser included offense as defined in subsection
38 ~~(2) of K.S.A. 21-3107(b)~~ of section 9 of chapter 136 of the 2010 Session
39 Laws of Kansas, and amendments thereto, but is not responsible because
40 of mental disease or defect, the juvenile shall not be adjudicated as a
41 juvenile offender and shall be committed to the custody of the secretary
42 of social and rehabilitation services and placed in a state hospital. The
43 juvenile's continued commitment shall be subject to annual review in the

1 manner provided by K.S.A. 22-3428a, and amendments thereto, for
2 review of commitment of a defendant suffering from mental disease or
3 defect, and the juvenile may be discharged or conditionally released
4 pursuant to that section. The juvenile also may be discharged or
5 conditionally released in the same manner and subject to the same
6 procedures as provided by K.S.A. 22-3428, and amendments thereto, for
7 discharge of or granting conditional release to a defendant found
8 suffering from mental disease or defect. If the juvenile violates any
9 conditions of an order of conditional release, the juvenile shall be subject
10 to contempt proceedings and returned to custody as provided by K.S.A.
11 22-3428b, and amendments thereto.

12 (d) A copy of the court's order shall be sent to the school district in
13 which the juvenile offender is enrolled or will be enrolled.

14 Sec. 168. K.S.A. 2010 Supp. 38-2361 is hereby amended to read as
15 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant
16 to K.S.A. 2010 Supp. 38-2356, and amendments thereto, modification of
17 sentence pursuant to K.S.A. 2010 Supp. 38-2367, and amendments
18 thereto, or violation of a condition of sentence pursuant to K.S.A. 2010
19 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of
20 K.S.A. 2010 Supp. 38-2365, and amendments thereto, the court may
21 impose one or more of the following sentencing alternatives. In the event
22 that any sentencing alternative chosen constitutes an order authorizing or
23 requiring removal of the juvenile from the juvenile's home and such
24 findings either have not previously been made or the findings are not or
25 may no longer be current, the court shall make determinations as required
26 by K.S.A. 2010 Supp. 38-2334 and 38-2335, and amendments thereto.

27 (1) Place the juvenile on probation through court services or
28 community corrections for a fixed period, subject to terms and conditions
29 the court deems appropriate consistent with juvenile justice programs in
30 the community.

31 (2) Order the juvenile to participate in a community based program
32 available in such judicial district subject to the terms and conditions the
33 court deems appropriate. This alternative shall not be ordered with the
34 alternative in paragraph (12) and when ordered with the alternative in
35 paragraph (10) shall constitute a recommendation. Requirements
36 pertaining to child support may apply if custody is vested with other than
37 a parent.

38 (3) Place the juvenile in the custody of a parent or other suitable
39 person, subject to terms and conditions consistent with juvenile justice
40 programs in the community. This alternative shall not be ordered with the
41 alternative in paragraph (10) or (12). Requirements pertaining to child
42 support may apply if custody is vested with other than a parent.

43 (4) Order the juvenile to attend counseling, educational, mediation

1 or other sessions, or to undergo a drug evaluation pursuant to subsection
2 (b).

3 (5) Suspend or restrict the juvenile's driver's license or privilege to
4 operate a motor vehicle on the streets and highways of this state pursuant
5 to subsection (c).

6 (6) Order the juvenile to perform charitable or community service
7 work.

8 (7) Order the juvenile to make appropriate reparation or restitution
9 pursuant to subsection (d).

10 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
11 subsection (e).

12 (9) Place the juvenile under a house arrest program administered by
13 the court pursuant to ~~K.S.A. 21-4603~~ *subsection 249 of chapter 136 of the*
14 *2010 Session Laws of Kansas*, and amendments thereto.

15 (10) Place the juvenile in the custody of the commissioner as
16 provided in K.S.A. 2010 Supp. 38-2365, and amendments thereto. This
17 alternative shall not be ordered with the alternative in paragraph (3) or
18 (12). Except for a mandatory drug and alcohol evaluation, when this
19 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
20 orders shall constitute a recommendation by the court. Requirements
21 pertaining to child support shall apply under this alternative.

22 (11) Commit the juvenile to a sanctions house for a period no longer
23 than 28 days subject to the provisions of subsection (f).

24 (12) Commit the juvenile directly to the custody of the
25 commissioner for a period of confinement in a juvenile correctional
26 facility and a period of aftercare pursuant to K.S.A. 2010 Supp. 38-2369,
27 and amendments thereto. The provisions of K.S.A. 2010 Supp. 38-2365,
28 and amendments thereto, shall not apply to juveniles committed pursuant
29 to this provision, provided however, that 21 days prior to the juvenile's
30 release from a juvenile correctional facility, the commissioner or designee
31 shall notify the court of the juvenile's anticipated release date. The court
32 shall set and hold a permanency hearing pursuant to K.S.A. 2010 Supp.
33 38-2365, and amendments thereto, within seven days after the juvenile's
34 release. This alternative may be ordered with the alternative in paragraph
35 (7). Requirements pertaining to child support shall apply under this
36 alternative.

37 (b) If the court orders the juvenile to attend counseling, educational,
38 mediation or other sessions, or to undergo a drug and alcohol evaluation
39 pursuant to subsection (a)(4), the following provisions apply:

40 (1) The court may order the juvenile offender to participate in
41 counseling or mediation sessions or a program of education, including
42 placement in an alternative educational program approved by a local
43 school board. The costs of any counseling or mediation may be assessed

1 as expenses in the case. No mental health center shall charge a fee for
2 court-ordered counseling greater than what the center would have
3 charged the person receiving the counseling if the person had requested
4 counseling on the person's own initiative. No mediator shall charge a fee
5 for court-ordered mediation greater than what the mediator would have
6 charged the person participating in the mediation if the person had
7 requested mediation on the person's own initiative. Mediation may
8 include the victim but shall not be mandatory for the victim; and

9 (2) if the juvenile has been adjudicated to be a juvenile by reason of
10 a violation of a statute that makes such a requirement, the court shall
11 order and, if adjudicated for any other offense, the court may order the
12 juvenile to submit to and complete a drug and alcohol evaluation by a
13 community-based drug and alcohol safety action program certified
14 pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not
15 to exceed the fee established by that statute for such evaluation. The court
16 may waive the mandatory evaluation if the court finds that the juvenile
17 completed a drug and alcohol evaluation, approved by the community-
18 based alcohol and drug safety action program, within 12 months before
19 sentencing. If the evaluation occurred more than 12 months before
20 sentencing, the court shall order the juvenile to resubmit to and complete
21 the evaluation and program as provided herein. If the court finds that the
22 juvenile and those legally liable for the juvenile's support are indigent, the
23 court may waive the fee. In no event shall the fee be assessed against the
24 commissioner or the juvenile justice authority nor shall the fee be
25 assessed against the secretary of social and rehabilitation services or the
26 department of social and rehabilitation services if the juvenile is in the
27 secretary's care, custody and control.

28 (c) If the court orders suspension or restriction of a juvenile
29 offender's driver's license or privilege to operate a motor vehicle on the
30 streets and highways of this state pursuant to subsection (a)(5), the
31 following provisions apply:

32 (1) The duration of the suspension ordered by the court shall be for a
33 definite time period to be determined by the court. Upon suspension of a
34 license pursuant to this subsection, the court shall require the juvenile
35 offender to surrender the license to the court. The court shall transmit the
36 license to the division of motor vehicles of the department of revenue, to
37 be retained until the period of suspension expires. At that time, the
38 licensee may apply to the division for return of the license. If the license
39 has expired, the juvenile offender may apply for a new license, which
40 shall be issued promptly upon payment of the proper fee and satisfaction
41 of other conditions established by law for obtaining a license unless
42 another suspension or revocation of the juvenile offender's privilege to
43 operate a motor vehicle is in effect. As used in this subsection, "highway"

1 and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473,
2 and amendments thereto. Any juvenile offender who does not have a
3 driver's license may have driving privileges revoked. No Kansas driver's
4 license shall be issued to a juvenile offender whose driving privileges
5 have been revoked pursuant to this section for a definite time period to be
6 determined by the court; and

7 (2) in lieu of suspending a juvenile offender's driver's license or
8 privilege to operate a motor vehicle on the highways of this state, the
9 court may enter an order which places conditions on the juvenile
10 offender's privilege of operating a motor vehicle on the streets and
11 highways of this state, a certified copy of which the juvenile offender
12 shall be required to carry any time the juvenile offender is operating a
13 motor vehicle on the streets and highways of this state. The order shall
14 prescribe a definite time period for the conditions imposed. Upon
15 entering an order restricting a juvenile offender's license, the court shall
16 require the juvenile offender to surrender such juvenile offender's license
17 to the court. The court shall transmit the license to the division of
18 vehicles, together with a copy of the order. Upon receipt thereof, the
19 division of vehicles shall issue without charge a driver's license which
20 shall indicate on its face that conditions have been imposed on the
21 juvenile offender's privilege of operating a motor vehicle and that a
22 certified copy of the order imposing the conditions is required to be
23 carried by the juvenile offender when operating a motor vehicle on the
24 streets and highways of this state. If the juvenile offender is a
25 nonresident, the court shall cause a copy of the order to be transmitted to
26 the division and the division shall forward a copy of it to the motor
27 vehicle administrator of the juvenile offender's state of issuance. The
28 court shall furnish to any juvenile offender whose driver's license has had
29 conditions imposed on it under this section a copy of the order, which
30 shall be recognized as a valid Kansas driver's license until the division
31 issues the restricted license provided for in this subsection. Upon
32 expiration of the period of time for which conditions are imposed
33 pursuant to this subsection, the juvenile offender may apply to the
34 division for the return of the license previously surrendered by the
35 juvenile offender. In the event the license has expired, the juvenile
36 offender may apply to the division for a new license, which shall be
37 issued immediately by the division upon payment of the proper fee and
38 satisfaction of the other conditions established by law unless such
39 juvenile offender's privilege to operate a motor vehicle on the streets and
40 highways of this state has been suspended or revoked prior thereto. If any
41 juvenile offender violates any of the conditions imposed under this
42 subsection, the juvenile offender's driver's license or privilege to operate a
43 motor vehicle on the streets and highways of this state shall be revoked

1 for a period as determined by the court in which the juvenile offender is
2 convicted of violating such conditions.

3 (d) The following provisions apply to the court's determination of
4 whether to order reparation or restitution pursuant to subsection (a)(7):

5 (1) The court shall order the juvenile to make reparation or
6 restitution to the aggrieved party for the damage or loss caused by the
7 juvenile offender's offense unless it finds compelling circumstances that
8 would render a plan of reparation or restitution unworkable. If the court
9 finds compelling circumstances that would render a plan of reparation or
10 restitution unworkable, the court shall enter such findings with
11 particularity on the record. In lieu of reparation or restitution, the court
12 may order the juvenile to perform charitable or social service for
13 organizations performing services for the community; and

14 (2) restitution may include, but shall not be limited to, the amount of
15 damage or loss caused by the juvenile's offense. Restitution may be made
16 by payment of an amount fixed by the court or by working for the parties
17 sustaining loss in the manner ordered by the court. An order of monetary
18 restitution shall be a judgment against the juvenile that may be collected
19 by the court by garnishment or other execution as on judgments in civil
20 cases. Such judgment shall not be affected by the termination of the
21 court's jurisdiction over the juvenile offender.

22 (e) If the court imposes a fine pursuant to subsection (a)(8), the
23 following provisions apply:

24 (1) The amount of the fine may not exceed \$1,000 for each offense.
25 The amount of the fine should be related to the seriousness of the offense
26 and the juvenile's ability to pay. Payment of a fine may be required in a
27 lump sum or installments;

28 (2) in determining whether to impose a fine and the amount to be
29 imposed, the court shall consider that imposition of a fine is most
30 appropriate in cases where the juvenile has derived pecuniary gain from
31 the offense and that imposition of a restitution order is preferable to
32 imposition of a fine; and

33 (3) any fine imposed by court shall be a judgment against the
34 juvenile that may be collected by the court by garnishment or other
35 execution as on judgments in civil cases. Such judgment shall not be
36 affected by the termination of the court's jurisdiction over the juvenile.

37 (f) If the court commits the juvenile to a sanctions house pursuant to
38 subsection (a)(11), the following provisions shall apply:

39 (1) The court may order commitment for up to 28 days for the same
40 offense or violation of sentencing condition. The court shall review the
41 commitment every seven days and, may shorten the initial commitment
42 or, if the initial term is less than 28 days, may extend the commitment;

43 (2) if, in the sentencing order, the court orders a sanctions house

1 placement for a verifiable probation violation and such probation
2 violation occurs, the juvenile may immediately be taken to a sanctions
3 house and detained for no more than 48 hours, excluding Saturdays,
4 Sundays, holidays, and days on which the office of the clerk of the court
5 is not accessible, prior to court review of the placement. The court and all
6 parties shall be notified of the sanctions house placement; and

7 (3) a juvenile over 18 years of age and less than 23 years of age at
8 sentencing shall be committed to a county jail, in lieu of a sanctions
9 house, under the same time restrictions imposed by paragraph (1), but
10 shall not be committed to or confined in a juvenile detention facility.

11 (g) Any order issued by the judge pursuant to this section shall be in
12 effect immediately upon entry into the court's minutes.

13 (h) In addition to the requirements of K.S.A. 2010 Supp. 38-2373,
14 and amendments thereto, if a person is under 18 years of age and
15 convicted of a felony or adjudicated as a juvenile offender for an offense
16 if committed by an adult would constitute the commission of a felony, the
17 court shall forward a signed copy of the journal entry to the
18 commissioner within 30 days of final disposition.

19 (i) Except as further provided, if a juvenile has been adjudged to be
20 a juvenile offender for an offense that if committed by an adult would
21 constitute the commission of: (1) Aggravated human trafficking, as
22 defined in ~~K.S.A. 2010 Supp. 21-3447~~ *section 61 of chapter 136 of the*
23 *2010 Session Laws of Kansas*, and amendments thereto, if the victim is
24 less than 14 years of age; (2) rape, as defined in subsection ~~(a)(2)~~ of
25 ~~K.S.A. 21-3502(a)(3)~~ *of section 67 of chapter 136 of the 2010 Session*
26 *Laws of Kansas*, and amendments thereto; (3) aggravated indecent
27 liberties with a child, as defined in subsection ~~(a)(3)~~ of ~~K.S.A. 21-~~
28 ~~3504(b)(3)~~ *of section 70 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto; (4) aggravated criminal sodomy, as
30 defined in subsection ~~(a)(1) or (a)(2)~~ of ~~K.S.A. 21-3506(b)(1) or (b)(2)~~ of
31 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
32 amendments thereto; (5) promoting prostitution, as defined in ~~K.S.A. 21-~~
33 ~~3513~~ *section 230 of chapter 136 of the 2010 Session Laws of Kansas*, and
34 amendments thereto, if the prostitute is less than 14 years of age; (6)
35 sexual exploitation of a child, as defined in subsection ~~(a)(5) or (a)(6)~~ of
36 ~~K.S.A. 21-3516(a)(1) or (a)(4)~~ *of section 74 of chapter 136 of the 2010*
37 *Session Laws of Kansas*, and amendments thereto, *if the victim is less*
38 *than 14 years of age*; or (7) an attempt, conspiracy or criminal
39 solicitation, as defined in ~~K.S.A. 21-3301, 21-3302 or 21-3303~~ *section 33,*
40 *section 34 or section 35 of chapter 136 of the 2010 Session Laws of*
41 *Kansas*, and amendments thereto, of an offense defined in parts (1)
42 through (6); the court shall issue an order prohibiting the juvenile from
43 attending the attendance center that the victim of the offense attends. If

1 only one attendance center exists, for which the victim and juvenile are
2 eligible to attend, in the school district where the victim and the juvenile
3 reside, the court shall hear testimony and take evidence from the victim,
4 the juvenile, their families and a representative of the school district as to
5 why the juvenile should or should not be allowed to remain at the
6 attendance center attended by the victim. After such hearing, the court
7 may issue an order prohibiting the juvenile from attending the attendance
8 center that the victim of the offense attends.

9 (j) The sentencing hearing shall be open to the public as provided in
10 K.S.A. 2010 Supp. 38-2353, and amendments thereto.

11 Sec. 169. K.S.A. 2010 Supp. 38-2364 is hereby amended to read as
12 follows: 38-2364. (a) If an extended jurisdiction juvenile prosecution
13 results in a guilty plea or finding of guilt, the court shall:

14 (1) Impose one or more juvenile sentences under K.S.A. 2010 Supp.
15 38-2361, and amendments thereto; and

16 (2) impose an adult criminal sentence, the execution of which shall
17 be stayed on the condition that the juvenile offender not violate the
18 provisions of the juvenile sentence and not commit a new offense.

19 (b) When it appears that a person sentenced as an extended
20 jurisdiction juvenile has violated one or more conditions of the juvenile
21 sentence or is alleged to have committed a new offense, the court, without
22 notice, may revoke the stay and juvenile sentence and direct that the
23 juvenile offender be immediately taken into custody and delivered to the
24 secretary of corrections pursuant to ~~K.S.A. 21-4621~~ *section 281 of*
25 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
26 thereto. The court shall notify the juvenile offender and such juvenile
27 offender's attorney of record, in writing by personal service, as provided
28 in K.S.A. 60-303, and amendments thereto, or certified mail, return
29 receipt requested, of the reasons alleged to exist for revocation of the stay
30 of execution of the adult sentence. If the juvenile offender challenges the
31 reasons, the court shall hold a hearing on the issue at which the juvenile
32 offender is entitled to be heard and represented by counsel. After the
33 hearing, if the court finds by a preponderance of the evidence that the
34 juvenile committed a new offense or violated one or more conditions of
35 the juvenile's sentence, the court shall revoke the juvenile sentence and
36 order the imposition of the adult sentence previously ordered pursuant to
37 subsection (a)(2) or, upon agreement of the county or district attorney and
38 the juvenile offender's attorney of record, the court may modify the adult
39 sentence previously ordered pursuant to subsection (a)(2). Upon such
40 finding, the juvenile's extended jurisdiction status is terminated, and
41 juvenile court jurisdiction is terminated. The ongoing jurisdiction for any
42 adult sanction, other than the commitment to the department of
43 corrections, is with the adult court. The juvenile offender shall be credited

1 for time served in a juvenile correctional or detention facility on the
2 juvenile sentence as service on any authorized adult sanction.

3 (c) Upon becoming 18 years of age, any juvenile who has been
4 sentenced pursuant to subsection (a) and is serving the juvenile sentence,
5 may move for a court hearing to review the sentence. If the sentence is
6 continued, the court shall set a date of further review in no later than 36
7 months.

8 Sec. 170. K.S.A. 2010 Supp. 38-2365 is hereby amended to read as
9 follows: 38-2365. (a) When a juvenile offender has been placed in the
10 custody of the commissioner, the commissioner shall have a reasonable
11 time to make a placement. If the juvenile offender has not been placed,
12 any party who believes that the amount of time elapsed without
13 placement has exceeded a reasonable time may file a motion for review
14 with the court. In determining what is a reasonable amount of time,
15 matters considered by the court shall include, but not be limited to, the
16 nature of the underlying offense, efforts made for placement of the
17 juvenile offender and the availability of a suitable placement. The
18 commissioner shall notify the court, the juvenile's attorney of record and
19 the juvenile's parent, in writing, of the initial placement and any
20 subsequent change of placement as soon as the placement has been
21 accomplished. The notice to the juvenile offender's parent shall be sent to
22 such parent's last known address or addresses. The court shall have no
23 power to direct a specific placement by the commissioner, but may make
24 recommendations to the commissioner. The commissioner may place the
25 juvenile offender in an institution operated by the commissioner, a youth
26 residential facility or any other appropriate placement. If the court has
27 recommended an out-of-home placement, the commissioner may not
28 return the juvenile offender to the home from which removed without
29 first notifying the court of the plan.

30 (b) If a juvenile is in the custody of the commissioner, the
31 commissioner shall prepare and present a permanency plan at sentencing
32 or within 30 days thereafter. If a permanency plan is already in place
33 under a child in need of care proceeding, the court may adopt the plan
34 under the present proceeding. The written permanency plan shall provide
35 for reintegration of the juvenile into such juvenile's family or, if
36 reintegration is not a viable alternative, for other permanent placement of
37 the juvenile. Reintegration may not be a viable alternative when: (1) The
38 parent has been found by a court to have committed murder in the first
39 degree, K.S.A. 21-3401, *prior to its repeal, or section 37 of chapter 136*
40 *of the 2010 Session Laws of Kansas*, and amendments thereto, murder in
41 the second degree, K.S.A. 21-3402, *prior to its repeal, or section 38 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto, capital murder, K.S.A. 21-3439, *prior to its repeal, or section 36*

1 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
2 *thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or*
3 *section 39 of chapter 136 of the 2010 Session Laws of Kansas, and*
4 *amendments thereto, of a child or violated a law of another state which*
5 *prohibits such murder or manslaughter of a child;*

6 (2) the parent aided or abetted, attempted, conspired or solicited to
7 commit such murder or voluntary manslaughter of a child;

8 (3) the parent committed a felony battery that resulted in bodily
9 injury to the juvenile who is the subject of this proceeding or another
10 child;

11 (4) the parent has subjected the juvenile who is the subject of this
12 proceeding or another child to aggravated circumstances as defined in
13 K.S.A. 38-1502, and amendments thereto;

14 (5) the parental rights of the parent to another child have been
15 terminated involuntarily; or

16 (6) the juvenile has been in extended out-of-home placement as
17 defined in K.S.A. 2010 Supp. 38-2202, and amendments thereto.

18 (c) If the juvenile is placed in the custody of the commissioner, the
19 plan shall be prepared and submitted by the commissioner. If the juvenile
20 is placed in the custody of a facility or person other than the
21 commissioner, the plan shall be prepared and submitted by a court
22 services officer. If the permanency goal is reintegration into the family,
23 the permanency plan shall include measurable objectives and time
24 schedules for reintegration.

25 (d) During the time a juvenile remains in the custody of the
26 commissioner, the commissioner shall submit to the court, at least every
27 six months, a written report of the progress being made toward the goals
28 of the permanency plan submitted pursuant to subsections (b) and (c) and
29 the specific actions taken to achieve the goals of the permanency plan. If
30 the juvenile is placed in foster care, the court may request the foster
31 parent to submit to the court, at least every six months, a report in regard
32 to the juvenile's adjustment, progress and condition. Such report shall be
33 made a part of the juvenile's court social file. The court shall review the
34 plan submitted by the commissioner and the report, if any, submitted by
35 the foster parent and determine whether reasonable efforts and progress
36 have been made to achieve the goals of the permanency plan. If the court
37 determines that progress is inadequate or that the permanency plan is no
38 longer viable, the court shall hold a hearing pursuant to subsection (e).

39 (e) When the commissioner has custody of the juvenile, a
40 permanency hearing shall be held no more than 12 months after the
41 juvenile is first placed outside such juvenile's home and at least every 12
42 months thereafter. Juvenile offenders who have been in extended out-of-
43 home placement shall be provided a permanency hearing within 30 days

1 of a request from the commissioner. The court may appoint a *guardian ad*
2 *litem* to represent the juvenile offender at the permanency hearing. At
3 each hearing, the court shall make a written finding whether reasonable
4 efforts have been made to accomplish the permanency goal and whether
5 continued out-of-home placement is necessary for the juvenile's safety.

6 (f) Whenever a hearing is required under subsection (e), the court
7 shall notify all interested parties of the hearing date, the commissioner,
8 foster parent and preadoptive parent or relatives providing care for the
9 juvenile and hold a hearing. Individuals receiving notice pursuant to this
10 subsection shall not be made a party to the action solely on the basis of
11 this notice and opportunity to be heard. After providing the persons
12 receiving notice an opportunity to be heard, the court shall determine
13 whether the juvenile's needs are being adequately met; whether services
14 set out in the permanency plan necessary for the safe return of the
15 juvenile have been made available to the parent with whom reintegration
16 is planned; and whether reasonable efforts and progress have been made
17 to achieve the goals of the permanency plan.

18 (g) If the court finds reintegration continues to be a viable
19 alternative, the court shall determine whether and, if applicable, when the
20 juvenile will be returned to the parent. The court may rescind any of its
21 prior dispositional orders and enter any dispositional order authorized by
22 this code or may order that a new plan for the reintegration be prepared
23 and submitted to the court. If reintegration cannot be accomplished as
24 approved by the court, the court shall be informed and shall schedule a
25 hearing pursuant to subsection (h). No such hearing is required when the
26 parent voluntarily relinquishes parental rights or agrees to appointment of
27 a permanent guardian.

28 (h) When the court finds any of the following conditions exist, the
29 county or district attorney or the county or district attorney's designee
30 shall file a petition alleging the juvenile to be a child in need of care and
31 requesting termination of parental rights pursuant to the Kansas code for
32 care of children: (1) The court determines that reintegration is not a viable
33 alternative and either adoption or permanent guardianship might be in the
34 best interests of the juvenile;

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

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

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

43 (i) A petition to terminate parental rights is not required to be filed if

1 one of the following exceptions is documented to exist: (1) The juvenile
2 is in a stable placement with relatives;

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

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

15 Sec. 171. K.S.A. 2010 Supp. 38-2371 is hereby amended to read as
16 follows: 38-2371. (a) (1) Whenever a person is adjudicated as a juvenile
17 offender, the court upon motion of the state, shall hold a hearing to
18 consider imposition of a departure sentence. The motion shall state that a
19 departure is sought and the reasons and factors relied upon. The hearing
20 shall be scheduled so that the parties have adequate time to prepare and
21 present arguments regarding the issues of departure sentencing. The
22 victim of a crime or the victim's family shall be notified of the right to be
23 present at the hearing for the convicted person by the county or district
24 attorney. The parties may submit written arguments to the court prior to
25 the date of the hearing and may make oral arguments before the court at
26 the hearing. The court shall review the victim impact statement, if
27 available. Prior to the hearing, the court shall transmit to the juvenile
28 offender or the juvenile offender's attorney and the prosecuting attorney
29 copies of the predispositional investigation report.

30 (2) At the conclusion of the hearing or within 21 days thereafter, the
31 court shall issue findings of fact and conclusions of law regarding the
32 issues submitted by the parties, and shall enter an appropriate order.

33 (3) If a factual aspect of a crime is a statutory element of the crime,
34 or is used to determine crime severity, that aspect of the current crime of
35 conviction may be used as an aggravating factor only if the criminal
36 conduct constituting that aspect of the current crime of conviction is
37 significantly different from the usual criminal conduct captured by the
38 aspect of the crime. Subject to this provision, the nonexclusive lists of
39 aggravating factors provided in ~~subsection (c)(2) of K.S.A. 21-4716, and~~
40 ~~amendments thereto, and in subsection (a) of K.S.A. 21-4717~~ *sections 296*
41 *and 297 of chapter 136 of the 2010 Session Laws of Kansas*, and
42 amendments thereto, may be considered in determining whether
43 substantial and compelling reasons exist.

1 (b) If the court decides to depart on its own volition, without a
2 motion from the state, the court must notify all parties of its intent and
3 allow reasonable time for either party to respond if they request. The
4 notice shall state that a departure is intended by the court and the reasons
5 and factors relied upon.

6 (c) In each case in which the court imposes a sentence that deviates
7 from the presumptive sentence, the court shall make findings of fact as to
8 the reasons for departure regardless of whether a hearing is requested.

9 (d) If the sentencing judge departs from the presumptive sentence,
10 the judge shall state on the record at the time of sentencing the substantial
11 and compelling reasons for the departure. When a departure sentence is
12 appropriate, the sentencing judge may depart from the matrix as provided
13 in this section. When a sentencing judge departs in setting the duration of
14 a presumptive term of imprisonment:

15 (1) The presumptive term of imprisonment set in such departure
16 shall not total more than double the maximum duration of the
17 presumptive imprisonment term;

18 (2) the court shall have no authority to reduce the minimum term of
19 confinement as defined within the placement matrix; and

20 (3) the maximum term for commitment of any juvenile offender to a
21 juvenile correctional facility is age 22 years, 6 months.

22 (e) A departure sentence may be appealed as provided in K.S.A.
23 2010 Supp. 38-2380, and amendments thereto.

24 Sec. 172. K.S.A. 2010 Supp. 38-2377 is hereby amended to read as
25 follows: 38-2377. (a) The commissioner shall notify the county or district
26 attorney, the court, the local law enforcement agency and the school
27 district in which the juvenile offender will be residing of such pending
28 release at least 45 days before release if the juvenile is still required to
29 attend school, if the juvenile offender has committed an act prior to July
30 1, 1999, which, if committed by a person 18 years of age or over, would
31 have constituted: (1) A class A or B felony, before July 1, 1993, or (2) an
32 off-grid crime, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5 or
33 a drug crime ranked at severity level 1, 2 or 3, if the offense was
34 committed on or after July 1, 1993, and, if such juvenile is to be released.
35 The county or district attorney shall give written notice at least 30 days
36 prior to discharge of the juvenile offender pursuant to K.S.A. 2010 Supp.
37 38-2379, and amendments thereto. The county attorney, district attorney
38 or the court on its own motion may file a motion with the court for a
39 hearing to determine if the juvenile offender should be retained in the
40 custody of the commissioner, pursuant to K.S.A. 2010 Supp. 38-2376,
41 and amendments thereto. The court shall fix a time and place for hearing
42 and shall notify each party of the time and place.

43 (b) Following the hearing if the court orders the commissioner to

1 retain custody, the juvenile offender shall not be held in a juvenile
2 correctional facility for longer than the maximum term of imprisonment
3 which could be imposed upon an adult convicted of the offense or
4 offenses which the juvenile offender has been adjudicated to have
5 committed.

6 (c) As used in this section, "maximum term of imprisonment" means
7 the greatest maximum sentence authorized by ~~K.S.A. 21-4501, and~~
8 ~~amendments thereto, applying any enhanced penalty which would be~~
9 ~~applicable under K.S.A. 21-4504, and amendments thereto, and~~
10 computing terms as consecutive when required by ~~K.S.A. 21-4608~~*section*
11 *246 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto.

13 Sec. 173. K.S.A. 39-720 is hereby amended to read as follows: 39-
14 720. Any person who obtains or attempts to obtain, or aids or abets any
15 other person to obtain, by means of a willfully false statement or
16 representation, or by impersonation, collusion, or other fraudulent device,
17 assistance to which the applicant or client is not entitled, shall be guilty of
18 the crime of theft, as defined by ~~K.S.A. 21-3701, and he in section 87 of~~
19 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
20 *thereto. Such person* shall be required to remit to the secretary the amount
21 of any assistance given ~~him~~*such person* under such fraudulent act. In any
22 civil action for the recovery of assistance on the grounds the assistance
23 was fraudulently obtained, proof that the recipient of the assistance
24 possesses or did possess resources which does or would have rendered
25 ~~him~~*such person* ineligible to receive such assistance shall be deemed
26 prima facie evidence that such assistance was fraudulently obtained.

27 Sec. 174. K.S.A. 39-785 is hereby amended to read as follows: 39-
28 785. As used in *section 83 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, ~~K.S.A. 21-3605~~, 39-709 and K.S.A. 39-785 to 39-790, inclusive
30 and amendments thereto:

31 (a) "Adult care home" means a nursing facility licensed under the
32 adult care home licensure act.

33 (b) "Excess shelter allowance" means, for the applicant or recipient's
34 spouse, the amount by which the sum of (1) the spouse's expense for rent
35 or mortgage payment, including principal and interest, taxes and
36 insurance and, in the case of a condominium or cooperative, required
37 maintenance charges excluding utilities, for the spouse's principal
38 residence, and (2) the standard utility allowance under section 5(e) of the
39 food stamp act of 1977, exceeds 30% of the maximum amount of income
40 allowed under K.S.A. 39-787, and amendments thereto.

41 (c) "Home and community based services" means those services
42 provided under the state medical assistance program under waivers as
43 defined in title XIX of the federal social security act in accordance with

1 the plan adopted under subsection (s) of K.S.A. 39-708c, and
2 amendments thereto, to recipients who would require admission to an
3 adult care home if such services were not otherwise provided.

4 (d) "Income" means earned income and unearned income as defined
5 under the state medical assistance program in accordance with the plan
6 adopted under subsection (s) of K.S.A. 39-708c, and amendments
7 thereto, to determine eligibility of applicants for medical assistance.

8 (e) "Institution" means an adult care home or a long-term care unit
9 of a medical care facility.

10 (f) "Medical assistance" has the meaning provided under K.S.A. 39-
11 702, and amendments thereto.

12 (g) "Qualified applicant" means a person who (1) applies for
13 medical assistance and (2) is receiving long-term care in an institution or
14 would be eligible for home and community based services if receiving
15 medical assistance.

16 (h) "Qualified recipient" means a person who (1) receives medical
17 assistance and (2) is receiving long-term care in an institution or is
18 receiving home and community based services.

19 (i) "Resources" means cash or other liquid assets or any real or
20 personal property that an individual or spouse owns and could convert to
21 cash to be used for such individual's support and maintenance. If the
22 individual has the right, authority or power to liquidate the property, or
23 such individual's share of the property, it is a resource. If a property right
24 cannot be liquidated, the property will not be considered a resource of the
25 individual or spouse.

26 (j) "Secretary" means the secretary of social and rehabilitation
27 services.

28 (k) "Exempt income" means income which is not considered in
29 determining eligibility for medical assistance under the plan adopted
30 under subsection (s) of K.S.A. 39-708c, and amendments thereto.

31 (l) "Nonexempt income" means income which is considered in
32 determining eligibility for medical assistance under the plan adopted
33 under subsection (s) of K.S.A. 39-708c, and amendments thereto.

34 (m) "Exempt resources" means resources which are not considered
35 in determining eligibility for medical assistance under the plan adopted
36 under subsection (s) of K.S.A. 39-708c, and amendments thereto.

37 (n) "Nonexempt resources" means resources which are considered in
38 determining eligibility for medical assistance under the plan adopted
39 under subsection (s) of K.S.A. 39-708c, and amendments thereto.

40 (o) "Long-term care" means care which exceeds or is projected to
41 exceed three months, including the month care begins.

42 Sec. 175. K.S.A. 2010 Supp. 39-970 is hereby amended to read as
43 follows: 39-970. (a) (1) No person shall knowingly operate an adult care

1 home if, in the adult care home, there works any person who has been
2 convicted of or has been adjudicated a juvenile offender because of
3 having committed an act which if done by an adult would constitute the
4 commission of capital murder, pursuant to K.S.A. 21-3439, *prior to its*
5 *repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas,*
6 and amendments thereto, first degree murder, pursuant to K.S.A. 21-
7 3401, *prior to its repeal, or section 37 of chapter 136 of the 2010 Session*
8 *Laws of Kansas,* and amendments thereto, second degree murder,
9 pursuant to subsection (a) of K.S.A. 21-3402, *prior to its repeal, or*
10 *subsection (a) of section 38 of chapter 136 of the 2010 Session Laws of*
11 *Kansas,* and amendments thereto, voluntary manslaughter, pursuant to
12 K.S.A. 21-3403, *prior to its repeal, or section 39 of chapter 136 of the*
13 *2010 Session Laws of Kansas,* and amendments thereto, assisting suicide
14 pursuant to K.S.A. 21-3406, *prior to its repeal, or section 42 of chapter*
15 *136 of the 2010 Session Laws of Kansas,* and amendments thereto,
16 mistreatment of a dependent adult, pursuant to K.S.A. 21-3437, *prior to*
17 *its repeal, or section 52 of chapter 136 of the 2010 Session Laws of*
18 *Kansas,* and amendments thereto, rape, pursuant to K.S.A. 21-3502, *prior*
19 *to its repeal, or section 67 of chapter 136 of the 2010 Session Laws of*
20 *Kansas,* and amendments thereto, indecent liberties with a child, pursuant
21 to K.S.A. 21-3503, *prior to its repeal, or subsection (a) of section 70 of*
22 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
23 thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-
24 3504, *prior to its repeal, or subsection (b) of section 70 of chapter 136 of*
25 *the 2010 Session Laws of Kansas,* and amendments thereto, aggravated
26 criminal sodomy, pursuant to K.S.A. 21-3506, *prior to its repeal, or*
27 *subsection (b) of section 68 of chapter 136 of the 2010 Session Laws of*
28 *Kansas,* and amendments thereto, indecent solicitation of a child,
29 pursuant to K.S.A. 21-3510, *prior to its repeal, or subsection (a) of*
30 *section 72 of chapter 136 of the 2010 Session Laws of Kansas,* and
31 amendments thereto, aggravated indecent solicitation of a child, pursuant
32 to K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section 72 of*
33 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
34 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, *prior*
35 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
36 *Kansas,* and amendments thereto, sexual battery, pursuant to K.S.A. 21-
37 3517, *prior to its repeal, or subsection (a) of section 69 of chapter 136 of*
38 *the 2010 Session Laws of Kansas,* and amendments thereto, or aggravated
39 sexual battery, pursuant to K.S.A. 21-3518, *prior to its repeal, or*
40 *subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of*
41 *Kansas,* and amendments thereto, an attempt to commit any of the crimes
42 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, *prior to its*
43 *repeal, or section 33 of chapter 136 of the 2010 Session Laws of Kansas,*

1 and amendments thereto, a conspiracy to commit any of the crimes listed
2 in this subsection (a)(1), pursuant to K.S.A. 21-3302, *prior to its repeal,*
3 *or section 34 of chapter 136 of the 2010 Session Laws of Kansas,* and
4 amendments thereto, or criminal solicitation of any of the crimes listed in
5 this subsection (a)(1), pursuant to K.S.A. 21-3303, *prior to its repeal, or*
6 *section 35 of chapter 136 of the 2010 Session Laws of Kansas,* and
7 amendments thereto, or similar statutes of other states or the federal
8 government. The provisions of subsection (a)(2)(C) shall not apply to any
9 person who is employed by an adult care home on ~~the effective date of~~
10 ~~this act~~ *July 1, 2010* and while continuously employed by the same adult
11 care home.

12 (2) A person operating an adult care home may employ an applicant
13 who has been convicted of any of the following if five or more years have
14 elapsed since the applicant satisfied the sentence imposed or was
15 discharged from probation, a community correctional services program,
16 parole, postrelease supervision, conditional release or a suspended
17 sentence; or if five or more years have elapsed since the applicant has
18 been finally discharged from the custody of the commissioner of juvenile
19 justice or from probation or has been adjudicated a juvenile offender,
20 whichever time is longer: A felony conviction for a crime which is
21 described in: (A) Article 34 of chapter 21 of the Kansas Statutes
22 Annotated, *prior to their repeal, or sections 36 through 64, 174, 210 or*
23 *211 of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
24 thereto, except those crimes listed in subsection (a)(1); (B) articles 35 or
25 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal,*
26 *or sections 65 through 86 or 229 through 231 of chapter 136 of the 2010*
27 *Session Laws of Kansas,* and amendments thereto, except those crimes
28 listed in subsection (a)(1) and K.S.A. 21-3605, *prior to its repeal, or*
29 *section 83 of chapter 136 of the 2010 Session Laws of Kansas,* and
30 amendments thereto; (C) K.S.A. 21-3701, *prior to its repeal, or section*
31 *87 of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
32 thereto; (D) an attempt to commit any of the crimes listed in this
33 subsection (a)(2) pursuant to K.S.A. 21-3301, *prior to its repeal, or*
34 *section 33 of chapter 136 of the 2010 Session Laws of Kansas,* and
35 amendments thereto; (E) a conspiracy to commit any of the crimes listed
36 in subsection (a)(2) pursuant to K.S.A. 21-3302, *prior to its repeal, or*
37 *section 34 of chapter 136 of the 2010 Session Laws of Kansas,* and
38 amendments thereto; (F) criminal solicitation of any of the crimes listed
39 in subsection (a)(2) pursuant to K.S.A. 21-3303, *prior to its repeal, or*
40 *section 35 of chapter 136 of the 2010 Session Laws of Kansas,* and
41 amendments thereto; or (G) similar statutes of other states or the federal
42 government.

43 (b) No person shall operate an adult care home if such person has

1 been found to be in need of a guardian or conservator, or both as provided
2 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The
3 provisions of this subsection shall not apply to a minor found to be in
4 need of a guardian or conservator for reasons other than impairment.

5 (c) The secretary of health and environment shall have access to any
6 criminal history record information in the possession of the Kansas
7 bureau of investigation regarding any criminal history information,
8 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
9 *repeal, or section 52, subsection (a) of section 69 and section 87 of*
10 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
11 thereto, adjudications of a juvenile offender which if committed by an
12 adult would have been a felony conviction, and adjudications of a
13 juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
14 and 21-3701, *prior to their repeal, or section 52, subsection (a) of section*
15 *69 and section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
16 and amendments thereto, concerning persons working in an adult care
17 home. The secretary shall have access to these records for the purpose of
18 determining whether or not the adult care home meets the requirements of
19 this section. The Kansas bureau of investigation may charge to the
20 department of health and environment a reasonable fee for providing
21 criminal history record information under this subsection.

22 (d) For the purpose of complying with this section, the operator of
23 an adult care home shall request from the department of health and
24 environment information regarding any criminal history information,
25 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
26 *repeal, or section 52, subsection (a) of section 69 and section 87 of*
27 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
28 thereto, adjudications of a juvenile offender which if committed by an
29 adult would have been a felony conviction, and adjudications of a
30 juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
31 and 21-3701, *prior to their repeal, or section 52, subsection (a) of section*
32 *69 and section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
33 and amendments thereto, and which relates to a person who works in the
34 adult care home, or is being considered for employment by the adult care
35 home, for the purpose of determining whether such person is subject to
36 the provision of this section. For the purpose of complying with this
37 section, the operator of an adult care home shall receive from any
38 employment agency which provides employees to work in the adult care
39 home written certification that such employees are not prohibited from
40 working in the adult care home under this section. For the purpose of
41 complying with this section, information relating to convictions and
42 adjudications by the federal government or to convictions and
43 adjudications in states other than Kansas shall not be required until such

1 time as the secretary of health and environment determines the search for
2 such information could reasonably be performed and the information
3 obtained within a two-week period. For the purpose of complying with
4 this section, a person who operates an adult care home may hire an
5 applicant for employment on a conditional basis pending the results from
6 the department of health and environment of a request for information
7 under this subsection. No adult care home, the operator or employees of
8 an adult care home or an employment agency, or the operator or
9 employees of an employment agency, shall be liable for civil damages
10 resulting from any decision to employ, to refuse to employ or to discharge
11 from employment any person based on such adult care home's
12 compliance with the provisions of this section if such adult care home or
13 employment agency acts in good faith to comply with this section.

14 (e) The secretary of health and environment shall charge each person
15 requesting information under this section a fee equal to cost, not to
16 exceed \$10, for each name about which an information request has been
17 submitted to the department under this section.

18 (f) (1) The secretary of health and environment shall provide each
19 operator requesting information under this section with the criminal
20 history record information concerning any criminal history information
21 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
22 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, in writing and within three working days of receipt of such
25 information from the Kansas bureau of investigation. The criminal history
26 record information shall be provided regardless of whether the
27 information discloses that the subject of the request has been convicted of
28 an offense enumerated in subsection (a).

29 (2) When an offense enumerated in subsection (a) exists in the
30 criminal history record information, and when further confirmation
31 regarding criminal history record information is required from the
32 appropriate court of jurisdiction or Kansas department of corrections, the
33 secretary shall notify each operator that requests information under this
34 section in writing and within three working days of receipt from the
35 Kansas bureau of investigation that further confirmation is required. The
36 secretary shall provide to the operator requesting information under this
37 section information in writing and within three working days of receipt of
38 such information from the appropriate court of jurisdiction or Kansas
39 department of corrections regarding confirmation regarding the criminal
40 history record information.

41 (3) Whenever the criminal history record information reveals that
42 the subject of the request has no criminal history on record, the secretary
43 shall provide notice to each operator requesting information under this

1 section, in writing and within three working days after receipt of such
2 information from the Kansas bureau of investigation.

3 (4) The secretary of health and environment shall not provide each
4 operator requesting information under this section with the juvenile
5 criminal history record information which relates to a person subject to a
6 background check as is provided by K.S.A. 2010 Supp. 38-2326, and
7 amendments thereto, except for adjudications of a juvenile offender for
8 an offense described in K.S.A. 21-3701, *prior to its repeal, or section 87*
9 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
10 thereto. The secretary shall notify the operator that requested the
11 information, in writing and within three working days of receipt of such
12 information from the Kansas bureau of investigation, whether juvenile
13 criminal history record information received pursuant to this section
14 reveals that the operator would or would not be prohibited by this section
15 from employing the subject of the request for information and whether
16 such information contains adjudications of a juvenile offender for an
17 offense described in K.S.A. 21-3701, *prior to its repeal, or section 87 of*
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto.

20 (5) An operator who receives criminal history record information
21 under this subsection (f) shall keep such information confidential, except
22 that the operator may disclose such information to the person who is the
23 subject of the request for information. A violation of this paragraph (5)
24 shall be an unclassified misdemeanor punishable by a fine of \$100.

25 (g) No person who works for an adult care home and who is
26 currently licensed or registered by an agency of this state to provide
27 professional services in the state and who provides such services as part
28 of the work which such person performs for the adult care home shall be
29 subject to the provisions of this section.

30 (h) A person who volunteers in an adult care home shall not be
31 subject to the provisions of this section because of such volunteer activity.

32 (i) An operator may request from the department of health and
33 environment criminal history information on persons employed under
34 subsections (g) and (h).

35 (j) No person who has been employed by the same adult care home
36 since July 1, 1992, shall be subject to the provisions of this section while
37 employed by such adult care home.

38 (k) The operator of an adult care home shall not be required under
39 this section to conduct a background check on an applicant for
40 employment with the adult care home if the applicant has been the subject
41 of a background check under this act within one year prior to the
42 application for employment with the adult care home. The operator of an
43 adult care home where the applicant was the subject of such background

1 check may release a copy of such background check to the operator of an
2 adult care home where the applicant is currently applying.

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

8 (m) For purposes of this section, the Kansas bureau of investigation
9 shall report any criminal history information, convictions under K.S.A.
10 21-3437, 21-3517 and 21-3701, *prior to their repeal, or section 52,*
11 *subsection (a) of section 69 and section 87 of chapter 136 of the 2010*
12 *Session Laws of Kansas,* and amendments thereto, adjudications of a
13 juvenile offender which if committed by an adult would have been a
14 felony conviction, and adjudications of a juvenile offender for an offense
15 described in K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their repeal,*
16 *or section 52, subsection (a) of section 69 and section 87 of chapter 136*
17 *of the 2010 Session Laws of Kansas,* and amendments thereto, to the
18 secretary of health and environment when a background check is
19 requested.

20 Sec. 176. K.S.A. 2010 Supp. 40-252 is hereby amended to read as
21 follows: 40-252. Every insurance company or fraternal benefit society
22 organized under the laws of this state or doing business in this state shall
23 pay to the commissioner of insurance fees and taxes specified in the
24 following schedule:

25 A
26 *Insurance companies organized under*
27 *the laws of this state:*
28

- 29 1. Capital stock insurance companies and mutual legal reserve life
30 insurance companies:

31 Filing application for sale of stock or certificates of indebtedness :.....\$25
32
33

34 Admission fees

35 Examination of charter and other documents 500
36 Filing annual statement 100
37 Certificate of authority 10

38 Annual fees:

39 Filing annual statement 100
40 Continuation of certificate of authority 10
41

- 42 2. Mutual life, accident and health associations:
43

1 Admission fees:

2 Examination of charter and other documents \$500

3 Filing annual statement 100

4 Certificate of authority 10

5 Annual fees:

6 Filing annual statement 100

7 Continuation of certificate of authority 10

8

9 3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or

10 interinsurance exchanges:

11

12 Admission fees:

13 Examination of charter and other documents \$500

14 Filing annual statement 100

15 Certificate of authority 10

16 Annual fees:

17 Filing annual statement 100

18 Continuation of certificate of authority 10

19

20 In addition to the above fees and as a condition precedent to the

21 continuation of the certificate of authority provided in this code, all such

22 companies shall pay a fee of \$2 for each agent certified by the company

23 and shall also pay a tax annually upon all premiums received on risk

24 located in this state at the rate of 1% for tax year 1997, and 2% for all tax

25 years thereafter per annum less (1) for tax years prior to 1984, any taxes

26 paid on business in this state pursuant to the provisions of K.S.A. 40-

27 1701 to 40-1707, inclusive, and 75-1508, and amendments thereto and (2)

28 for tax years 1984 and thereafter, any taxes paid on business in this state

29 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto

30 and the amount of the firefighters relief tax credit determined by the

31 commissioner of insurance. The amount of the firefighters relief tax

32 credit for a company for the current tax year shall be determined by the

33 commissioner of insurance by dividing (A) the total amount of credits

34 against the tax imposed by this section for taxes paid by all such

35 companies on business in this state under K.S.A. 40-1701 to 40-1707,

36 inclusive, and amendments thereto for tax year 1983, by (B) the total

37 amount of taxes paid by all such companies on business in this state

38 under K.S.A. 40-1703 and amendments thereto for the tax year

39 immediately preceding the current tax year, and by multiplying the result

40 so obtained by (C) the amount of taxes paid by the company on business

41 in this state under K.S.A. 40-1703 and amendments thereto for the

42 current tax year.

43 In the computation of the gross premiums all such companies shall be

1 entitled to deduct any premiums returned on account of cancellations,
 2 including funds accepted before January 1, 1997, and declared and taxed
 3 as annuity premiums which, on or after January 1, 1997, are withdrawn
 4 before application to the purchase of annuities, all premiums received for
 5 reinsurance from any other company authorized to do business in this
 6 state, dividends returned to policyholders and premiums received in
 7 connection with the funding of a pension, deferred compensation, annuity
 8 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
 9 408, 457 or 501 of the United States internal revenue code of 1986. Funds
 10 received by life insurers for the purchase of annuity contracts and funds
 11 applied by life insurers to the purchase of annuities shall not be deemed
 12 taxable premiums or be subject to tax under this section for tax years
 13 commencing on or after January 1, 1997.

14
15 B

16 *Fraternal benefit societies organized under the laws of this state:*

17 Admission fees:

18 Examination of charter and other documents	\$500
19 Filing annual statement	100
20 Certificate of authority	10

21 Annual fees:

22 Filing annual statement	100
23 Continuation of certificate of authority	10

24
25 C

26 Mutual nonprofit hospital service corporations, nonprofit medical service
 27 corporations, nonprofit dental service corporations, nonprofit
 28 optometric service corporations and nonprofit pharmacy service
 29 corporations organized under the laws of this state:

30 1. Mutual nonprofit hospital service corporations:

31
32 Admission fees:

33 Examination of charter and other documents	\$500
34 Filing annual statement	100
35 Certificate of authority	10

36 Annual fees:

37 Filing annual statement	100
38 Continuation of certificate of authority	10

39 2. Nonprofit medical service corporations:

40
41 Admission fees:

42 Examination of charter and other documents	\$500
43 Filing annual statement	100

1 Certificate of authority 10

2 Annual fees:

3 Filing annual statement 100

4 Continuation of certificate of authority 10

5

6 3. Nonprofit dental service corporations:

7

8 Admission fees:

9 Examination of charter and other documents \$500

10 Filing annual statement 100

11 Certificate of authority 10

12 Annual fees:

13 Filing annual statement 100

14 Continuation of certificate of authority 10

15

16 4. Nonprofit optometric service corporations:

17

18 Admission fees:

19 Examination of charter and other documents \$500

20 Filing annual statement 100

21 Certificate of authority 10

22 Annual fees:

23 Filing annual statement 100

24 Continuation of certificate of authority 10

25

26 5. Nonprofit pharmacy service corporations:

27

28 Admission fees:

29 Examination of charter and other documents.....\$500

30 Filing annual statement.....100

31 Certificate of authority.....10

32 Annual fees:

33 Filing annual statement.....100

34 Continuation of certificate of authority.....10

35 In addition to the above fees and as a condition precedent to the

36 continuation of the certificate of authority, provided in this code, every

37 corporation or association shall pay annually to the commissioner of

38 insurance a tax in an amount equal to 1% for tax year 1997, and 2% for

39 all tax years thereafter per annum of the total of all premiums,

40 subscription charges, or any other term which may be used to describe the

41 charges made by such corporation or association to subscribers for

42 hospital, medical or other health services or indemnity received during

43 the preceding year. In such computations all such corporations or

1 associations shall be entitled to deduct any premiums or subscription
2 charges returned on account of cancellations and dividends returned to
3 members or subscribers.

4
5 D

6 *Insurance companies organized under the*
7 *laws of any other state, territory or country:*

8 1. Capital stock insurance companies and mutual legal reserve life
9 insurance companies:

10
11 Filing application for sale of stock or certificates of indebtedness . \$25
12 Admission fees:

13 Examination of charter and other documents 500

14 Filing annual statement 100

15 Certificate of authority 10

16 Annual fees:

17 Filing annual statement 100

18 Continuation of certificate of authority 10
19

20 In addition to the above fees all such companies shall pay \$5 for each
21 agent certified by the company, except as otherwise provided by law.

22 As a condition precedent to the continuation of the certificate of
23 authority, provided in this code, every company organized under the laws
24 of any other state of the United States or of any foreign country shall pay
25 a tax upon all premiums received during the preceding year at the rate of
26 2% per annum.

27 In the computation of the gross premiums all such companies shall be
28 entitled to deduct any premiums returned on account of cancellations,
29 including funds accepted before January 1, 1997, and declared and taxed
30 as annuity premiums which, on or after January 1, 1997, are withdrawn
31 before application to the purchase of annuities, dividends returned to
32 policyholders and all premiums received for reinsurance from any other
33 company authorized to do business in this state and premiums received in
34 connection with the funding of a pension, deferred compensation, annuity
35 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
36 408, 457 or 501 of the United States internal revenue code of 1986. Funds
37 received by life insurers for the purchase of annuity contracts and funds
38 applied by life insurers to the purchase of annuities shall not be deemed
39 taxable premiums or be subject to tax under this section for tax years
40 commencing on or after January 1, 1997.

41
42 2. Mutual life, accident and health associations:
43

1 Admission fees:

2 Examination of charter and other documents \$500

3 Filing annual statement 100

4 Certificate of authority 10

5 Annual fees:

6 Filing annual statement 100

7 Continuation of certificate of authority 10

8

9 In addition to the above fees, every such company organized under the

10 laws of any other state of the United States shall pay \$5 for each agent

11 certified by the company, and shall pay a tax annually upon all premiums

12 received at the rate of 2% per annum.

13 In the computation of the gross premiums all such companies shall be

14 entitled to deduct any premiums returned on account of cancellations,

15 including funds accepted before January 1, 1997, and declared and taxed

16 as annuity premiums which, on or after January 1, 1997, are withdrawn

17 before application to the purchase of annuities, dividends returned to

18 policyholders and all premiums received for reinsurance from any other

19 company authorized to do business in this state and premiums received in

20 connection with the funding of a pension, deferred compensation, annuity

21 or profit-sharing plan qualified or exempt under sections 401, 403, 404,

22 408, 457 or 501 of the United States internal revenue code of 1986. Funds

23 received by life insurers for the purchase of annuity contracts and funds

24 applied by life insurers to the purchase of annuities shall not be deemed

25 taxable premiums or be subject to tax under this section for tax years

26 commencing on or after January 1, 1997.

27 3. Mutual fire, casualty and multiple line insurers and reciprocal or

28 interinsurance exchanges:

29

30 Admission fees:

31 Examination of charter and other documents and issuance of

32 certificate of authority \$500

33 Filing annual statement 100

34 Certificate of authority 10

35 Annual fees:

36 Filing annual statement 100

37 Continuation of certificate of authority 10

38

39 In addition to the above fees, every such company or association

40 organized under the laws of any other state of the United States shall pay

41 a fee of \$5 for each agent certified by the company and shall also pay a

42 tax annually upon all premiums received at the rate of 2% per annum.

43 For tax years 1998 and thereafter, the annual tax shall be reduced by

1 the "applicable percentage" of (1) any taxes paid on business in this state
 2 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto,
 3 and (2) the amount of the firefighters relief tax credit determined by the
 4 commissioner of insurance. The amount of the firefighters relief tax
 5 credit for a company taxable under this subsection for the current tax year
 6 shall be determined by the commissioner of insurance by dividing (A) the
 7 total amount of taxes paid by all such companies on business in this state
 8 under K.S.A. 40-1701 to 40-1707, and amendments thereto, for tax year
 9 1983 as then in effect, by (B) the total amount of taxes paid by all such
 10 companies on business in this state under K.S.A. 40-1703, and
 11 amendments thereto, for the tax year immediately preceding the current
 12 tax year, and by multiplying the result so obtained by (C) the amount of
 13 taxes paid by the company on business in this state under K.S.A. 40-
 14 1703, and amendments thereto, for the current tax year. The "applicable
 15 percentage" shall be as follows:

Tax Year	Applicable Percentage
1998	10%
1999	20%
2000	40%
2002	50%
2003	60%
2004	70%
2005	80%
2006	90%
2007 and thereafter	100%

26
 27 In the computation of the gross premiums all such companies shall be
 28 entitled to deduct any premiums returned on account of cancellations, all
 29 premiums received for reinsurance from any other company authorized to
 30 do business in this state, and dividends returned to policyholders.

31
 32 E

33 *Fraternal benefit societies organized under the laws*
 34 *of any other state, territory or country:*
 35

36 Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

40 Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

F

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of any other state, territory or country:

1. Mutual nonprofit hospital service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

2. Nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations:

Admission fees:

Examination of charter and other documents	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement	100
Continuation of certificate of authority	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to 2% per annum of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers in this state for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

G

Payment of Taxes.

1 For the purpose of insuring the collection of the tax upon premiums,
2 assessments and charges as set out in subsection A, C, D or F, every
3 insurance company, corporation or association shall at the time it files its
4 annual statement, as required by the provisions of K.S.A. 40-225, and
5 amendments thereto, make a return, generated by or at the direction of its
6 president and secretary or other chief officers, under penalty of ~~K.S.A.~~
7 ~~21-3711~~, *section 110 of chapter 136 of the 2010 Session Laws of Kansas*,
8 and amendments thereto, to the commissioner of insurance, stating the
9 amount of all premiums, assessments and charges received by the
10 companies or corporations in this state, whether in cash or notes, during
11 the year ending on the December 31 next preceding.

12 Commencing in 1985 and annually thereafter the estimated taxes shall
13 be paid as follows: On or before June 15 and December 15 of such year
14 an amount equal to 50% of the full amount of the prior year's taxes as
15 reported by the company shall be remitted to the commissioner of
16 insurance. As used in this paragraph, "prior year's taxes" includes (1)
17 taxes assessed pursuant to this section for the prior calendar year, (2) fees
18 and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto,
19 for the prior calendar year, and (3) taxes paid for maintenance of the
20 department of the state fire marshal pursuant to K.S.A. 75-1508, and
21 amendments thereto, for the prior calendar year.

22 Upon the receipt of such returns the commissioner of insurance shall
23 verify the same and assess the taxes upon such companies, corporations
24 or associations on the basis and at the rate provided herein and the
25 balance of such taxes shall thereupon become due and payable giving
26 credit for amounts paid pursuant to the preceding paragraph, or the
27 commissioner shall make a refund if the taxes paid in the prior June and
28 December are in excess of the taxes assessed.

29 H

30 The fee prescribed for the examination of charters and other
31 documents shall apply to each company's initial application for admission
32 and shall not be refundable for any reason.

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

35 Sec. 177. K.S.A. 2010 Supp. 40-2,118 is hereby amended to read as
36 follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance
37 act" means an act committed by any person who, knowingly and with
38 intent to defraud, presents, causes to be presented or prepares with
39 knowledge or belief that it will be presented to or by an insurer, purported
40 insurer, broker or any agent thereof, any written statement as part of, or in
41 support of, an application for the issuance of, or the rating of an insurance
42 policy for personal or commercial insurance, or a claim for payment or
43 other benefit pursuant to an insurance policy for commercial or personal

1 insurance which such person knows to contain materially false
2 information concerning any fact material thereto; or conceals, for the
3 purpose of misleading, information concerning any fact material thereto.

4 (b) An insurer that has knowledge or a good faith belief that a
5 fraudulent insurance act is being or has been committed shall provide to
6 the commissioner, on a form prescribed by the commissioner, any and all
7 information and such additional information relating to such fraudulent
8 insurance act as the commissioner may require.

9 (c) Any other person that has knowledge or a good faith belief that a
10 fraudulent insurance act is being or has been committed may provide to
11 the commissioner, on a form prescribed by the commissioner, any and all
12 information and such additional information relating to such fraudulent
13 insurance act as the commissioner may request.

14 (d) (1) Each insurer shall have antifraud initiatives reasonably
15 calculated to detect fraudulent insurance acts. Antifraud initiatives may
16 include: fraud investigators, who may be insurer employees or
17 independent contractors; or an antifraud plan submitted to the
18 commissioner no later than July 1, 2007. Each insurer that submits an
19 antifraud plan shall notify the commissioner of any material change in the
20 information contained in the antifraud plan within 30 days after such
21 change occurs. Such insurer shall submit to the commissioner in writing
22 the amended antifraud plan.

23 The requirement for submitting any antifraud plan, or any amendment
24 thereof, to the commissioner shall expire on the date specified in
25 paragraph (2) of this subsection unless the legislature reviews and
26 reenacts the provisions of paragraph (2) pursuant to K.S.A. 45-229, and
27 amendments thereto.

28 (2) Any antifraud plan, or any amendment thereof, submitted to the
29 commissioner for informational purposes only shall be confidential and
30 not be a public record and shall not be subject to discovery or subpoena
31 in a civil action unless following an in camera review, the court
32 determines that the antifraud plan is relevant and otherwise admissible
33 under the rules of evidence set forth in article 4, chapter 60 of the Kansas
34 Statutes Annotated, and amendments thereto. The provisions of this
35 paragraph shall expire on July 1, 2011, unless the legislature reviews and
36 reenacts this provision pursuant to K.S.A. 45-229, and amendments
37 thereto, prior to July 1, 2011.

38 (e) Except as otherwise specifically provided in ~~K.S.A. 21-~~
39 ~~3718~~ *subsection (a) of section 98 of chapter 136 of the 2010 Session Laws*
40 *of Kansas*, and amendments thereto and K.S.A. 44-5,125, and
41 amendments thereto, a fraudulent insurance act shall constitute a severity
42 level 6, nonperson felony if the amount involved is \$25,000 or more; a
43 severity level 7, nonperson felony if the amount is at least \$5,000 but less

1 than \$25,000; a severity level 8, nonperson felony if the amount is at least
2 \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the
3 amount is less than \$1,000. Any combination of fraudulent acts as defined
4 in subsection (a) which occur in a period of six consecutive months
5 which involves \$25,000 or more shall have a presumptive sentence of
6 imprisonment regardless of its location on the sentencing grid block.

7 (f) In addition to any other penalty, a person who violates this statute
8 shall be ordered to make restitution to the insurer or any other person or
9 entity for any financial loss sustained as a result of such violation. An
10 insurer shall not be required to provide coverage or pay any claim
11 involving a fraudulent insurance act.

12 (g) This act shall apply to all insurance applications, ratings, claims
13 and other benefits made pursuant to any insurance policy.

14 Sec. 178. K.S.A. 2010 Supp. 40-1702 is hereby amended to read as
15 follows: 40-1702. (a) On or before April 1 of each year, every insurance
16 company doing business in this state shall return to the commissioner of
17 insurance a just and true account, generated by or at the direction of its
18 president and secretary or other chief officers, under penalty of ~~K.S.A.~~
19 ~~21-3711~~ *section 110 of chapter 136 of the 2010 Session Laws of Kansas*,
20 and amendments thereto, of all premiums received for fire and lightning
21 insurance covering risks located within this state during the year ending
22 December 31, or the fire and lightning portion of any other insurance
23 transacted by the insurance company covering risks within this state.
24 Every insurance company shall include in its return an account of all
25 premiums received for fire and lightning insurance covering risks located
26 within this state.

27 (b) Each firefighters relief association shall prepare and file with the
28 commissioner a plat drawn to scale showing the area provided fire
29 protection service by the fire department of the firefighters relief
30 association and the location of each fire department house. No such plat
31 shall include any part of any area served by another fire department.

32 Sec. 179. K.S.A. 2010 Supp. 40-3213 is hereby amended to read as
33 follows: 40-3213. (a) Every health maintenance organization and
34 medicare provider organization subject to this act shall pay to the
35 commissioner the following fees:

36 (1) For filing an application for a certificate of authority, \$150;

37 (2) for filing each annual report, \$50;

38 (3) for filing an amendment to the certificate of authority, \$10.

39 (b) Every health maintenance organization subject to this act shall
40 pay annually to the commissioner at the time such organization files its
41 annual report, a privilege fee in an amount equal to 1% per annum of the
42 total of all premiums, subscription charges or any other term which may
43 be used to describe the charges made by such organization to enrollees. In

1 such computations all such organizations shall be entitled to deduct
2 therefrom any premiums or subscription charges returned on account of
3 cancellations and dividends returned to enrollees. If the commissioner
4 shall determine at any time that the application of the privilege fee would
5 cause a denial of, reduction in or elimination of federal financial
6 assistance to the state or to any health maintenance organization subject
7 to this act, the commissioner is hereby authorized to terminate the
8 operation of such privilege fee.

9 (c) For the purpose of insuring the collection of the privilege fee
10 provided for by subsection (b), every health maintenance organization
11 subject to this act and required by subsection (b) to pay such privilege fee
12 shall at the time it files its annual report, as required by K.S.A. 40-3220,
13 and amendments thereto, make a return, generated by or at the direction
14 of its chief officer or principal managing director, under penalty of ~~K.S.A.~~
15 ~~21-371~~ *section 110 of chapter 136 of the 2010 Session Laws of Kansas*,
16 and amendments thereto, to the commissioner, stating the amount of all
17 premiums, assessments and charges received by the health maintenance
18 organization, whether in cash or notes, during the year ending on the last
19 day of the preceding calendar year. Upon the receipt of such returns the
20 commissioner of insurance shall verify the same and assess the fees upon
21 such organization on the basis and at the rate provided herein and such
22 fees shall thereupon become due and payable.

23 (d) Premiums or other charges received by an insurance company
24 from the operation of a health maintenance organization subject to this
25 act shall not be subject to any fee or tax imposed under the provisions of
26 K.S.A. 40-252, and amendments thereto.

27 (e) Fees charged under this section shall be remitted to the state
28 treasurer in accordance with the provisions of K.S.A. 75-4215, and
29 amendments thereto. Upon receipt of each such remittance, the state
30 treasurer shall deposit the entire amount in the state treasury to the credit
31 of the state general fund.

32 Sec. 180. K.S.A. 41-206 is hereby amended to read as follows: 41-
33 206. (a) Except as permitted pursuant to subsection (b), neither the
34 director nor any employee in the office of the director shall solicit or
35 accept, directly or indirectly, any gift, gratuity, emolument or
36 employment from any manufacturer, distributor, wholesaler or retailer of
37 alcoholic liquor or from any person who is an applicant for any license or
38 is a licensee under the provisions of this act, or from any officer, agent or
39 employee thereof; or solicit requests from or recommend, directly or
40 indirectly, to any such person, or to any officer, agent or employee
41 thereof, the appointment of any person to any place or position. Any such
42 person, officer, agent or employee thereof, is hereby forbidden to offer to
43 the director, or any employee in the office of the director, any gift,

1 gratuity, emolument or employment, except as permitted pursuant to
2 subsection (b).

3 (b) The secretary may adopt rules and regulations allowing the
4 acceptance of official hospitality by the director and employees in the
5 office of the director, subject to such limits as prescribed by the secretary.

6 (c) If any person who is the director or an employee in the office of
7 the director violates any provision of this section, such person shall be
8 removed from such person's office or employment.

9 (d) Violation of any provision of this section is a misdemeanor
10 punishable by a fine of not more than \$500 or imprisonment of not less
11 than 60 days nor more than six months, or both such fine and
12 imprisonment.

13 (e) Nothing contained in this section shall be construed as
14 preventing the prosecution and punishment of any person for bribery as
15 defined in the *Kansas* criminal code of this state.

16 Sec. 181. K.S.A. 2010 Supp. 41-346 is hereby amended to read as
17 follows: 41-346. In any administrative proceeding pursuant to the Kansas
18 liquor control act to suspend or revoke a license, or to impose a civil fine,
19 for a violation of *subsection (a) of section 84 of chapter 136 of the 2010*
20 *Session Laws of Kansas, and amendments thereto, and K.S.A. 21-3610,*
21 ~~21-3610a or~~ 41-2615, and amendments thereto, it shall be a defense if
22 evidence is presented which indicates that: (a) The defendant permitted
23 the minor to possess or consume the alcoholic liquor or cereal malt
24 beverage with reasonable cause to believe that the minor was 21 or more
25 years of age; and (b) to possess or consume the alcoholic liquor or cereal
26 malt beverage, the minor exhibited to the defendant a driver's license,
27 Kansas nondriver's identification card or other official or apparently
28 official document that reasonably appears to contain a photograph of the
29 minor and purporting to establish that such minor was 21 or more years
30 of age.

31 Sec. 182. K.S.A. 2010 Supp. 41-2611 is hereby amended to read as
32 follows: 41-2611. The director may revoke or suspend any license issued
33 pursuant to the club and drinking establishment act for any one or more
34 of the following reasons:

35 (a) The licensee has fraudulently obtained the license by giving false
36 information in the application therefor or any hearing thereon.

37 (b) The licensee has violated any of the provisions of this act or any
38 rules or regulations adopted hereunder.

39 (c) The licensee has become ineligible to obtain a license or permit
40 under this act.

41 (d) The licensee's manager or employee has been intoxicated while
42 on duty.

43 (e) The licensee, or its manager or employee, has permitted any

1 disorderly person to remain on premises where alcoholic liquor is sold by
2 such licensee.

3 (f) There has been a violation of a provision of the laws of this state,
4 or of the United States, pertaining to the sale of intoxicating or alcoholic
5 liquors or cereal malt beverages, or any crime involving a morals charge,
6 on premises where alcoholic liquor is sold by such licensee.

7 (g) The licensee, or its managing officers or any employee, has
8 purchased and displayed, on premises where alcoholic liquor is sold by
9 such licensee, a federal wagering occupational stamp issued by the
10 United States treasury department.

11 (h) The licensee, or its managing officers or any employee, has
12 purchased and displayed, on premises where alcoholic liquor is sold by
13 such licensee, a federal coin operated gambling device stamp for the
14 premises issued by the United States treasury department.

15 (i) The licensee holds a license as a class B club, drinking
16 establishment or caterer and has been found guilty of a violation of article
17 10 of chapter 44 of the Kansas Statutes Annotated, *and amendments*
18 *thereto*, under a decision or order of the Kansas human rights commission
19 which has become final or such licensee has been found guilty of a
20 violation of K.S.A. 21-4003, *prior to its repeal, or section 172 of chapter*
21 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

22 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, *prior*
23 *to their repeal, or section 182 of chapter 136 of the 2010 Session Laws of*
24 *Kansas*, and amendments thereto, on premises where alcoholic liquor is
25 sold by such licensee.

26 Sec. 183. K.S.A. 2010 Supp. 41-2708 is hereby amended to read as
27 follows: 41-2708. (a) The board of county commissioners or the
28 governing body of any city, upon five days' notice to the persons holding
29 a license, may revoke or suspend the license for any one of the following
30 reasons:

31 (1) The licensee has violated any of the provisions of K.S.A. 41-
32 2701 et seq., and amendments thereto, or any rules or regulations made
33 by the board or the city, as the case may be;

34 (2) drunkenness of the licensee or permitting any intoxicated person
35 to remain in or upon the licensee's place of business;

36 (3) the sale of cereal malt beverages to any person under the legal
37 age for consumption of cereal malt beverage;

38 (4) permitting any person to mix drinks with materials purchased in
39 or upon the place of business or brought in for that purpose;

40 (5) the sale or possession of, or permitting any person to use or
41 consume on the licensed premises, any alcoholic liquor as defined by
42 K.S.A. 41-102, and amendments thereto; or

43 (6) the licensee has been convicted of a violation of the beer and

1 cereal malt beverage keg registration act.

2 (b) The provisions of subsections (a)(4) and (5) shall not apply if the
3 place of business or premises also are currently licensed as a club or
4 drinking establishment pursuant to the club and drinking establishment
5 act.

6 (c) The board of county commissioners or the governing body of
7 any city, upon five days' notice to the persons holding a license, shall
8 revoke or suspend the license for any one of the following reasons:

9 (1) The licensee has fraudulently obtained the license by giving
10 false information in the application therefor;

11 (2) the licensee has become ineligible to obtain a license under this
12 act;

13 (3) the nonpayment of any license fees;

14 (4) permitting any gambling in or upon the licensee's place of
15 business;

16 (5) the employment of persons under 18 years of age in dispensing
17 or selling cereal malt beverages;

18 (6) the employment or continuation in employment of a person in
19 connection with the sale, serving or dispensing of cereal malt beverages if
20 the licensee knows such person has been, within the preceding two years,
21 adjudged guilty of a felony or of any violation of the intoxicating liquor
22 laws of this state, another state or the United States; or

23 (7) there has been a violation of K.S.A. 21-4106 or 21-4107, *prior*
24 *to their repeal, or section 182 of chapter 136 of the 2010 Session Laws of*
25 *Kansas, and amendments thereto, in or upon the licensee's place of*
26 *business.*

27 (d) Within 20 days after the order of the board revoking or
28 suspending any license, the licensee may appeal to the district court and
29 the district court shall proceed to hear such appeal as though such court
30 had original jurisdiction of the matter. Any appeal taken from an order
31 revoking or suspending the license shall not suspend the order of
32 revocation or suspension during the pendency of any such appeal.

33 Sec. 184. K.S.A. 2010 Supp. 41-2905 is hereby amended to read as
34 follows: 41-2905. (a) Prior to the sale at retail of any beer in a container
35 having a liquid capacity of four or more gallons, the retailer or the
36 retailer's employee or agent shall affix to the beer container a keg
37 identification number or otherwise uniquely identify the container in
38 accordance with this act and rules and regulations adopted by the
39 secretary. At the time of sale at retail of any such container of beer, the
40 retailer or the retailer's employee or agent shall record the keg number;
41 the date of the sale; the purchaser's name and address; and the number on
42 the purchaser's driver's license, Kansas nondriver's identification card or
43 other official or apparently official document that reasonably appears to

1 contain both the purchaser's picture and the purchaser's signature, which
2 shall be exhibited at the time of sale. Such record shall be kept by the
3 retailer at the premises where the sale was made. Such record shall be
4 kept by the retailer until the container is returned or until the expiration of
5 six months following the date of the sale.

6 (b) For the purpose of investigating a violation of laws prohibiting
7 the furnishing to or possession or consumption of beer by persons under
8 the age of 21 and if such violation involves a container required to be
9 registered under the beer and cereal malt beverage keg registration act
10 and if there is reason to believe that a retailer sold such container, such
11 retailer's records relating to the sale of such container which are required
12 to be kept by this section shall be available for inspection by any law
13 enforcement officer during normal business hours of the retailer. Records
14 required to be kept by this section shall not be available for inspection or
15 use or subject to subpoena in any civil or administrative action or
16 criminal prosecution other than a civil or administrative action or criminal
17 prosecution relating to a specific violation of this section or K.S.A. 21-
18 3610 ~~or, prior to its repeal, or subsection (a) of section 84 of chapter 136~~
19 *of the 2010 Session Laws of Kansas, and amendments thereto, or K.S.A.*
20 *41-727, and amendments thereto.* Except as specifically provided by this
21 subsection, records required to be kept by this section shall not be sold,
22 distributed or otherwise released to any person other than an agent of the
23 retailer or to a law enforcement agency.

24 (c) Upon a determination that a retailer or a retailer's employee or
25 agent has violated this section or any rules and regulations adopted
26 pursuant to this section, the director may suspend or revoke the retailer's
27 license in the manner provided by K.S.A. 41-320, and amendments
28 thereto, and may impose a fine as provided by K.S.A. 41-328, and
29 amendments thereto.

30 (d) It is a class B nonperson misdemeanor for a person who is not a
31 retailer acting in the ordinary course of business to: (1) Remove from a
32 beer container all or part of a keg identification number required pursuant
33 to this section; (2) make unreadable all or any part of a keg identification
34 number required by this section to be affixed to a beer container; or (3)
35 possess a beer container required to be registered under this act that does
36 not have the keg identification number required by this section.

37 (e) The secretary of revenue shall adopt any rules and regulations
38 necessary to implement the provisions of this section. Such rules and
39 regulations shall include, but shall not be limited to, provisions relating to
40 records and establishing standards for marking and handling containers
41 which are required to be registered by this act.

42 (f) The secretary of revenue shall provide any keg identification tags
43 or labels required by this section. Such tags or labels shall be designed so

1 that when affixed to a keg, such tags or labels do not mar or otherwise
2 damage the keg. There shall be no charge for such tags or labels.

3 (g) If a person sold beer in compliance with the provisions of this
4 section and any rules and regulations adopted pursuant thereto, it shall be
5 a defense to any criminal prosecution or proceeding or civil or
6 administrative action under this section.

7 (h) The provisions of this section shall not apply to sales of kegs by
8 distributors or retailers to clubs, drinking establishments, hotel drinking
9 establishments and caterers licensed under the club and drinking
10 establishment act.

11 (i) Words or phrases used in this section shall have the meaning
12 ascribed thereto by K.S.A. 41-102, and amendments thereto.

13 Sec. 185. K.S.A. 2010 Supp. 41-2906 is hereby amended to read as
14 follows: 41-2906. (a) Prior to the sale by a retailer or a retailer's employee
15 or agent of any cereal malt beverage in a container having a liquid
16 capacity of four or more gallons, the retailer or the retailer's employee or
17 agent shall affix to the cereal malt beverage container a keg identification
18 number or otherwise uniquely identify the container in accordance with
19 rules and regulations adopted by the secretary. At the time of sale of any
20 such container of cereal malt beverage, the retailer, or the retailer's
21 employee or agent, shall record the keg number; the date of the sale; the
22 purchaser's name and address; and the number on the purchaser's driver's
23 license, Kansas nondriver's identification card or other official or
24 apparently official document that reasonably appears to contain both the
25 purchaser's picture and the purchaser's signature, which shall be exhibited
26 at the time of sale. Such record shall be kept by the retailer at the
27 premises where the sale was made. Such record shall be kept by the
28 retailer until the container is returned or until the expiration of six months
29 following the date of the sale.

30 (b) For the purpose of investigating a violation of laws prohibiting
31 the furnishing to or possession or consumption of cereal malt beverage by
32 persons under the legal age for consumption of cereal malt beverage and
33 if such violation involves a container required to be registered under the
34 beer and cereal malt beverage keg registration act and if there is reason to
35 believe that such retailer sold such container, such retailer's records
36 relating to the sale of such container which are required to be kept by this
37 section shall be available for inspection by any law enforcement officer
38 during normal business hours. Records required to be kept by this section
39 shall not be available for inspection or use or subject to subpoena in any
40 civil or administrative action or criminal prosecution other than a civil or
41 administrative action or criminal prosecution relating to a specific
42 violation of this section or K.S.A. 21-3610 ~~or~~, *prior to its repeal, or*
43 *subsection (a) of section 84 of chapter 136 of the 2010 Session Laws of*

1 *Kansas, and amendments thereto, or K.S.A. 41-727, and amendments*
2 *thereto. Except as specifically provided by this subsection, records*
3 *required to be kept by this section shall not be sold, distributed or*
4 *otherwise released to any person other than an agent of the retailer or to a*
5 *law enforcement agency.*

6 (c) Upon a determination that a retailer or a retailer's employee or
7 agent has violated this section or any rules and regulations adopted
8 pursuant to this section, the board of county commissioners or the
9 governing body of the city may suspend or revoke the retailer's license in
10 the manner provided by K.S.A. 41-2708, and amendments thereto, and
11 may impose a fine pursuant to K.S.A. 41-2711, and amendments thereto.

12 (d) It is a class B nonperson misdemeanor for a person who is not a
13 retailer acting in the ordinary course of business to: (1) Remove from a
14 cereal malt beverage container all or part of a keg identification number
15 required pursuant to this section; (2) make unreadable all or any part of a
16 keg identification number required by this section to be affixed to a cereal
17 malt beverage container; or (3) possess a cereal malt beverage container
18 required to be registered under this act that does not have the keg
19 identification number required by this section.

20 (e) The secretary of revenue shall adopt any rules and regulations
21 necessary to implement the provisions of this section. Such rules and
22 regulations shall include, but shall not be limited to, provisions relating to
23 records and establishing standards for marking and handling containers
24 which are required to be registered by this act.

25 (f) The secretary of revenue shall provide any keg identification tags
26 or labels required by this act. There shall be no charge for such tags or
27 labels. Such tags or labels shall be designed so that when affixed to a keg,
28 such tags or labels do not mar or otherwise damage the keg.

29 (g) If a person sold cereal malt beverage in compliance with the
30 provisions of this section and any rules and regulations adopted pursuant
31 thereto, it shall be a defense to any criminal prosecution or proceeding or
32 civil or administrative action under this section.

33 (h) Words and phrases used in this section shall have the meaning
34 ascribed thereto by K.S.A. 41-2701, and amendments thereto.

35 Sec. 186. K.S.A. 2010 Supp. 44-5,125 is hereby amended to read as
36 follows: 44-5,125. (a) (1) Any person who obtains or attempts to obtain
37 workers compensation benefits for such person or another, or who denies
38 or attempts to deny the obligation to make any payment of workers
39 compensation benefits by knowingly or intentionally: (A) Making a false
40 or misleading statement, (B) misrepresenting or concealing a material
41 fact, (C) fabricating, altering, concealing or destroying a document; (D)
42 receiving temporary total disability benefits or permanent total disability
43 benefits to which they are not entitled, while employed, or (E) conspiring

1 with another person to commit any act described by paragraph (1) of this
2 subsection (a), shall be guilty of:

3 (i) A class A nonperson misdemeanor, if the amount received as a
4 benefit or other payment under the workers compensation act as a result
5 of such act or the amount that the person otherwise benefited monetarily
6 as a result of a violation of this subsection (a) is \$1,000 or less;

7 (ii) a severity level 9, nonperson felony, if such amount is more than
8 \$1,000 but less than \$25,000;

9 (iii) a severity level 7, nonperson felony, if the amount is more than
10 \$25,000, but less than \$50,000;

11 (iv) a severity level 6, nonperson felony if the amount is more than
12 \$50,000, but less than \$100,000; or

13 (v) a severity level 5, nonperson felony if the amount is more than
14 \$100,000.

15 (b) Any person who knowingly and intentionally presents a false
16 certificate of insurance that purports that the presenter is insured under
17 the workers compensation act, shall be guilty of a level 8, nonperson
18 felony.

19 (c) A health care provider under the workers compensation act who
20 knowingly and intentionally submits a charge for health care that was not
21 furnished, shall be guilty of a level 9, nonperson felony.

22 (d) Any person who obtains or attempts to obtain a more favorable
23 workers compensation insurance premium rate than that to which the
24 person is entitled, who prevents, reduces, avoids or attempts to prevent,
25 reduce or avoid the payment of any compensation under the workers
26 compensation act, or who fails to communicate a settlement offer or
27 similar information to a claimant under the workers compensation act, by,
28 in any such case knowingly or intentionally: (1) Making a false or
29 misleading statement; (2) misrepresenting or concealing a material fact;
30 (3) fabricating, concealing or destroying a document; or (4) conspiring
31 with another person or persons to commit the acts described in clause (1),
32 (2) or (3) of this subsection shall be guilty of a level 9, nonperson felony.

33 (e) Any person who has received any amount of money as a benefit
34 or other payment under the workers compensation act as a result of a
35 violation of subsection (a) or (c) and any person who has otherwise
36 benefited monetarily as a result of a violation of subsection (a) or (c) shall
37 be liable to repay an amount equal to the amount so received by such
38 person or the amount by which such person has benefited monetarily,
39 with interest thereon. Any such amount, plus any accrued interest thereon,
40 shall bear interest at the current rate of interest prescribed by law for
41 judgments under subsection (e)(1) of K.S.A. 16-204, and amendments
42 thereto per month or fraction of a month until repayment of such amount,
43 plus any accrued interest thereon. The interest shall accrue from the date

1 of overpayment or erroneous payment of any such amount or the date
2 such person benefited monetarily.

3 (f) Any person aggrieved by a violation of subsection (a), (b), (c) or
4 (d) shall have a cause of action against any other person to recover any
5 amounts of money erroneously paid as benefits or any other amounts of
6 money paid under the workers compensation act, and to seek relief for
7 other monetary damages, for which liability has accrued under this
8 section against such other person. Relief under this subsection is to be
9 predicated upon exhaustion of administrative remedies available in
10 K.S.A. 44-5,120, and amendments thereto.

11 (g) Nothing in this section shall prohibit an employer from
12 exercising a right to reimbursement under K.S.A. 44-534a, 44-556 or 44-
13 569a, and amendments thereto.

14 (h) Prosecution for any crime under this section shall be commenced
15 within five years subject to the time period set forth in subsection (8) of
16 K.S.A. 21-3106, *prior to its repeal, or subsection (e) of section 7 of*
17 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
18 thereto.

19 Sec. 187. K.S.A. 2010 Supp. 44-706 is hereby amended to read as
20 follows: 44-706. An individual shall be disqualified for benefits:

21 (a) If the individual left work voluntarily without good cause
22 attributable to the work or the employer, subject to the other provisions of
23 this subsection (a). Failure to return to work after expiration of approved
24 personal or medical leave, or both, shall be considered a voluntary
25 resignation. After a temporary job assignment, failure of an individual to
26 affirmatively request an additional assignment on the next succeeding
27 workday, if required by the employment agreement, after completion of a
28 given work assignment, shall constitute leaving work voluntarily. The
29 disqualification shall begin the day following the separation and shall
30 continue until after the individual has become reemployed and has had
31 earnings from insured work of at least three times the individual's weekly
32 benefit amount. An individual shall not be disqualified under this
33 subsection (a) if:

34 (1) The individual was forced to leave work because of illness or
35 injury upon the advice of a licensed and practicing health care provider
36 and, upon learning of the necessity for absence, immediately notified the
37 employer thereof, or the employer consented to the absence, and after
38 recovery from the illness or injury, when recovery was certified by a
39 practicing health care provider, the individual returned to the employer
40 and offered to perform services and the individual's regular work or
41 comparable and suitable work was not available; as used in this paragraph
42 (1) "health care provider" means any person licensed by the proper
43 licensing authority of any state to engage in the practice of medicine and

1 surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or
2 psychology;

3 (2) the individual left temporary work to return to the regular
4 employer;

5 (3) the individual left work to enlist in the armed forces of the
6 United States, but was rejected or delayed from entry;

7 (4) the individual left work because of the voluntary or involuntary
8 transfer of the individual's spouse from one job to another job, which is
9 for the same employer or for a different employer, at a geographic
10 location which makes it unreasonable for the individual to continue work
11 at the individual's job;

12 (5) the individual left work because of hazardous working
13 conditions; in determining whether or not working conditions are
14 hazardous for an individual, the degree of risk involved to the individual's
15 health, safety and morals, the individual's physical fitness and prior
16 training and the working conditions of workers engaged in the same or
17 similar work for the same and other employers in the locality shall be
18 considered; as used in this paragraph (5), "hazardous working conditions"
19 means working conditions that could result in a danger to the physical or
20 mental well-being of the individual; each determination as to whether
21 hazardous working conditions exist shall include, but shall not be limited
22 to, a consideration of (A) the safety measures used or the lack thereof,
23 and (B) the condition of equipment or lack of proper equipment; no work
24 shall be considered hazardous if the working conditions surrounding the
25 individual's work are the same or substantially the same as the working
26 conditions generally prevailing among individuals performing the same
27 or similar work for other employers engaged in the same or similar type
28 of activity;

29 (6) the individual left work to enter training approved under section
30 236(a)(1) of the federal trade act of 1974, provided the work left is not of
31 a substantially equal or higher skill level than the individual's past
32 adversely affected employment (as defined for purposes of the federal
33 trade act of 1974), and wages for such work are not less than 80% of the
34 individual's average weekly wage as determined for the purposes of the
35 federal trade act of 1974;

36 (7) the individual left work because of unwelcome harassment of the
37 individual by the employer or another employee of which the employing
38 unit had knowledge;

39 (8) the individual left work to accept better work; each
40 determination as to whether or not the work accepted is better work shall
41 include, but shall not be limited to, consideration of (A) the rate of pay,
42 the hours of work and the probable permanency of the work left as
43 compared to the work accepted, (B) the cost to the individual of getting to

1 the work left in comparison to the cost of getting to the work accepted,
2 and (C) the distance from the individual's place of residence to the work
3 accepted in comparison to the distance from the individual's residence to
4 the work left;

5 (9) the individual left work as a result of being instructed or
6 requested by the employer, a supervisor or a fellow employee to perform
7 a service or commit an act in the scope of official job duties which is in
8 violation of an ordinance or statute;

9 (10) the individual left work because of a violation of the work
10 agreement by the employing unit and, before the individual left, the
11 individual had exhausted all remedies provided in such agreement for the
12 settlement of disputes before terminating;

13 (11) after making reasonable efforts to preserve the work, the
14 individual left work due to a personal emergency of such nature and
15 compelling urgency that it would be contrary to good conscience to
16 impose a disqualification; or

17 (12) (A) the individual left work due to circumstances resulting from
18 domestic violence, including:

19 (i) The individual's reasonable fear of future domestic violence at or
20 en route to or from the individual's place of employment; or

21 (ii) the individual's need to relocate to another geographic area in
22 order to avoid future domestic violence; or

23 (iii) the individual's need to address the physical, psychological and
24 legal impacts of domestic violence; or

25 (iv) the individual's need to leave employment as a condition of
26 receiving services or shelter from an agency which provides support
27 services or shelter to victims of domestic violence; or

28 (v) the individual's reasonable belief that termination of employment
29 is necessary to avoid other situations which may cause domestic violence
30 and to provide for the future safety of the individual or the individual's
31 family.

32 (B) An individual may prove the existence of domestic violence by
33 providing one of the following:

34 (i) A restraining order or other documentation of equitable relief by
35 a court of competent jurisdiction; or

36 (ii) a police record documenting the abuse; or

37 (iii) documentation that the abuser has been convicted of one or
38 more of the offenses enumerated in articles 34 and 35 of chapter 21 of the
39 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
40 *77, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
41 *Laws of Kansas*, and amendments thereto, where the victim was a family
42 or household member; or

43 (iv) medical documentation of the abuse; or

1 (v) a statement provided by a counselor, social worker, health care
2 provider, clergy, shelter worker, legal advocate, domestic violence or
3 sexual assault advocate or other professional who has assisted the
4 individual in dealing with the effects of abuse on the individual or the
5 individual's family; or

6 (vi) a sworn statement from the individual attesting to the abuse.

7 (C) No evidence of domestic violence experienced by an individual,
8 including the individual's statement and corroborating evidence, shall be
9 disclosed by the department of labor unless consent for disclosure is
10 given by the individual.

11 (b) If the individual has been discharged for misconduct connected
12 with the individual's work. The disqualification shall begin the day
13 following the separation and shall continue until after the individual
14 becomes reemployed and has had earnings from insured work of at least
15 three times the individual's determined weekly benefit amount, except
16 that if an individual is discharged for gross misconduct connected with
17 the individual's work, such individual shall be disqualified for benefits
18 until such individual again becomes employed and has had earnings from
19 insured work of at least eight times such individual's determined weekly
20 benefit amount. In addition, all wage credits attributable to the
21 employment from which the individual was discharged for gross
22 misconduct connected with the individual's work shall be canceled. No
23 such cancellation of wage credits shall affect prior payments made as a
24 result of a prior separation.

25 (1) For the purposes of this subsection (b), "misconduct" is defined
26 as a violation of a duty or obligation reasonably owed the employer as a
27 condition of employment. The term "gross misconduct" as used in this
28 subsection (b) shall be construed to mean conduct evincing extreme,
29 willful or wanton misconduct as defined by this subsection (b). Failure of
30 the employee to notify the employer of an absence shall be considered
31 prima facie evidence of a violation of a duty or obligation reasonably
32 owed the employer as a condition of employment.

33 (2) For the purposes of this subsection (b), the use of or impairment
34 caused by alcoholic liquor, a cereal malt beverage or a nonprescribed
35 controlled substance by an individual while working shall be conclusive
36 evidence of misconduct and the possession of alcoholic liquor, a cereal
37 malt beverage or a nonprescribed controlled substance by an individual
38 while working shall be prima facie evidence of conduct which is a
39 violation of a duty or obligation reasonably owed to the employer as a
40 condition of employment. Alcoholic liquor shall be defined as provided in
41 K.S.A. 41-102, and amendments thereto. Cereal malt beverage shall be
42 defined as provided in K.S.A. 41-2701, and amendments thereto.
43 Controlled substance shall be defined as provided in K.S.A. 2010 Supp.

1 21-36a01, and amendments thereto. As used in this subsection (b)(2),
2 "required by law" means required by a federal or state law, a federal or
3 state rule or regulation having the force and effect of law, a county
4 resolution or municipal ordinance, or a policy relating to public safety
5 adopted in open meeting by the governing body of any special district or
6 other local governmental entity. Chemical test shall include, but is not
7 limited to, tests of urine, blood or saliva. A positive chemical test shall
8 mean a chemical result showing a concentration at or above the levels
9 listed in K.S.A. 44-501, and amendments thereto, for the drugs or abuse
10 listed therein. A positive breath test shall mean a test result showing an
11 alcohol concentration of .04 or greater. Alcohol concentration means the
12 number of grams of alcohol per 210 liters of breath. An individual's
13 refusal to submit to a chemical test or breath alcohol test shall be
14 conclusive evidence of misconduct if the test meets the standards of the
15 drug free workplace act, 41 U.S.C. § 701 et seq.; the test was
16 administered as part of an employee assistance program or other drug or
17 alcohol treatment program in which the employee was participating
18 voluntarily or as a condition of further employment; the test was
19 otherwise required by law and the test constituted a required condition of
20 employment for the individual's job; the test was requested pursuant to a
21 written policy of the employer of which the employee had knowledge and
22 was a required condition of employment; or there was probable cause to
23 believe that the individual used, possessed or was impaired by alcoholic
24 liquor, a cereal malt beverage or a controlled substance while working. A
25 positive breath alcohol test or a positive chemical test shall be conclusive
26 evidence to prove misconduct if the following conditions are met:

27 (A) Either (i) the test was required by law and was administered
28 pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq., (ii) the
29 test was administered as part of an employee assistance program or other
30 drug or alcohol treatment program in which the employee was
31 participating voluntarily or as a condition of further employment, (iii) the
32 test was requested pursuant to a written policy of the employer of which
33 the employee had knowledge and was a required condition of
34 employment, (iv) the test was required by law and the test constituted a
35 required condition of employment for the individual's job, or (v) there
36 was probable cause to believe that the individual used, had possession of,
37 or was impaired by alcoholic liquor, the cereal malt beverage or the
38 controlled substance while working;

39 (B) the test sample was collected either (i) as prescribed by the drug
40 free workplace act, 41 U.S.C. § 701 et seq., (ii) as prescribed by an
41 employee assistance program or other drug or alcohol treatment program
42 in which the employee was participating voluntarily or as a condition of
43 further employment, (iii) as prescribed by the written policy of the

1 employer of which the employee had knowledge and which constituted a
2 required condition of employment, (iv) as prescribed by a test which was
3 required by law and which constituted a required condition of
4 employment for the individual's job, or (v) at a time contemporaneous
5 with the events establishing probable cause;

6 (C) the collecting and labeling of a chemical test sample was
7 performed by a licensed health care professional or any other individual
8 certified pursuant to paragraph (b)(2)(F) or authorized to collect or label
9 test samples by federal or state law, or a federal or state rule or regulation
10 having the force or effect of law, including law enforcement personnel;

11 (D) the chemical test was performed by a laboratory approved by the
12 United States department of health and human services or licensed by the
13 department of health and environment, except that a blood sample may be
14 tested for alcohol content by a laboratory commonly used for that purpose
15 by state law enforcement agencies;

16 (E) the chemical test was confirmed by gas chromatography, gas
17 chromatography-mass spectroscopy or other comparably reliable
18 analytical method, except that no such confirmation is required for a
19 blood alcohol sample or a breath alcohol test;

20 (F) the breath alcohol test was administered by an individual trained
21 to perform breath tests, the breath testing instrument used was certified
22 and operated strictly according to description provided by the
23 manufacturers and the reliability of the instrument performance was
24 assured by testing with alcohol standards; and

25 (G) the foundation evidence must establish, beyond a reasonable
26 doubt, that the test results were from the sample taken from the
27 individual.

28 (3) (A) For the purposes of this subsection (b), misconduct shall
29 include, but not be limited to repeated absence, including incarceration,
30 resulting in absence from work of three days or longer, excluding
31 Saturdays, Sundays and legal holidays, and lateness, from scheduled
32 work if the facts show:

33 (i) The individual was absent without good cause;

34 (ii) the absence was in violation of the employer's written
35 absenteeism policy;

36 (iii) the employer gave or sent written notice to the individual, at the
37 individual's last known address, that future absence may or will result in
38 discharge; and

39 (iv) the employee had knowledge of the employer's written
40 absenteeism policy.

41 (B) For the purposes of this subsection (b), if an employee disputes
42 being absent without good cause, the employee shall present evidence
43 that a majority of the employee's absences were for good cause. If the

1 employee alleges that the employee's repeated absences were the result of
2 health related issues, such evidence shall include documentation from a
3 licensed and practicing health care provider as defined in subsection (a)
4 (1).

5 (4) An individual shall not be disqualified under this subsection if
6 the individual is discharged under the following circumstances:

7 (A) The employer discharged the individual after learning the
8 individual was seeking other work or when the individual gave notice of
9 future intent to quit;

10 (B) the individual was making a good-faith effort to do the assigned
11 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory
12 performance due to inability, incapacity or lack of training or experience,
13 (iii) isolated instances of ordinary negligence or inadvertence, (iv) good-
14 faith errors in judgment or discretion, or (v) unsatisfactory work or
15 conduct due to circumstances beyond the individual's control; or

16 (C) the individual's refusal to perform work in excess of the contract
17 of hire.

18 (c) If the individual has failed, without good cause, to either apply
19 for suitable work when so directed by the employment office of the
20 secretary of labor, or to accept suitable work when offered to the
21 individual by the employment office, the secretary of labor, or an
22 employer, such disqualification shall begin with the week in which such
23 failure occurred and shall continue until the individual becomes
24 reemployed and has had earnings from insured work of at least three
25 times such individual's determined weekly benefit amount. In
26 determining whether or not any work is suitable for an individual, the
27 secretary of labor, or a person or persons designated by the secretary,
28 shall consider the degree of risk involved to health, safety and morals,
29 physical fitness and prior training, experience and prior earnings, length
30 of unemployment and prospects for securing local work in the
31 individual's customary occupation or work for which the individual is
32 reasonably fitted by training or experience, and the distance of the
33 available work from the individual's residence. Notwithstanding any other
34 provisions of this act, an otherwise eligible individual shall not be
35 disqualified for refusing an offer of suitable employment, or failing to
36 apply for suitable employment when notified by an employment office, or
37 for leaving the individual's most recent work accepted during approved
38 training, including training approved under section 236(a)(1) of the trade
39 act of 1974, if the acceptance of or applying for suitable employment or
40 continuing such work would require the individual to terminate approved
41 training and no work shall be deemed suitable and benefits shall not be
42 denied under this act to any otherwise eligible individual for refusing to
43 accept new work under any of the following conditions: (1) If the

1 position offered is vacant due directly to a strike, lockout or other labor
2 dispute; (2) if the remuneration, hours or other conditions of the work
3 offered are substantially less favorable to the individual than those
4 prevailing for similar work in the locality; (3) if as a condition of being
5 employed, the individual would be required to join or to resign from or
6 refrain from joining any labor organization; (4) if the individual left
7 employment as a result of domestic violence, and the position offered
8 does not reasonably accommodate the individual's physical,
9 psychological, safety, and/or legal needs relating to such domestic
10 violence.

11 (d) For any week with respect to which the secretary of labor, or a
12 person or persons designated by the secretary, finds that the individual's
13 unemployment is due to a stoppage of work which exists because of a
14 labor dispute or there would have been a work stoppage had normal
15 operations not been maintained with other personnel previously and
16 currently employed by the same employer at the factory, establishment or
17 other premises at which the individual is or was last employed, except
18 that this subsection (d) shall not apply if it is shown to the satisfaction of
19 the secretary of labor, or a person or persons designated by the secretary,
20 that: (1) The individual is not participating in or financing or directly
21 interested in the labor dispute which caused the stoppage of work; and (2)
22 the individual does not belong to a grade or class of workers of which,
23 immediately before the commencement of the stoppage, there were
24 members employed at the premises at which the stoppage occurs any of
25 whom are participating in or financing or directly interested in the
26 dispute. If in any case separate branches of work which are commonly
27 conducted as separate businesses in separate premises are conducted in
28 separate departments of the same premises, each such department shall,
29 for the purpose of this subsection (d) be deemed to be a separate factory,
30 establishment or other premises. For the purposes of this subsection (d),
31 failure or refusal to cross a picket line or refusal for any reason during the
32 continuance of such labor dispute to accept the individual's available and
33 customary work at the factory, establishment or other premises where the
34 individual is or was last employed shall be considered as participation
35 and interest in the labor dispute.

36 (e) For any week with respect to which or a part of which the
37 individual has received or is seeking unemployment benefits under the
38 unemployment compensation law of any other state or of the United
39 States, except that if the appropriate agency of such other state or the
40 United States finally determines that the individual is not entitled to such
41 unemployment benefits, this disqualification shall not apply.

42 (f) For any week with respect to which the individual is entitled to
43 receive any unemployment allowance or compensation granted by the

1 United States under an act of congress to ex-service men and women in
2 recognition of former service with the military or naval services of the
3 United States.

4 (g) For the period of one year beginning with the first day following
5 the last week of unemployment for which the individual received
6 benefits, or for one year from the date the act was committed, whichever
7 is the later, if the individual, or another in such individual's behalf with
8 the knowledge of the individual, has knowingly made a false statement or
9 representation, or has knowingly failed to disclose a material fact to
10 obtain or increase benefits under this act or any other unemployment
11 compensation law administered by the secretary of labor.

12 (h) For any week with respect to which the individual is receiving
13 compensation for temporary total disability or permanent total disability
14 under the workmen's compensation law of any state or under a similar
15 law of the United States.

16 (i) For any week of unemployment on the basis of service in an
17 instructional, research or principal administrative capacity for an
18 educational institution as defined in subsection (v) of K.S.A. 44-703, and
19 amendments thereto, if such week begins during the period between two
20 successive academic years or terms or, when an agreement provides
21 instead for a similar period between two regular but not successive terms
22 during such period or during a period of paid sabbatical leave provided
23 for in the individual's contract, if the individual performs such services in
24 the first of such academic years or terms and there is a contract or a
25 reasonable assurance that such individual will perform services in any
26 such capacity for any educational institution in the second of such
27 academic years or terms.

28 (j) For any week of unemployment on the basis of service in any
29 capacity other than service in an instructional, research, or administrative
30 capacity in an educational institution, as defined in subsection (v) of
31 K.S.A. 44-703, and amendments thereto, if such week begins during the
32 period between two successive academic years or terms if the individual
33 performs such services in the first of such academic years or terms and
34 there is a reasonable assurance that the individual will perform such
35 services in the second of such academic years or terms, except that if
36 benefits are denied to the individual under this subsection (j) and the
37 individual was not offered an opportunity to perform such services for the
38 educational institution for the second of such academic years or terms,
39 such individual shall be entitled to a retroactive payment of benefits for
40 each week for which the individual filed a timely claim for benefits and
41 for which benefits were denied solely by reason of this subsection (j).

42 (k) For any week of unemployment on the basis of service in any
43 capacity for an educational institution as defined in subsection (v) of

1 K.S.A. 44-703, and amendments thereto, if such week begins during an
2 established and customary vacation period or holiday recess, if the
3 individual performs services in the period immediately before such
4 vacation period or holiday recess and there is a reasonable assurance that
5 such individual will perform such services in the period immediately
6 following such vacation period or holiday recess.

7 (l) For any week of unemployment on the basis of any services,
8 substantially all of which consist of participating in sports or athletic
9 events or training or preparing to so participate, if such week begins
10 during the period between two successive sport seasons or similar period
11 if such individual performed services in the first of such seasons or
12 similar periods and there is a reasonable assurance that such individual
13 will perform such services in the later of such seasons or similar periods.

14 (m) For any week on the basis of services performed by an alien
15 unless such alien is an individual who was lawfully admitted for
16 permanent residence at the time such services were performed, was
17 lawfully present for purposes of performing such services, or was
18 permanently residing in the United States under color of law at the time
19 such services were performed, including an alien who was lawfully
20 present in the United States as a result of the application of the provisions
21 of section 212(d)(5) of the federal immigration and nationality act. Any
22 data or information required of individuals applying for benefits to
23 determine whether benefits are not payable to them because of their alien
24 status shall be uniformly required from all applicants for benefits. In the
25 case of an individual whose application for benefits would otherwise be
26 approved, no determination that benefits to such individual are not
27 payable because of such individual's alien status shall be made except
28 upon a preponderance of the evidence.

29 (n) For any week in which an individual is receiving a governmental
30 or other pension, retirement or retired pay, annuity or other similar
31 periodic payment under a plan maintained by a base period employer and
32 to which the entire contributions were provided by such employer, except
33 that: (1) If the entire contributions to such plan were provided by the base
34 period employer but such individual's weekly benefit amount exceeds
35 such governmental or other pension, retirement or retired pay, annuity or
36 other similar periodic payment attributable to such week, the weekly
37 benefit amount payable to the individual shall be reduced (but not below
38 zero) by an amount equal to the amount of such pension, retirement or
39 retired pay, annuity or other similar periodic payment which is
40 attributable to such week; or (2) if only a portion of contributions to such
41 plan were provided by the base period employer, the weekly benefit
42 amount payable to such individual for such week shall be reduced (but
43 not below zero) by the prorated weekly amount of the pension, retirement

1 or retired pay, annuity or other similar periodic payment after deduction
2 of that portion of the pension, retirement or retired pay, annuity or other
3 similar periodic payment that is directly attributable to the percentage of
4 the contributions made to the plan by such individual; or (3) if the entire
5 contributions to the plan were provided by such individual, or by the
6 individual and an employer (or any person or organization) who is not a
7 base period employer, no reduction in the weekly benefit amount payable
8 to the individual for such week shall be made under this subsection (n); or
9 (4) whatever portion of contributions to such plan were provided by the
10 base period employer, if the services performed for the employer by such
11 individual during the base period, or remuneration received for the
12 services, did not affect the individual's eligibility for, or increased the
13 amount of, such pension, retirement or retired pay, annuity or other
14 similar periodic payment, no reduction in the weekly benefit amount
15 payable to the individual for such week shall be made under this
16 subsection (n). No reduction shall be made for payments made under the
17 social security act or railroad retirement act of 1974.

18 (o) For any week of unemployment on the basis of services
19 performed in any capacity and under any of the circumstances described
20 in subsection (i), (j) or (k) which an individual performed in an
21 educational institution while in the employ of an educational service
22 agency. For the purposes of this subsection (o), the term "educational
23 service agency" means a governmental agency or entity which is
24 established and operated exclusively for the purpose of providing such
25 services to one or more educational institutions.

26 (p) For any week of unemployment on the basis of service as a
27 school bus or other motor vehicle driver employed by a private contractor
28 to transport pupils, students and school personnel to or from school-
29 related functions or activities for an educational institution, as defined in
30 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
31 begins during the period between two successive academic years or
32 during a similar period between two regular terms, whether or not
33 successive, if the individual has a contract or contracts, or a reasonable
34 assurance thereof, to perform services in any such capacity with a private
35 contractor for any educational institution for both such academic years or
36 both such terms. An individual shall not be disqualified for benefits as
37 provided in this subsection (p) for any week of unemployment on the
38 basis of service as a bus or other motor vehicle driver employed by a
39 private contractor to transport persons to or from nonschool-related
40 functions or activities.

41 (q) For any week of unemployment on the basis of services
42 performed by the individual in any capacity and under any of the
43 circumstances described in subsection (i), (j), (k) or (o) which are

1 provided to or on behalf of an educational institution, as defined in
2 subsection (v) of K.S.A. 44-703, and amendments thereto, while the
3 individual is in the employ of an employer which is a governmental
4 entity, Indian tribe or any employer described in section 501(c)(3) of the
5 federal internal revenue code of 1986 which is exempt from income
6 under section 501(a) of the code.

7 (r) For any week in which an individual is registered at and
8 attending an established school, training facility or other educational
9 institution, or is on vacation during or between two successive academic
10 years or terms. An individual shall not be disqualified for benefits as
11 provided in this subsection (r) provided:

12 (1) The individual was engaged in full-time employment concurrent
13 with the individual's school attendance; or

14 (2) the individual is attending approved training as defined in
15 subsection (s) of K.S.A. 44-703, and amendments thereto; or

16 (3) the individual is attending evening, weekend or limited day time
17 classes, which would not affect availability for work, and is otherwise
18 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

19 (s) For any week with respect to which an individual is receiving or
20 has received remuneration in the form of a back pay award or settlement.
21 The remuneration shall be allocated to the week or weeks in the manner
22 as specified in the award or agreement, or in the absence of such
23 specificity in the award or agreement, such remuneration shall be
24 allocated to the week or weeks in which such remuneration, in the
25 judgment of the secretary, would have been paid.

26 (1) For any such weeks that an individual receives remuneration in
27 the form of a back pay award or settlement, an overpayment will be
28 established in the amount of unemployment benefits paid and shall be
29 collected from the claimant.

30 (2) If an employer chooses to withhold from a back pay award or
31 settlement, amounts paid to a claimant while they claimed unemployment
32 benefits, such employer shall pay the department the amount withheld.
33 With respect to such amount, the secretary shall have available all of the
34 collection remedies authorized or provided in K.S.A. 44-717, and
35 amendments thereto.

36 (t) If the individual has been discharged for failing a preemployment
37 drug screen required by the employer and if such discharge occurs not
38 later than seven days after the employer is notified of the results of such
39 drug screen. The disqualification shall begin the day following the
40 separation and shall continue until after the individual becomes
41 reemployed and has had earnings from insured work of at least three
42 times the individual's determined weekly benefit amount.

43 (u) If the individual was found not to have a disqualifying

1 adjudication or conviction under K.S.A. 39-970, and amendments thereto,
2 or K.S.A. 65-5117, and amendments thereto, was hired and then was
3 subsequently convicted of a disqualifying felony under K.S.A. 39-970,
4 and amendments thereto, or K.S.A. 65-5117, and amendments thereto,
5 and discharged pursuant to K.S.A. 39-970, and amendments thereto, or
6 K.S.A. 65-5117, and amendments thereto. The disqualification shall
7 begin the day following the separation and shall continue until after the
8 individual becomes reemployed and has had earnings from insured work
9 of at least three times the individual's determined weekly benefit amount.

10 Sec. 188. K.S.A. 2010 Supp. 44-719 is hereby amended to read as
11 follows: 44-719. (a) Any person who makes a false statement or
12 representation knowing it to be false or knowingly fails to disclose a
13 material fact, to obtain or increase any benefit or other payment under
14 this act, either for such person or for any other person, shall be guilty of
15 theft and shall be punished in accordance with the provisions of ~~K.S.A.~~
16 ~~21-3701~~ *section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
17 and amendments thereto.

18 (b) Any employing unit or any officer or agent for any employing
19 unit or any other person who makes a false statement or representation
20 knowing it to be false, or who knowingly fails to disclose a material fact,
21 to prevent or reduce the payment of benefits to any individual entitled
22 thereto, or to avoid becoming or remaining subject hereto or to avoid or
23 reduce any contribution or other payment required from an employing
24 unit under this act, or who willfully fails or refuses to make any such
25 contributions or other payment or to furnish any reports required
26 hereunder or to produce or permit the inspection or copying of records as
27 required hereunder, shall be punished by a fine of not less than \$20 nor
28 more than \$200, or by imprisonment for not longer than 60 days, or both
29 such fine and imprisonment. Each such false statement or representation
30 or failure to disclose a material fact and each day of such failure or
31 refusal shall constitute a separate offense.

32 (c) Any person who willfully violates any provision of this act or
33 any rule and regulation adopted by the secretary hereunder, the violation
34 of which is made unlawful or the observance of which is required under
35 the terms of this act, and for which a penalty is neither prescribed herein
36 or provided by any other applicable statute, shall be punished by a fine of
37 not less than \$20 nor more than \$200, or by imprisonment for not longer
38 than 60 days, or by both such fine and imprisonment, and each day such
39 violation continues shall be deemed to be a separate offense.

40 (d) (1) Any person who has received any amount of money as
41 benefits under this act while any conditions for the receipt of benefits
42 imposed by this act were not fulfilled in such person's case, or while such
43 person was disqualified from receiving benefits, shall in the discretion of

1 the secretary, either be liable to have such amount of money deducted
2 from any future benefits payable to such person under this act or shall be
3 liable to repay to the secretary for the employment security fund an
4 amount of money equal to the amount so received by such person. After a
5 period of five years, the secretary may waive the collection of any such
6 amount of money when the secretary has determined that the payment of
7 such amount of money was not due to fraud, misrepresentation, or willful
8 nondisclosure on the part of the person receiving such amount of money,
9 and the collection thereof would be against equity or would cause
10 extreme hardship with regard to such person. The collection of benefit
11 overpayments which were made in the absence of fraud,
12 misrepresentation or willful nondisclosure of required information on the
13 part of the person who received such overpayments, may be waived by
14 the secretary at any time if such person met all eligibility requirements of
15 the employment security law during the weeks in which the
16 overpayments were made.

17 (2) Any benefit erroneously paid which is not repaid shall bear
18 interest at the rate of 1.5% per month or fraction of a month. If the benefit
19 was received as a result of fraud, misrepresentation or willful
20 nondisclosure of required information, interest shall accrue from the date
21 of the final determination of overpayment until repayment plus interest is
22 received by the secretary. If the overpayment was without fraud,
23 misrepresentation or willful nondisclosure of required information,
24 interest shall accrue upon any balance which remains unpaid two years
25 after the final determination of overpayment is made and shall continue
26 until payment plus accrued interest is received by the secretary. Interest
27 collected pursuant to this section shall be paid into the special
28 employment security fund, except that interest collected on federal
29 administrative programs shall be returned to the federal government.
30 Upon written request and for good cause shown, the secretary may abate
31 any interest or portion thereof provided for by this subsection (d)(2).
32 Interest accrued may not be paid by money deducted from any future
33 benefits payable to such persons liable for any overpayment.

34 (3) Unless collection is waived by the secretary, any such amount
35 shall be collectible in the manner provided in subsection (b) of K.S.A. 44-
36 717, and amendments thereto, for the collection of past due contributions.
37 The courts of this state shall in like manner entertain actions to collect
38 amounts of money erroneously paid as benefits, or unlawfully obtained,
39 for which liability has accrued under the employment security law of any
40 other state or of the federal government.

41 (e) Any employer or person who willfully fails or refuses to pay
42 contributions, payments in lieu of contributions or benefit cost payments
43 or attempts in any manner to evade or defeat any such contributions,

1 payments in lieu of contributions or benefit cost payments or the payment
2 thereof, shall be liable for the payment of such contributions, payments in
3 lieu of contributions or benefit cost payments and, in addition to any
4 other penalties provided by law, shall be liable to pay a penalty equal to
5 the total amount of the contributions, payments in lieu of contributions or
6 benefit cost payments evaded or not paid.

7 (f) (1) It shall be unlawful for an employing unit to knowingly
8 obtain or attempt to obtain a reduced liability for contributions under
9 subsection (b)(1) of K.S.A. 44-710a, and amendments thereto, through
10 manipulation of the employer's workforce, or for an employing unit that
11 is not an employing unit at the time it acquires the trade or business, to
12 knowingly obtain or attempt to obtain a reduced liability for contributions
13 under subsection (b)(5) of K.S.A. 44-710a, and amendments thereto, or
14 any other provision of K.S.A. 44-710a, and amendments thereto, related
15 to determining the assignment of a contribution rate, when the sole or
16 primary purpose of the business acquisition was for the purpose of
17 obtaining a lower rate of contributions, or for a person to knowingly
18 advise an employing unit in such a way that results in such a violation,
19 such employing unit or person shall be subject to the following penalties:

20 (A) If the person is an employer, then such employer shall be
21 assigned the highest rate assignable under K.S.A. 44-710a, and
22 amendments thereto, for the rate year during which such violation or
23 attempted violation occurred and the three rate years immediately
24 following this rate year. However, if the employer's business is already at
25 such highest rate for any year, or if the amount of increase in the
26 employer's rate would be less than 2% for such year, then a penalty rate
27 of contributions of 2% of taxable wages shall be imposed for such year.
28 Any moneys resulting from the difference of the computed rate and the
29 penalty rate shall be remitted to the state treasurer in accordance with the
30 provisions of K.S.A. 75-4215 and amendments thereto. Upon receipt of
31 each such remittance, the state treasurer shall deposit the entire amount in
32 the state treasury to the credit of the special employment security fund.

33 (B) If the person is not an employer, such person shall be subject to
34 a civil money penalty of not more than \$5,000. All fines assessed and
35 collected under this section shall be remitted to the state treasurer in
36 accordance with the provisions of K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of each such remittance, the state treasurer shall
38 deposit the entire amount in the state treasury to the credit of the special
39 employment security fund.

40 (2) For purposes of this subsection, the term "knowingly" means
41 having actual knowledge of or acting with deliberate ignorance or
42 reckless disregard for the prohibition involved.

43 (3) For purposes of this subsection, the term "violates or attempts to

1 violate" includes, but is not limited to, any intent to evade,
2 misrepresentation or willful nondisclosure.

3 (4) (A) In addition to, or in lieu of, any civil penalty imposed by
4 paragraph (1) if, the director of employment security or a special assistant
5 attorney general assigned to the department of labor, has probable cause
6 to believe that a violation of this subsection (f) should be prosecuted as a
7 crime, a copy of any order, all investigative reports and any evidence in
8 the possession of the division of employment security which relates to
9 such violation, may be forwarded to the prosecuting attorney in the
10 county in which the act or any of the acts were performed which
11 constitute a violation of this subsection (f). Any case which a county or
12 district attorney fails to prosecute within 90 days shall be returned
13 promptly to the director of employment security. The special assistant
14 attorney general assigned to the Kansas department of labor shall then
15 prosecute the case, if, in the opinion of the special assistant attorney
16 general, the acts or practices involved still warrant prosecution.

17 (B) Violation of this subsection (f) shall be a level 9, nonperson
18 felony.

19 (5) The secretary shall establish procedures to identify the transfer or
20 acquisition of a business for purposes of this section.

21 (6) For purposes of subsection (f):

22 (A) "Person" has the meaning given such term by section 7701(a)(1)
23 of the internal revenue code of 1986;

24 (B) "trade or business" shall include the employer's workforce; and

25 (C) the provisions of ~~K.S.A. 21-3206~~ and ~~K.S.A. 21-3207~~ sections
26 *31 and 32 of chapter 136 of the 2010 Session Laws of Kansas*, and
27 amendments thereto, shall apply.

28 (7) This subsection (f) shall be interpreted and applied in such a
29 manner as to meet the minimum requirements contained in any guidance
30 or regulation issued by the United States department of labor.

31 Sec. 189. K.S.A. 44-1039 is hereby amended to read as follows: 44-
32 1039. Any person ~~willfully, knowingly, intentionally~~ and falsely swearing,
33 testifying, affirming, declaring or subscribing to any material fact upon
34 any oath or affirmation required by the Kansas act against discrimination
35 shall be deemed guilty of perjury as defined by ~~K.S.A. 21-3805~~ in section
36 *128 of chapter 136 of the 2010 Session Laws of Kansas*, and ~~any~~
37 amendments thereto.

38 Sec. 190. K.S.A. 2010 Supp. 44-1131 is hereby amended to read as
39 follows: 44-1131. As used in K.S.A. 44-1131 and 44-1132, and
40 amendments thereto:

41 (a) "Domestic violence" means abuse as defined in K.S.A. 60-3102,
42 and amendments thereto.

43 (b) "Sexual assault" means any crime defined in K.S.A. 21-3502, or

1 *section 67 of chapter 136 of the 2010 Session Laws of Kansas, (rape), 21-*
2 *3503, or subsection (a) of section 70 of chapter 136 of the 2010 Session*
3 *Laws of Kansas, (indecent liberties with a child), 21-3504, or subsection*
4 *(b) of section 70 of chapter 136 of the 2010 Session Laws of Kansas,*
5 *(aggravated indecent liberties with a child), 21-3505, or subsection (a) of*
6 *section 68 of chapter 136 of the 2010 Session Laws of Kansas, (criminal*
7 *sodomy), 21-3506, or subsection (b) of section 68 of chapter 136 of the*
8 *2010 Session Laws of Kansas, (aggravated criminal sodomy), 21-3602,*
9 *or subsection (a) of section 81 of chapter 136 of the 2010 Session Laws*
10 *of Kansas, (incest) or 21-3603, or subsection (b) of section 81 of chapter*
11 *136 of the 2010 Session Laws of Kansas, (aggravated incest), and*
12 *amendments thereto.*

13 Sec. 191. K.S.A. 2010 Supp. 45-217 is hereby amended to read as
14 follows: 45-217. As used in the open records act, unless the context
15 otherwise requires:

16 (a) "Business day" means any day other than a Saturday, Sunday or
17 day designated as a holiday by the congress of the United States, by the
18 legislature or governor of this state or by the respective political
19 subdivision of this state.

20 (b) "Clearly unwarranted invasion of personal privacy" means
21 revealing information that would be highly offensive to a reasonable
22 person, including information that may pose a risk to a person or property
23 and is not of legitimate concern to the public.

24 (c) "Criminal investigation records" means records of an
25 investigatory agency or criminal justice agency as defined by K.S.A. 22-
26 4701, and amendments thereto, compiled in the process of preventing,
27 detecting or investigating violations of criminal law, but does not include
28 police blotter entries, court records, rosters of inmates of jails or other
29 correctional or detention facilities or records pertaining to violations of
30 any traffic law other than vehicular homicide as defined by K.S.A. 21-
31 3405, *prior to its repeal, or section 41 of chapter 136 of the 2010 Session*
32 *Laws of Kansas, and amendments thereto.*

33 (d) "Custodian" means the official custodian or any person
34 designated by the official custodian to carry out the duties of custodian of
35 this act.

36 (e) "Official custodian" means any officer or employee of a public
37 agency who is responsible for the maintenance of public records,
38 regardless of whether such records are in the officer's or employee's
39 actual personal custody and control.

40 (f) (1) "Public agency" means the state or any political or taxing
41 subdivision of the state or any office, officer, agency or instrumentality
42 thereof, or any other entity receiving or expending and supported in
43 whole or in part by the public funds appropriated by the state or by public

1 funds of any political or taxing subdivision of the state.

2 (2) "Public agency" shall not include:

3 (A) Any entity solely by reason of payment from public funds for
4 property, goods or services of such entity; (B) any municipal judge, judge
5 of the district court, judge of the court of appeals or justice of the
6 supreme court; or (C) any officer or employee of the state or political or
7 taxing subdivision of the state if the state or political or taxing
8 subdivision does not provide the officer or employee with an office which
9 is open to the public at least 35 hours a week.

10 ~~(f)-(h)~~ (g) (1) "Public record" means any recorded information,
11 regardless of form or characteristics, which is made, maintained or kept
12 by or is in the possession of any public agency including, but not limited
13 to, an agreement in settlement of litigation involving the Kansas public
14 employees retirement system and the investment of moneys of the fund.

15 (2) "Public record" shall not include records which are owned by a
16 private person or entity and are not related to functions, activities,
17 programs or operations funded by public funds or records which are
18 made, maintained or kept by an individual who is a member of the
19 legislature or of the governing body of any political or taxing subdivision
20 of the state.

21 (3) "Public record" shall not include records of employers related to
22 the employer's individually identifiable contributions made on behalf of
23 employees for workers compensation, social security, unemployment
24 insurance or retirement. The provisions of this subsection shall not apply
25 to records of employers of lump-sum payments for contributions as
26 described in this subsection paid for any group, division or section of an
27 agency.

28 (h) "Undercover agent" means an employee of a public agency
29 responsible for criminal law enforcement who is engaged in the detection
30 or investigation of violations of criminal law in a capacity where such
31 employee's identity or employment by the public agency is secret.

32 Sec. 192. K.S.A. 2010 Supp. 45-221 is hereby amended to read as
33 follows: 45-221. (a) Except to the extent disclosure is otherwise required
34 by law, a public agency shall not be required to disclose:

35 (1) Records the disclosure of which is specifically prohibited or
36 restricted by federal law, state statute or rule of the Kansas supreme court
37 or rule of the senate committee on confirmation oversight relating to
38 information submitted to the committee pursuant to K.S.A. 2010 Supp.
39 75-4315d, and amendments thereto, or the disclosure of which is
40 prohibited or restricted pursuant to specific authorization of federal law,
41 state statute or rule of the Kansas supreme court or rule of the senate
42 committee on confirmation oversight relating to information submitted to
43 the committee pursuant to K.S.A. 2010 Supp. 75-4315d, and amendments

- 1 thereto, to restrict or prohibit disclosure.
- 2 (2) Records which are privileged under the rules of evidence, unless
3 the holder of the privilege consents to the disclosure.
- 4 (3) Medical, psychiatric, psychological or alcoholism or drug
5 dependency treatment records which pertain to identifiable patients.
- 6 (4) Personnel records, performance ratings or individually
7 identifiable records pertaining to employees or applicants for
8 employment, except that this exemption shall not apply to the names,
9 positions, salaries or actual compensation employment contracts or
10 employment-related contracts or agreements and lengths of service of
11 officers and employees of public agencies once they are employed as
12 such.
- 13 (5) Information which would reveal the identity of any undercover
14 agent or any informant reporting a specific violation of law.
- 15 (6) Letters of reference or recommendation pertaining to the
16 character or qualifications of an identifiable individual, except documents
17 relating to the appointment of persons to fill a vacancy in an elected
18 office.
- 19 (7) Library, archive and museum materials contributed by private
20 persons, to the extent of any limitations imposed as conditions of the
21 contribution.
- 22 (8) Information which would reveal the identity of an individual
23 who lawfully makes a donation to a public agency, if anonymity of the
24 donor is a condition of the donation, except if the donation is intended for
25 or restricted to providing remuneration or personal tangible benefit to a
26 named public officer or employee.
- 27 (9) Testing and examination materials, before the test or examination
28 is given or if it is to be given again, or records of individual test or
29 examination scores, other than records which show only passage or
30 failure and not specific scores.
- 31 (10) Criminal investigation records, except as provided herein. The
32 district court, in an action brought pursuant to K.S.A. 45-222, and
33 amendments thereto, may order disclosure of such records, subject to
34 such conditions as the court may impose, if the court finds that
35 disclosure:
- 36 (A) Is in the public interest;
- 37 (B) would not interfere with any prospective law enforcement
38 action, criminal investigation or prosecution;
- 39 (C) would not reveal the identity of any confidential source or
40 undercover agent;
- 41 (D) would not reveal confidential investigative techniques or
42 procedures not known to the general public;
- 43 (E) would not endanger the life or physical safety of any person; and

1 (F) would not reveal the name, address, phone number or any other
2 information which specifically and individually identifies the victim of
3 any sexual offense in article 35 of chapter 21 of the Kansas Statutes
4 Annotated, *prior to their repeal, or sections 65 through 77 or 229*
5 *through 231 of chapter 136 of the 2010 Session Laws of Kansas*, and
6 amendments thereto.

7 If a public record is discretionarily closed by a public agency pursuant
8 to this subsection, the record custodian, upon request, shall provide a
9 written citation to the specific provisions of paragraphs (A) through (F)
10 that necessitate closure of that public record.

11 (11) Records of agencies involved in administrative adjudication or
12 civil litigation, compiled in the process of detecting or investigating
13 violations of civil law or administrative rules and regulations, if
14 disclosure would interfere with a prospective administrative adjudication
15 or civil litigation or reveal the identity of a confidential source or
16 undercover agent.

17 (12) Records of emergency or security information or procedures of
18 a public agency, or plans, drawings, specifications or related information
19 for any building or facility which is used for purposes requiring security
20 measures in or around the building or facility or which is used for the
21 generation or transmission of power, water, fuels or communications, if
22 disclosure would jeopardize security of the public agency, building or
23 facility.

24 (13) The contents of appraisals or engineering or feasibility
25 estimates or evaluations made by or for a public agency relative to the
26 acquisition of property, prior to the award of formal contracts therefor.

27 (14) Correspondence between a public agency and a private
28 individual, other than correspondence which is intended to give notice of
29 an action, policy or determination relating to any regulatory, supervisory
30 or enforcement responsibility of the public agency or which is widely
31 distributed to the public by a public agency and is not specifically in
32 response to communications from such a private individual.

33 (15) Records pertaining to employer-employee negotiations, if
34 disclosure would reveal information discussed in a lawful executive
35 session under K.S.A. 75-4319, and amendments thereto.

36 (16) Software programs for electronic data processing and
37 documentation thereof, but each public agency shall maintain a register,
38 open to the public, that describes:

39 (A) The information which the agency maintains on computer
40 facilities; and

41 (B) the form in which the information can be made available using
42 existing computer programs.

43 (17) Applications, financial statements and other information

1 submitted in connection with applications for student financial assistance
2 where financial need is a consideration for the award.

3 (18) Plans, designs, drawings or specifications which are prepared
4 by a person other than an employee of a public agency or records which
5 are the property of a private person.

6 (19) Well samples, logs or surveys which the state corporation
7 commission requires to be filed by persons who have drilled or caused to
8 be drilled, or are drilling or causing to be drilled, holes for the purpose of
9 discovery or production of oil or gas, to the extent that disclosure is
10 limited by rules and regulations of the state corporation commission.

11 (20) Notes, preliminary drafts, research data in the process of
12 analysis, unfunded grant proposals, memoranda, recommendations or
13 other records in which opinions are expressed or policies or actions are
14 proposed, except that this exemption shall not apply when such records
15 are publicly cited or identified in an open meeting or in an agenda of an
16 open meeting.

17 (21) Records of a public agency having legislative powers, which
18 records pertain to proposed legislation or amendments to proposed
19 legislation, except that this exemption shall not apply when such records
20 are:

21 (A) Publicly cited or identified in an open meeting or in an agenda
22 of an open meeting; or

23 (B) distributed to a majority of a quorum of any body which has
24 authority to take action or make recommendations to the public agency
25 with regard to the matters to which such records pertain.

26 (22) Records of a public agency having legislative powers, which
27 records pertain to research prepared for one or more members of such
28 agency, except that this exemption shall not apply when such records are:

29 (A) Publicly cited or identified in an open meeting or in an agenda
30 of an open meeting; or

31 (B) distributed to a majority of a quorum of any body which has
32 authority to take action or make recommendations to the public agency
33 with regard to the matters to which such records pertain.

34 (23) Library patron and circulation records which pertain to
35 identifiable individuals.

36 (24) Records which are compiled for census or research purposes
37 and which pertain to identifiable individuals.

38 (25) Records which represent and constitute the work product of an
39 attorney.

40 (26) Records of a utility or other public service pertaining to
41 individually identifiable residential customers of the utility or service,
42 except that information concerning billings for specific individual
43 customers named by the requester shall be subject to disclosure as

1 provided by this act.

2 (27) Specifications for competitive bidding, until the specifications
3 are officially approved by the public agency.

4 (28) Sealed bids and related documents, until a bid is accepted or all
5 bids rejected.

6 (29) Correctional records pertaining to an identifiable inmate or
7 release, except that:

8 (A) The name; photograph and other identifying information;
9 sentence data; parole eligibility date; custody or supervision level;
10 disciplinary record; supervision violations; conditions of supervision,
11 excluding requirements pertaining to mental health or substance abuse
12 counseling; location of facility where incarcerated or location of parole
13 office maintaining supervision and address of a releasee whose crime was
14 committed after the effective date of this act shall be subject to disclosure
15 to any person other than another inmate or releasee, except that the
16 disclosure of the location of an inmate transferred to another state
17 pursuant to the interstate corrections compact shall be at the discretion of
18 the secretary of corrections;

19 (B) the ombudsman of corrections, the attorney general, law
20 enforcement agencies, counsel for the inmate to whom the record pertains
21 and any county or district attorney shall have access to correctional
22 records to the extent otherwise permitted by law;

23 (C) the information provided to the law enforcement agency
24 pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and
25 amendments thereto, shall be subject to disclosure to any person, except
26 that the name, address, telephone number or any other information which
27 specifically and individually identifies the victim of any offender required
28 to register as provided by the Kansas offender registration act, K.S.A. 22-
29 4901 et seq., and amendments thereto, shall not be disclosed; and

30 (D) records of the department of corrections regarding the financial
31 assets of an offender in the custody of the secretary of corrections shall be
32 subject to disclosure to the victim, or such victim's family, of the crime
33 for which the inmate is in custody as set forth in an order of restitution by
34 the sentencing court.

35 (30) Public records containing information of a personal nature
36 where the public disclosure thereof would constitute a clearly
37 unwarranted invasion of personal privacy.

38 (31) Public records pertaining to prospective location of a business
39 or industry where no previous public disclosure has been made of the
40 business' or industry's interest in locating in, relocating within or
41 expanding within the state. This exception shall not include those records
42 pertaining to application of agencies for permits or licenses necessary to
43 do business or to expand business operations within this state, except as

1 otherwise provided by law.

2 (32) Engineering and architectural estimates made by or for any
3 public agency relative to public improvements.

4 (33) Financial information submitted by contractors in qualification
5 statements to any public agency.

6 (34) Records involved in the obtaining and processing of intellectual
7 property rights that are expected to be, wholly or partially vested in or
8 owned by a state educational institution, as defined in K.S.A. 76-711, and
9 amendments thereto, or an assignee of the institution organized and
10 existing for the benefit of the institution.

11 (35) Any report or record which is made pursuant to K.S.A. 65-
12 4922, 65-4923 or 65-4924, and amendments thereto, and which is
13 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
14 thereto.

15 (36) Information which would reveal the precise location of an
16 archeological site.

17 (37) Any financial data or traffic information from a railroad
18 company, to a public agency, concerning the sale, lease or rehabilitation
19 of the railroad's property in Kansas.

20 (38) Risk-based capital reports, risk-based capital plans and
21 corrective orders including the working papers and the results of any
22 analysis filed with the commissioner of insurance in accordance with
23 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

24 (39) Memoranda and related materials required to be used to support
25 the annual actuarial opinions submitted pursuant to subsection (b) of
26 K.S.A. 40-409, and amendments thereto.

27 (40) Disclosure reports filed with the commissioner of insurance
28 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

29 (41) All financial analysis ratios and examination synopses
30 concerning insurance companies that are submitted to the commissioner
31 by the national association of insurance commissioners' insurance
32 regulatory information system.

33 (42) Any records the disclosure of which is restricted or prohibited
34 by a tribal-state gaming compact.

35 (43) Market research, market plans, business plans and the terms and
36 conditions of managed care or other third party contracts, developed or
37 entered into by the university of Kansas medical center in the operation
38 and management of the university hospital which the chancellor of the
39 university of Kansas or the chancellor's designee determines would give
40 an unfair advantage to competitors of the university of Kansas medical
41 center.

42 (44) The amount of franchise tax paid to the secretary of revenue or
43 the secretary of state by domestic corporations, foreign corporations,

1 domestic limited liability companies, foreign limited liability companies,
2 domestic limited partnership, foreign limited partnership, domestic
3 limited liability partnerships and foreign limited liability partnerships.

4 (45) Records, other than criminal investigation records, the
5 disclosure of which would pose a substantial likelihood of revealing
6 security measures that protect: (A) Systems, facilities or equipment used
7 in the production, transmission or distribution of energy, water or
8 communications services; (B) transportation and sewer or wastewater
9 treatment systems, facilities or equipment; or (C) private property or
10 persons, if the records are submitted to the agency. For purposes of this
11 paragraph, security means measures that protect against criminal acts
12 intended to intimidate or coerce the civilian population, influence
13 government policy by intimidation or coercion or to affect the operation
14 of government by disruption of public services, mass destruction,
15 assassination or kidnapping. Security measures include, but are not
16 limited to, intelligence information, tactical plans, resource deployment
17 and vulnerability assessments.

18 (46) Any information or material received by the register of deeds of
19 a county from military discharge papers (DD Form 214). Such papers
20 shall be disclosed: To the military dischargee; to such dischargee's
21 immediate family members and lineal descendants; to such dischargee's
22 heirs, agents or assigns; to the licensed funeral director who has custody
23 of the body of the deceased dischargee; when required by a department or
24 agency of the federal or state government or a political subdivision
25 thereof; when the form is required to perfect the claim of military service
26 or honorable discharge or a claim of a dependent of the dischargee; and
27 upon the written approval of the commissioner of veterans affairs, to a
28 person conducting research.

29 (47) Information that would reveal the location of a shelter or a
30 safehouse or similar place where persons are provided protection from
31 abuse or the name, address, location or other contact information of
32 alleged victims of stalking, domestic violence or sexual assault.

33 (48) Policy information provided by an insurance carrier in
34 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
35 thereto. This exemption shall not be construed to preclude access to an
36 individual employer's record for the purpose of verification of insurance
37 coverage or to the department of labor for their business purposes.

38 (49) An individual's e-mail address, cell phone number and other
39 contact information which has been given to the public agency for the
40 purpose of public agency notifications or communications which are
41 widely distributed to the public.

42 (b) Except to the extent disclosure is otherwise required by law or as
43 appropriate during the course of an administrative proceeding or on

1 appeal from agency action, a public agency or officer shall not disclose
2 financial information of a taxpayer which may be required or requested
3 by a county appraiser or the director of property valuation to assist in the
4 determination of the value of the taxpayer's property for ad valorem
5 taxation purposes; or any financial information of a personal nature
6 required or requested by a public agency or officer, including a name, job
7 description or title revealing the salary or other compensation of officers,
8 employees or applicants for employment with a firm, corporation or
9 agency, except a public agency. Nothing contained herein shall be
10 construed to prohibit the publication of statistics, so classified as to
11 prevent identification of particular reports or returns and the items
12 thereof.

13 (c) As used in this section, the term "cited or identified" shall not
14 include a request to an employee of a public agency that a document be
15 prepared.

16 (d) If a public record contains material which is not subject to
17 disclosure pursuant to this act, the public agency shall separate or delete
18 such material and make available to the requester that material in the
19 public record which is subject to disclosure pursuant to this act. If a
20 public record is not subject to disclosure because it pertains to an
21 identifiable individual, the public agency shall delete the identifying
22 portions of the record and make available to the requester any remaining
23 portions which are subject to disclosure pursuant to this act, unless the
24 request is for a record pertaining to a specific individual or to such a
25 limited group of individuals that the individuals' identities are reasonably
26 ascertainable, the public agency shall not be required to disclose those
27 portions of the record which pertain to such individual or individuals.

28 (e) The provisions of this section shall not be construed to exempt
29 from public disclosure statistical information not descriptive of any
30 identifiable person.

31 (f) Notwithstanding the provisions of subsection (a), any public
32 record which has been in existence more than 70 years shall be open for
33 inspection by any person unless disclosure of the record is specifically
34 prohibited or restricted by federal law, state statute or rule of the Kansas
35 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
36 amendments thereto.

37 (g) Any confidential records or information relating to security
38 measures provided or received under the provisions of subsection (a)(45)
39 shall not be subject to subpoena, discovery or other demand in any
40 administrative, criminal or civil action.

41 Sec. 193. K.S.A. 2010 Supp. 45-230 is hereby amended to read as
42 follows: 45-230. (a) No person shall knowingly sell, give or receive, for
43 the purpose of selling or offering for sale any property or service to

1 persons listed therein, any list of names and addresses contained in or
2 derived from public records except:

3 (1) Lists of names and addresses from public records of the division
4 of vehicles obtained under K.S.A. 74-2012, and amendments thereto;

5 (2) lists of names and addresses of persons licensed, registered or
6 issued certificates or permits to practice a profession or vocation may be
7 sold or given to, and received by, an organization of persons who practice
8 that profession or vocation for membership, informational or other
9 purposes related to the practice of the profession or vocation;

10 (3) lists of names and addresses of persons applying for examination
11 for licenses, registrations, certificates or permits to practice a profession
12 or vocation shall be sold or given to, and received by, organizations
13 providing professional or vocational educational materials or courses to
14 such persons for the sole purpose of providing such persons with
15 information relating to the availability of such materials or courses;

16 (4) lists of names, addresses and other information from voter
17 registration lists may be compiled, used, given, received, sold or
18 purchased by any person, as defined in ~~K.S.A. 21-3110~~ *section 11 of*
19 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
20 thereto, solely for political campaign or election purposes;

21 (5) lists of names and addresses from the public records of
22 postsecondary institutions as defined in K.S.A. 74-3201b, and
23 amendments thereto, may be given to, and received and disseminated by
24 such institution's separately incorporated affiliates and supporting
25 organizations, which qualify under section 501(c)(3) of the federal
26 internal revenue code of 1986, for use in the furtherance of the purposes
27 and programs of such institutions and such affiliates and supporting
28 organizations; and

29 (6) to the extent otherwise authorized by law.

30 (b) Any person subject to this section who knowingly violates the
31 provisions of this section shall be liable for the payment of a civil penalty
32 in an action brought by the attorney general or county or district attorney
33 in a sum set by the court not to exceed \$500 for each violation.

34 (c) The provisions of this section shall not apply to nor impose any
35 civil liability or penalty upon any public official, public agency or records
36 custodian for granting access to or providing copies of public records or
37 information containing names and addresses, in good faith compliance
38 with the Kansas open records act, to a person who has made a written
39 request for access to such information and has executed a written
40 certification pursuant to subsection (c)(2) of K.S.A. 45-220, and
41 amendments thereto.

42 (d) This section shall be a part of and supplemental to the Kansas
43 open records act.

1 Sec. 194. K.S.A. 46-920 is hereby amended to read as follows: 46-
2 920. (a) The secretary of corrections may reimburse any inmate of any
3 correctional institution or other facility under the secretary's jurisdiction
4 for any personal injury or personal property damage or loss occurring
5 under circumstances which establish, in the secretary's opinion, that such
6 loss or damage was caused by the negligence of the state or any agency,
7 officer or employee thereof. No reimbursement payment shall be made on
8 any claim for an amount of more than \$500. Nothing in this section shall
9 prohibit the crediting of any payment made to an inmate of a correctional
10 institution or other facility under the secretary's jurisdiction to such
11 inmate's account within the institution or facility, as the case may be.

12 (b) When an inmate owes an outstanding unpaid amount of
13 restitution ordered by a court pursuant to K.S.A. 21-4603, 21-4603d or
14 21-4610, *prior to their repeal, or section 244, 247 or 271 of chapter 136*
15 *of the 2010 Session Laws of Kansas*, and amendments thereto, the
16 secretary of corrections shall withdraw from the inmate's trust account as
17 a set-off:

18 (1) Money received by the inmate from the state as a settlement of a
19 claim against the state through the joint committee on special claims
20 against the state which is otherwise specifically approved for payment by
21 appropriation act of the legislature, or which is approved through the
22 department of corrections internal claims procedure under this section; or

23 (2) money received by the inmate from the state as the result of a
24 settlement or a final judgment in a civil action in which the state of
25 Kansas or an employee of the department of corrections was a named
26 defendant and the state was found to be liable.

27 (c) When an inmate on post release, parole or conditional release
28 supervision owes an outstanding unpaid amount of restitution ordered by
29 a court pursuant to K.S.A. 21-4603, 21-4603d or 21-4610, *prior to their*
30 *repeal, or section 244, 247 or 271 of chapter 136 of the 2010 Session*
31 *Laws of Kansas*, and amendments thereto, the state shall setoff the unpaid
32 restitution from:

33 (1) Money payable to the inmate from the state as a settlement of a
34 claim against the state through the joint committee against the state which
35 is specifically approved for payment by appropriation act of the
36 legislature or which is approved through the department of corrections
37 under this section; or

38 (2) money payable to the inmate from the state as a result of a
39 settlement or final judgment in a civil action in which the state of Kansas
40 or an employee of the department of corrections was a named defendant
41 and the state was found to be liable.

42 (d) Vouchers certifying the amount to be setoff under subsection (c)
43 for the outstanding unpaid restitution and any balance remaining payable

1 to the inmate shall be prepared and submitted to the director of accounts
2 and reports of the department of administration.

3 (e) When more than one state court order of restitution is
4 outstanding and unpaid, moneys shall be applied to and paid for the
5 restitution orders in accordance with this section in the order in which the
6 final judgment orders were entered.

7 (f) Moneys collected for payment towards outstanding unpaid
8 restitution in accordance with this section shall be forwarded to the
9 appropriate clerk of the district court for disbursement.

10 Sec. 195. K.S.A. 47-653c is hereby amended to read as follows: 47-
11 653c. Any person who shall violate any provision of this act or
12 regulations adopted in accordance therewith shall be deemed guilty of a
13 misdemeanor and upon conviction shall be punished as prescribed by
14 ~~K.S.A. 21-4502~~ *section 242 of chapter 136 of the 2010 Session Laws of*
15 *Kansas, and amendments thereto.*

16 Sec. 196. K.S.A. 2010 Supp. 47-1706 is hereby amended to read as
17 follows: 47-1706. (a) The commissioner may refuse to issue or renew or
18 may suspend or revoke any license or permit required under K.S.A. 47-
19 1701 et seq., and amendments thereto, for any one or more of the
20 following reasons:

21 (1) Material misstatement in the application for the original license
22 or permit, or in the application for any renewal of a license or permit;

23 (2) willful disregard of any provision of the Kansas pet animal act or
24 any rule and regulation adopted hereunder, or any willful aiding or
25 abetting of another in the violation of any provision of the Kansas pet
26 animal act or any rule and regulation adopted hereunder;

27 (3) permitting any license or permit issued hereunder to be used by
28 an unlicensed or unpermitted person or transferred to unlicensed or
29 unpermitted premises;

30 (4) the conviction of any crime relating to the theft of animals or a
31 first conviction of cruelty to animals;

32 (5) substantial misrepresentation;

33 (6) misrepresentation or false promise, made through advertising,
34 salespersons, agents or otherwise, in connection with the operation of
35 business of the licensee or permittee;

36 (7) fraudulent bill of sale;

37 (8) the housing facility or the primary enclosure is inadequate; or

38 (9) the feeding, watering, sanitizing and housing practices at the
39 licensee's or permittee's premises are not consistent with the Kansas pet
40 animal act or the rules and regulations adopted hereunder.

41 (b) The commissioner shall refuse to issue or renew and shall
42 suspend or revoke any license or permit required under K.S.A. 47-1701 et
43 seq., and amendments thereto, for the second or subsequent conviction of

1 cruelty to animals, K.S.A. 21-4310, *prior to its repeal, or subsections (a)*
2 *(1) through (a)(5) of section 223 of chapter 136 of the 2010 Session Laws*
3 *of Kansas, and amendments thereto.*

4 (c) Any refusal to issue or renew a license or permit, and any
5 suspension or revocation of a license or permit, under this section shall be
6 in accordance with the provisions of the Kansas administrative procedure
7 act and shall be subject to review in accordance with the Kansas judicial
8 review act.

9 (d) Whenever the commissioner denies, suspends or revokes a
10 license or permit under this section, the commissioner or the
11 commissioner's authorized, trained representatives shall seize and
12 impound any animals in the possession, custody or care of the person
13 whose license or permit is denied, suspended or revoked if there are
14 reasonable grounds to believe that the animals' health, safety or welfare is
15 endangered. Except as provided by ~~K.S.A. 21-4311~~ *section 223 of chapter*
16 *136 of the 2010 Session Laws of Kansas, and amendments thereto, such*
17 *animals may be returned to the person owning them if there is*
18 *satisfactory evidence that the animals will receive adequate care by that*
19 *person or such animals may be sold, placed or euthanized, at the*
20 *discretion of the commissioner. Costs of care and services for such*
21 *animals while seized and impounded shall be paid by the person from*
22 *whom the animals were seized and impounded, if that person's license or*
23 *permit is denied, suspended or revoked. Such funds shall be paid to the*
24 *commissioner for reimbursement of care and services provided during*
25 *seizure and impoundment. If such person's license or permit is not denied,*
26 *suspended or revoked, the commissioner shall pay the costs of care and*
27 *services provided during seizure and impoundment.*

28 Sec. 197. K.S.A. 2010 Supp. 47-1707 is hereby amended to read as
29 follows: 47-1707. (a) In addition to or in lieu of any other civil or
30 criminal penalty provided by law, the commissioner, upon a finding that a
31 person has violated or failed to comply with any provision of the Kansas
32 pet animal act or any rule and regulation adopted hereunder, may impose
33 on such person a civil fine not exceeding \$1,000 for each violation or
34 requirement to attend an educational course regarding animals and their
35 care and treatment. If the commissioner imposes the educational course,
36 such person may choose either the fine or the educational course. If such
37 person chooses the fine, the commissioner shall establish the amount
38 pursuant to the fine provisions of this section. The educational course
39 shall be administered by the commissioner in consultation with Kansas
40 state university college of veterinary medicine.

41 (b) Any imposition of a civil fine pursuant to this section shall be
42 only upon notice and a hearing conducted in accordance with the Kansas
43 administrative procedure act and shall be subject to review in accordance

1 with the Kansas judicial review act.

2 (c) Whenever the commissioner has reasonable grounds to believe
3 that a person or premises required to be licensed or permitted under the
4 Kansas pet animal act has failed to comply with or has violated any
5 provision of the Kansas pet animal act or any rule and regulation adopted
6 hereunder and that the health, safety or welfare of animals in such
7 person's possession, custody or care is endangered thereby, the
8 commissioner shall seize and impound such animals using emergency
9 adjudicative proceedings in accordance with the Kansas administrative
10 procedure act. Except as provided by ~~K.S.A. 21-431~~*section 223 of*
11 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto, such animals may be returned to the person owning them if there
13 is satisfactory evidence that the animals will receive adequate care by that
14 person or such animals may be sold, placed or euthanized, at the
15 discretion of the commissioner. Costs of care and services for such
16 animals while seized and impounded shall be paid by the person from
17 whom the animals were seized and impounded, if that person is found to
18 be in violation of the Kansas pet animal act or any rules and regulations
19 adopted hereunder. Such funds shall be paid to the commissioner for
20 reimbursement of care and services provided during seizure and
21 impoundment. If such person is not found to be in violation of the Kansas
22 pet animal act or any rules and regulations adopted hereunder, the
23 commissioner shall pay the costs of care and services provided during
24 seizure and impoundment.

25 Sec. 198. K.S.A. 47-1715 is hereby amended to read as follows: 47-
26 1715. (a) Any violation of or failure to comply with any provision of the
27 Kansas pet animal act, or any rule and regulation adopted hereunder, shall
28 constitute a class A nonperson misdemeanor. Continued operation, after a
29 conviction, shall constitute a separate offense for each day of operation.

30 (b) Upon a conviction of a person for any violation of the Kansas pet
31 animal act, or any rule and regulation adopted hereunder, the court shall
32 order the commissioner to seize and impound any animals in the
33 convicted person's possession, custody or care if there are reasonable
34 grounds to believe that the animals' health, safety or welfare is
35 endangered. Except as provided by ~~K.S.A. 21-431~~*section 223 of chapter*
36 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, such
37 animals may be returned to the person owning them if there is
38 satisfactory evidence that the animals will receive adequate care by that
39 person or such animals may be sold, placed or euthanized, at the
40 discretion of the commissioner. Costs of care and services for such
41 animals while seized and impounded shall be paid by the convicted
42 person. Such funds shall be paid to the commissioner for reimbursement
43 of care and services provided during seizure and impoundment. If the

1 person is not convicted, the commissioner shall pay the costs of care and
2 services provided during seizure and impoundment.

3 Sec. 199. K.S.A. 50-618 is hereby amended to read as follows: 50-
4 618. Whenever any person, firm, partnership, association, corporation or
5 other business organization, or any agent thereof, shall voluntarily issue
6 or cause to be issued a ~~credit~~financial card, as defined by ~~K.S.A. 21-~~
7 ~~3729~~in section 114 of chapter 136 of the 2010 Session Laws of Kansas,
8 and amendments thereto, where the person to whom the card is issued has
9 not requested or solicited such issuance, and has neither signed nor used
10 such card, the person to whom the card is issued shall not be liable for
11 any use or misuse of such card if it shall be lost or stolen. In any action
12 for the return of ~~said credit~~such card, or for the return of any goods,
13 wares or merchandise acquired through use of ~~said credit~~such card
14 subsequent to it being lost by or stolen from the recipient thereof, or for
15 the payment of the purchase price of said goods, wares or merchandise, it
16 shall be a complete defense by such recipient that the ~~credit~~ card was
17 issued, sent or delivered, or caused to be issued, sent or delivered, to the
18 recipient unsolicited or that the recipient did not actually order or request
19 the same and that the recipient neither signed nor used such card. Where
20 any person has requested or solicited the issuance of a ~~credit~~financial
21 card from any person, firm, partnership, association, corporation or other
22 business organization, or any agent thereof or such person has signed or
23 used such card, the reissuance or renewal of such card, regardless of any
24 specific request or solicitation therefor by the holder of such card, shall
25 not be deemed to be the receipt of an unsolicited ~~credit~~financial card
26 within the meaning of this act.

27 Sec. 200. K.S.A. 50-648 is hereby amended to read as follows: 50-
28 648. (a) Any consumer who has purchased a motor vehicle from a
29 supplier and who proves: (1) That any of the acts declared to be a
30 violation of ~~K.S.A. 21-3757~~section 121 of chapter 136 of the 2010
31 Session Laws of Kansas, and amendments thereto, have taken place; and
32 (2) that the mileage or use of the motor vehicle is materially different
33 from that shown on the vehicle's odometer shall be entitled to a
34 declaration from the court that the purchase of the motor vehicle is
35 voidable at the consumer's request.

36 (b) If the purchase of a motor vehicle is voided under subsection (a),
37 the consumer shall recover the greater of the following but recovery shall
38 not exceed the actual purchase price of the vehicle:

39 (1) Purchase price before trade-in allowance less set off;

40 (2) Purchase price before trade-in allowance plus verified repairs
41 less set off; or

42 (3) The civil penalties in K.S.A. 50-651, and amendments thereto.

43 (c) The consumer may recover reasonable attorney fees, if the

1 consumer prevails in an action against the supplier under this section.

2 Sec. 201. K.S.A. 50-651 is hereby amended to read as follows: 50-
3 651. (a) The commission of any act or practice declared to be a violation
4 of ~~K.S.A. 21-3757~~*section 121 of chapter 136 of the 2010 Session Laws of*
5 *Kansas, and amendments thereto*, or K.S.A. 50-653, and amendments
6 thereto, shall make the violator liable to the aggrieved consumer, or to the
7 state, for the payment of a civil penalty, recoverable in an individual
8 action or in an action brought by the attorney general in a sum set by the
9 court of not more than \$2,000 per violation of K.S.A. 50-653, and
10 amendments thereto, and not more than \$10,000 per violation of ~~K.S.A.~~
11 ~~21-3757~~*section 121 of chapter 136 of the 2010 Session Laws of Kansas,*
12 and amendments thereto.

13 (b) The remedies provided in subsection (a) are in addition to any
14 remedies available under federal odometer law.

15 Sec. 202. K.S.A. 50-653 is hereby amended to read as follows: 50-
16 653. A supplier as defined herein shall disclose in writing to the purchaser
17 of a motor vehicle at or before the time of entering into the purchase
18 agreement whether the supplier has or has not performed a title search for
19 such motor vehicle and such disclosure statement shall be signed by the
20 purchaser acknowledging such disclosure was made to the purchaser. A
21 supplier who makes the foregoing disclosure shall have no liability under
22 K.S.A. 50-648, 50-650 and 50-651, *and amendments thereto*, to a
23 purchaser of the vehicle in the event the mileage shown for the motor
24 vehicle is inaccurate or untrue, unless such supplier violated the
25 provisions of subsection ~~(f)~~ of ~~K.S.A. 21-3757(a)(4)~~ *of section 121 of*
26 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
27 *thereto*.

28 Sec. 203. K.S.A. 57-227 is hereby amended to read as follows: 57-
29 227. This act shall not apply to:

30 (a) Investigations by law enforcement officers or other persons
31 concerning a suspected violation of ~~K.S.A. 21-3750~~*subsection (a)(3) of*
32 *section 92 of chapter 136 of the 2010 Session Laws of Kansas*, and
33 amendments thereto; or

34 (b) contracts between copyright owners or performing rights
35 societies and broadcasters licensed by the federal communications
36 commission or contracts with cable operators, programmers or other
37 transmission services.

38 Sec. 204. K.S.A. 58-2573 is hereby amended to read as follows: 58-
39 2573. The provisions of this act shall not: (a) Apply to or affect any
40 valid rental agreement entered into prior to the effective date of this act,
41 nor shall it apply to or affect any conduct or transaction of the parties to
42 such rental agreement, if such conduct or transaction is in accordance
43 with and pursuant to such rental agreement; but the provisions of this act

1 shall apply to and govern any renewal, extension or modification of any
2 such rental agreement, where such renewal, extension or modification is
3 effected on or after the effective date of this act; or

4 (b) apply to any person or persons who enter and remain in a
5 dwelling unit without a rental agreement and without the landlord's
6 knowledge and such person knows that such person is not authorized or
7 privileged to do so and an order to leave has been personally
8 communicated to such person by the landlord. Such person or persons
9 may be prosecuted pursuant to ~~K.S.A. 21-372~~*section 94 of chapter 136*
10 *of the 2010 Session Laws of Kansas*, and amendments thereto.

11 Sec. 205. K.S.A. 2010 Supp. 58-3043 is hereby amended to read as
12 follows: 58-3043. (a) In determining whether to grant or renew a license
13 the commission shall consider:

14 (1) Any revocation or suspension of a prior real estate license;

15 (2) (A) Whether an applicant has committed any of the following
16 during the term of any prior real estate license:

17 (i) A violation of any of the practices enumerated in K.S.A. 58-3062,
18 and amendments thereto;

19 (ii) a violation of this act or rules and regulations adopted hereunder;
20 or

21 (iii) a violation of the brokerage relationships in real estate
22 transactions act, K.S.A. 58-30,101 et seq., and amendments thereto;

23 (B) whether an applicant has been finally adjudicated and a
24 determination was made by a federal, state or other appropriate licensing
25 body that the applicant committed any violation that is comparable to a
26 violation in subparagraph (A) during the term of any real estate license
27 issued to the applicant by another jurisdiction;

28 (3) any plea of guilty or *nolo contendere* to, or any conviction of any
29 misdemeanor which reflects on the applicant's honesty, trustworthiness,
30 integrity or competence to transact the business of real estate;

31 (4) any conduct of the applicant which reflects on the applicant's
32 honesty, trustworthiness, integrity or competence to transact the business
33 of real estate; and

34 (5) such other matters as the commission deems pertinent.

35 (b) The commission may renew or grant an original license to an
36 applicant who has any prior revocation or suspension, conduct or plea of
37 guilty or *nolo contendere* to or conviction of a misdemeanor as specified
38 in subsection (a) if the applicant presents to the commission satisfactory
39 proof that the applicant now bears a good reputation for honesty,
40 trustworthiness, integrity and competence to transact the business of real
41 estate in such a manner as to safeguard the interest of the public. The
42 burden of proof shall be on the applicant to present such evidence to the
43 commission. In its consideration of any prior revocation, conduct or plea

1 of guilty or nolo contendere to or conviction of a misdemeanor as
2 specified in subsection (a), the commission shall consider the following
3 factors:

4 (1) The nature of the offense;

5 (2) any aggravating or extenuating circumstances;

6 (3) the time elapsed since such revocation, conduct or plea of guilty
7 or nolo contendere to or conviction of a misdemeanor;

8 (4) the rehabilitation or restitution performed by the applicant; and

9 (5) any other factors that the commission deems relevant.

10 (c) The commission may deny a license to any person who, without
11 a license, has engaged in a real estate activity for which a license was
12 required.

13 (d) When an applicant has made a false statement of material fact on
14 the application, such false statement may be sufficient reason for refusal
15 of a license.

16 (e) (1) Except as provided in paragraph (2), the commission shall
17 refuse to grant a license to an applicant if the applicant has entered a plea
18 of guilty or nolo contendere to, or has been convicted of:

19 (A) (i) Any offense that is comparable to any crime which would
20 require the applicant to register as provided in the Kansas offender
21 registration act; or

22 (ii) any federal, military or other state conviction for an offense that
23 is comparable to any crime under the laws of this state which would
24 require the applicant to register as provided in the Kansas offender
25 registration act; or

26 (B) (i) Any felony other than a felony under subparagraph (A); or

27 (ii) any federal, military or other state conviction for an offense that
28 is comparable to any under the laws of this state other than a felony under
29 subparagraph (A).

30 (2) The commission may grant an original license pursuant to
31 subsection (f) if the applicant's application is received at least:

32 (A) Fifteen years after the date of the applicant's discharge from
33 postrelease supervision, completion of any nonprison sanction or
34 suspension of the imposition of the sentence resulting from any plea of
35 guilty or nolo contendere to or conviction of any offense specified in
36 subparagraph (A) of paragraph (1); or

37 (B) five years after the date of the applicant's discharge from
38 postrelease supervision, completion of any nonprison sanction or
39 suspension of the imposition of the sentence resulting from any plea of
40 guilty or nolo contendere to or conviction of any offense specified in
41 subparagraph (B) of paragraph (1), whichever is applicable.

42 (3) For the purposes of this subsection, "postrelease supervision"
43 and "nonprison sanction" shall have the meaning ascribed to it in ~~K.S.A.~~

1 ~~21-4703~~them in section 284 of chapter 136 of the 2010 Session Laws of
2 Kansas, and amendments thereto.

3 ~~(4) For the purposes of this subsection, "nonprison sanction" shall~~
4 ~~have the meaning ascribed to it in K.S.A. 21-4703, and amendments~~
5 ~~thereto.~~

6 (f) (1) The commission may renew or grant an original license to an
7 applicant who has entered a plea of guilty or nolo contendere to, or has
8 been convicted of any crime listed in paragraph (1) of subsection (e) if
9 the applicant presents to the commission satisfactory proof that the
10 applicant now bears a good reputation for honesty, trustworthiness,
11 integrity and competence to transact the business of real estate in such a
12 manner as to safeguard the interest of the public. The burden of proof
13 shall be on the applicant to present such evidence to the commission.

14 (2) In addition to the factors listed in subsections (a) and (b), in
15 determining whether or not the applicant presently has a good reputation
16 as required in subsection (f), the commission shall consider the following
17 additional factors:

18 (A) The extent and nature of the applicant's past criminal activity;

19 (B) the age of the applicant at the time of the commission of the
20 crime or crimes;

21 (C) the amount of time elapsed since the applicant's last criminal
22 activity;

23 (D) the conduct and work activity of the applicant prior to and
24 following the criminal activity;

25 (E) evidence of the applicant's rehabilitation or rehabilitative effort;
26 and

27 (F) all other evidence of the applicant's present fitness for a license.

28 Sec. 206. K.S.A. 2010 Supp. 58-3068 is hereby amended to read as
29 follows: 58-3068. (a) Except as provided in subsection (d), moneys in the
30 real estate recovery revolving fund shall be used in the manner provided
31 by this act to reimburse persons who suffer monetary damages by reason
32 of any of the following acts committed in connection with any transaction
33 involving the sale of real estate in this state by any broker or salesperson
34 who was licensed under the laws of this state at the time the act was
35 committed or by any unlicensed employee of such broker or salesperson:

36 (1) Violation of any of the following provisions of this act:

37 (A) K.S.A. 58-3061, and amendments thereto; or

38 (B) subsection (a)(1), (2), (13), (18), (19) or (25) or subsection (b)
39 (2) of K.S.A. 58-3062, and amendments thereto; or

40 (2) violation of any provision of the brokerage relationships in real
41 estate transactions act; or

42 (3) obtaining money or property by any act which would constitute
43 any crime defined by K.S.A. 21-3701, 21-3704, 21-3705, 21-3707, 21-

1 3710, 21-3711 or 21-3712, *prior to their repeal, or section 87, 89, 107,*
2 *109, 110 or 112 of chapter 136 of the 2010 Session Laws of Kansas,* and
3 amendments thereto.

4 (b) Any person may seek recovery from the real estate recovery
5 revolving fund under the following conditions:

6 (1) Such person has received final judgment in a court of competent
7 jurisdiction of this state in any action wherein the cause of action was
8 based on any of the acts described in subsection (a);

9 (2) the claim is made within two years after the date that final
10 judgment is entered;

11 (3) such person has caused to be issued a writ of execution upon
12 such judgment, and the officer executing the same has made a return
13 showing that no personal or real property of the judgment debtor liable to
14 be levied upon in satisfaction of the judgment could be found, or that the
15 amount realized on the sale of the judgment debtor's property pursuant to
16 such execution was insufficient to satisfy the judgment;

17 (4) such person has made all reasonable searches and inquiries to
18 ascertain whether the judgment debtor is possessed of real or personal
19 property or other assets, subject to being sold or applied in satisfaction of
20 the judgment, and by such search such person has discovered no such
21 property or assets, or that such person has discovered such property and
22 assets and that such person has taken all necessary action and proceedings
23 for the application thereof to the judgment and that the amount thereby
24 realized was insufficient to satisfy the judgment;

25 (5) any amounts recovered by such person from the judgment
26 debtor, or from any other source, has been applied to the damages
27 awarded by the court; and

28 (6) such person is not a person who is precluded by subsection (c)
29 from making a claim for recovery.

30 (c) A person shall not be qualified to make a claim for recovery from
31 the real estate recovery revolving fund, if:

32 (1) The person is the spouse of the judgment debtor or a personal
33 representative of such spouse;

34 (2) the person acted as principal or agent in the real estate
35 transaction which is the subject of the claim and is a licensed broker or
36 salesperson or is an association, corporation, limited liability company,
37 limited liability partnership, partnership or professional corporation
38 whose partners, members, officers and employees are licensed as
39 provided by subsection (b) of K.S.A. 58-3042, and amendments thereto;
40 or

41 (3) such person's claim is based upon a real estate transaction in
42 which the licensed broker or salesperson was acting on the broker's or
43 salesperson's own behalf with respect to property owned or controlled by

1 such broker or salesperson.

2 (d) At any time that the balance remaining in the real estate recovery
3 revolving fund is greater than \$250,000, any amount over \$250,000 may
4 be used by the commission for the following purposes:

- 5 (1) Production and distribution of an agency newsletter;
- 6 (2) monitoring education courses;
- 7 (3) expansion of materials available for consumers; and
- 8 (4) education grants to high schools and universities for course
9 materials on money management and home ownership.

10 Sec. 207. K.S.A. 2010 Supp. 58-4505 is hereby amended to read as
11 follows: 58-4505. (a) Except as provided in subsections (b) and (c), the
12 board may deny, suspend or revoke a registration, or may impose
13 probationary conditions on a registrant or applicant if the registrant or
14 applicant has engaged in any of the following conduct:

15 (1) Making a materially false or fraudulent statement in an
16 application for registration or renewal;

17 (2) been convicted of or plead guilty or nolo contendere in a court of
18 competent jurisdiction to any misdemeanor involving dishonesty;

19 (3) intentionally falsifying a home inspection report;

20 (4) performing any of the following acts as part of the home
21 inspection:

22 (A) Inspecting for a fee any property in which the home inspector
23 has any personal or financial interest unless the interest is disclosed in
24 writing to the client before the home inspection is performed and the
25 client signs an acknowledgment of receipt of the disclosure;

26 (B) offering or delivering any commission, referral fee or kickback
27 for the referral of any business to the home inspector; and

28 (C) accepting an engagement to perform a home inspection or to
29 prepare a home inspection report in which the employment itself or the
30 fee payable for the inspection is contingent upon the conclusions in the
31 home inspection report, pre-established or prescribed findings or the
32 closing of the underlying real estate transaction;

33 (5) including as a term or condition in an agreement to conduct a
34 home inspection any provision that disclaims the liability of the registered
35 home inspector for any errors and omissions which may arise during a
36 home inspection or to limit the amount of damage for liability for any
37 errors and omissions which may arise during a home inspection to less
38 than \$10,000 in the aggregate for each home inspection;

39 (6) failing to provide a client with a pre-inspection notice prior to the
40 home inspection;

41 (7) failing to substantially follow the approved standards of practice
42 and code of ethics;

43 (8) failing to respond as requested by the board to any summons for

1 attendance and testimony or to produce documents or any other physical
2 evidence during an investigation into the qualifications of or allegations
3 of misconduct of an applicant or registrant; and

4 (9) violating any provision of this act or rules and regulations
5 promulgated by the board pursuant to this act.

6 (b) (1) Except as provided in paragraph (2), the board shall refuse to
7 issue a registration to an applicant or registrant if the applicant or
8 registrant has entered a plea of guilty or nolo contendere to, or has been
9 convicted of:

10 (A) (i) Any offense that is comparable to any crime which would
11 require the applicant to register as provided in the Kansas offender
12 registration act; or

13 (ii) any federal, military or other state conviction for an offense that
14 is comparable to any crime under the laws of this state which would
15 require the applicant to register as provided in the Kansas offender
16 registration act; or

17 (B) (i) Any felony other than a felony under subparagraph (A); or

18 (ii) any federal, military or other state conviction for an offense that
19 is comparable to any under the laws of this state other than a felony under
20 subparagraph (A).

21 (2) The board may grant an original registration pursuant to
22 subsection (c) if the applicant's or registrant's application is received at
23 least:

24 (A) Fifteen years after the date of the applicant's or registrant's
25 discharge from postrelease supervision, completion of any nonprison
26 sanction or suspension of the imposition of the sentence resulting from
27 any plea of guilty or nolo contendere to or conviction of any offense
28 specified in subparagraph (A) of paragraph (1); or

29 (B) five years after the date of the applicant's discharge from
30 postrelease supervision, completion of any nonprison sanction or
31 suspension of the imposition of the sentence resulting from any plea of
32 guilty or nolo contendere to or conviction of any offense specified in
33 subparagraph (B) of paragraph (1), whichever is applicable.

34 (3) For the purposes of this subsection, "postrelease supervision"
35 and "nonprison sanction" shall have the meaning ascribed to it in K.S.A.
36 ~~21-4703~~ *them in section 284 of chapter 136 of the 2010 Session Laws of*
37 *Kansas*, and amendments thereto.

38 ~~(4) For the purposes of this subsection, "nonprison sanction" shall~~
39 ~~have the meaning ascribed to it in K.S.A. 21-4703 and amendments~~
40 ~~thereto.~~

41 (c) (1) The board may renew or grant an original registration to an
42 applicant or registrant who has entered a plea of guilty or nolo contendere
43 to, or has been convicted of any misdemeanor or any crime listed in

1 paragraph (1) of subsection (b) if the applicant or registrant presents to
2 the board satisfactory proof that the applicant or registrant now bears a
3 good reputation for honesty, trustworthiness, integrity and competence to
4 transact the business of registered home inspector in such a manner as to
5 safeguard the interest of the public. The burden of proof shall be on the
6 applicator or registrant to present such evidence to the board.

7 (2) In determining whether or not the applicant or registrant
8 presently has a good reputation as required in this subsection, the board
9 shall consider the following additional factors:

10 (A) The extent and nature of the applicant's or registrant's past
11 criminal activity;

12 (B) the age of the applicant or registrant at the time of the
13 commission of the crime or crimes;

14 (C) the amount of time elapsed since the applicant's or registrant's
15 last criminal activity;

16 (D) the conduct and work activity of the applicant or registrant prior
17 to and following the criminal activity; and

18 (E) evidence of the applicant's or registrant's rehabilitation or
19 rehabilitative effort; and

20 (F) all other evidence of the applicant's or registrant's present fitness
21 for a registration.

22 (d) In addition to or in lieu of any other administrative, civil or
23 criminal remedy provided by law, if the board determines after notice and
24 an opportunity for a hearing in accordance with the Kansas administrative
25 procedures act that a registrant has violated any provision of this act or
26 any rule and regulation adopted hereunder, the board may impose on such
27 registrant a civil fine not to exceed \$500 for each violation.

28 (e) All proceedings pursuant to this section shall be conducted in
29 accordance with the provisions of the Kansas administrative procedure
30 act.

31 Sec. 208. K.S.A. 2010 Supp. 59-2132 is hereby amended to read as
32 follows: 59-2132. (a) Except as provided in subsection (h), in
33 independent and agency adoptions, the court shall require the petitioner to
34 obtain an assessment of the advisability of the adoption by a court
35 approved:

36 (1) (A) Licensed social worker, licensed specialist social worker,
37 licensed specialist clinical social worker, licensed masters social worker,
38 licensed baccalaureate social worker or licensed associate social worker
39 licensed by the behavioral sciences regulatory board;

40 (B) licensed clinical marriage and family therapist as defined in
41 K.S.A. 65-6402, and amendments thereto;

42 (C) licensed marriage and family therapist as defined in K.S.A. 65-
43 6402, and amendments thereto;

1 (D) licensed clinical professional counselor as defined in K.S.A. 65-
2 5802, and amendments thereto;

3 (E) licensed professional counselor as defined in K.S.A. 65-5802,
4 and amendments thereto;

5 (F) licensed psychologist as defined in K.S.A. 65-6319, and
6 amendments thereto;

7 (G) licensed masters level psychologist as defined in K.S.A. 74-
8 5362, and amendments thereto;

9 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,
10 and amendments thereto; or

11 (I) a licensed child-placing agency.

12 (2) Any person performing an assessment pursuant to this subsection
13 shall:

14 (A) Possess a minimum of two years experience in adoption services
15 or be supervised by a person with such experience; or

16 (B) if licensed by the behavioral sciences regulatory board to
17 diagnose and treat mental disorders in independent practice, possess a
18 minimum of one year of experience in adoption services or be supervised
19 by a person with such experience.

20 (b) The petitioner shall file with the court, not less than 10 days
21 before the hearing on the petition, a report of the assessment and, if
22 necessary, confirmation or clarification of the information filed under
23 K.S.A. 59-2130, and amendments thereto.

24 (c) If there is no one authorized pursuant to this section available to
25 make the assessment and report to the court, the court may use the
26 department of social and rehabilitation services for that purpose.

27 (d) The costs of making the assessment and report may be assessed
28 as court costs in the case as provided in article 20 of chapter 60 of the
29 Kansas Statutes Annotated, and amendments thereto.

30 (e) In making the assessment, the person authorized pursuant to this
31 section or department of social and rehabilitation services is authorized to
32 observe the child in the petitioner's home, verify financial information of
33 the petitioner, shall clear the name of the petitioner with the child abuse
34 and neglect registry through the department of social and rehabilitation
35 services and, when appropriate, with a similar registry in another state or
36 nation, shall determine whether the petitioner has been convicted of a
37 felony for any act described in articles 34, 35 or 36 of chapter 21 of the
38 Kansas Statutes Annotated, *prior to their repeal, or section 36 through*
39 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
40 *Laws of Kansas*, and amendments thereto, or, within the last five years
41 been convicted of a felony violation of K.S.A. 2010 Supp. 21-36a01
42 through 21-36a17, and amendments thereto, or any felony violation of
43 any provision of the uniform controlled substances act prior to July 1,

1 2009, and, when appropriate, any similar conviction in another
2 jurisdiction, and to contact the agency or individuals consenting to the
3 adoption and confirm and, if necessary, clarify any genetic and medical
4 history filed with the petition. This information shall be made a part of
5 the report to the court. The report to the court by any person authorized
6 pursuant to this section to perform this assessment shall include the
7 results of the investigation of the petitioner, the petitioner's home and the
8 ability of the petitioner to care for the child.

9 (f) In the case of a nonresident who is filing a petition to adopt a
10 child in Kansas, the assessment and report required by this section must
11 be completed in the petitioner's state of residence by a person authorized
12 in that state to conduct such assessments. Such report shall be filed with
13 the court not less than 10 days before the hearing on the petition.

14 (g) The assessment and report required by this section shall comply
15 with any applicable rules and regulations of the department of health and
16 environment and shall have been completed not more than one year prior
17 to the filing of the petition for adoption.

18 (h) The assessment and report required by this section may be
19 waived by the court upon: (1) Review of a petition requesting such
20 waiver by a relative of the child; or

21 (2) the court's own motion.

22 Sec. 209. K.S.A. 2010 Supp. 59-2948 is hereby amended to read as
23 follows: 59-2948. (a) The fact that a person may have voluntarily
24 accepted any form of psychiatric treatment, or become subject to a court
25 order entered under authority of this act, shall not be construed to mean
26 that such person shall have lost any civil right they otherwise would have
27 as a resident or citizen, any property right or their legal capacity, except
28 as may be specified within any court order or as otherwise limited by the
29 provisions of this act or the reasonable rules and regulations which the
30 head of a treatment facility may for good cause find necessary to make
31 for the orderly operations of that facility. No person held in custody under
32 the provisions of this act shall be denied the right to apply for a writ of
33 habeas corpus.

34 (b) There shall be no implication or presumption that a patient
35 within the terms of this act is for that reason alone a person in need of a
36 guardian or a conservator as provided for in K.S.A. 59-3050 through 59-
37 3095, and amendments thereto.

38 (c) A person who is a mentally ill person subject to involuntary
39 commitment for care and treatment as defined in K.S.A. 59-2946, and
40 amendments thereto, or a person with an alcohol or substance abuse
41 problem subject to involuntary commitment for care and treatment as
42 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
43 ~~K.S.A. 21-4204~~ *section 186 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto.

2 Sec. 210. K.S.A. 2010 Supp. 59-29a02 is hereby amended to read as
3 follows: 59-29a02. As used in this act:

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

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

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

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

18 (e) "Sexually violent offense" means:

19 (1) Rape as defined in K.S.A. 21-3502, *prior to its repeal, or section*
20 *67 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
21 thereto;

22 (2) indecent liberties with a child as defined in K.S.A. 21-3503,
23 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
24 *2010 Session Laws of Kansas*, and amendments thereto;

25 (3) aggravated indecent liberties with a child as defined in K.S.A.
26 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter*
27 *136 of the 2010 Session Laws of Kansas*, and amendments thereto;

28 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of
29 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) and (a)(4) of*
30 *section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
31 amendments thereto;

32 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, *prior*
33 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
34 *Session Laws of Kansas*, and amendments thereto;

35 (6) indecent solicitation of a child as defined in K.S.A. 21-3510,
36 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
37 *2010 Session Laws of Kansas*, and amendments thereto;

38 (7) aggravated indecent solicitation of a child as defined in K.S.A.
39 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
40 *of the 2010 Session Laws of Kansas*, and amendments thereto;

41 (8) sexual exploitation of a child as defined in K.S.A. 21-3516,
42 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
43 *of Kansas*, and amendments thereto;

1 (9) aggravated sexual battery as defined in K.S.A. 21-3518, *prior to*
2 *its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
3 *Session Laws of Kansas*, and amendments thereto;

4 (10) aggravated incest as defined in K.S.A. 21-3603, *prior to its*
5 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
6 *Laws of Kansas*, and amendments thereto;

7 (11) any conviction for a felony offense in effect at any time prior to
8 the effective date of this act, that is comparable to a sexually violent
9 offense as defined in subparagraphs (1) through (11) or any federal or
10 other state conviction for a felony offense that under the laws of this state
11 would be a sexually violent offense as defined in this section;

12 (12) an attempt, conspiracy or criminal solicitation, as defined in
13 K.S.A. 21-3301, 21-3302 and 21-3303, *prior to their repeal, or sections*
14 *33, 34 and 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
15 amendments thereto, of a sexually violent offense as defined in this
16 subsection; or

17 (13) any act which either at the time of sentencing for the offense or
18 subsequently during civil commitment proceedings pursuant to this act,
19 has been determined beyond a reasonable doubt to have been sexually
20 motivated.

21 (f) "Agency with jurisdiction" means that agency which releases
22 upon lawful order or authority a person serving a sentence or term of
23 confinement and includes the department of corrections, the department
24 of social and rehabilitation services and the Kansas parole board.

25 (g) "Person" means an individual who is a potential or actual subject
26 of proceedings under this act.

27 (h) "Treatment staff" means the persons, agencies or firms employed
28 by or contracted with the secretary to provide treatment, supervision or
29 other services at the sexually violent predator facility.

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

34 (j) "Secretary" means the secretary of the department of social and
35 rehabilitation services.

36 Sec. 211. K.S.A. 2010 Supp. 59-29a07 is hereby amended to read as
37 follows: 59-29a07. (a) The court or jury shall determine whether, beyond
38 a reasonable doubt, the person is a sexually violent predator. If such
39 determination that the person is a sexually violent predator is made by a
40 jury, such determination shall be by unanimous verdict of such jury. Such
41 determination may be appealed. If the court or jury determines that the
42 person is a sexually violent predator, the person shall be committed to the
43 custody of the secretary of social and rehabilitation services for control,

1 care and treatment until such time as the person's mental abnormality or
2 personality disorder has so changed that the person is safe to be at large.
3 Such control, care and treatment shall be provided at a facility operated
4 by the department of social and rehabilitation services.

5 (b) At all times, persons committed for control, care and treatment
6 by the department of social and rehabilitation services pursuant to K.S.A.
7 59-29a01 et seq., and amendments thereto, shall be kept in a secure
8 facility and such persons shall be segregated at all times from any other
9 patient under the supervision of the secretary of social and rehabilitation
10 services and commencing June 1, 1995, such persons committed pursuant
11 to K.S.A. 59-29a01 et seq., and amendments thereto, shall be kept in a
12 facility or building separate from any other patient under the supervision
13 of the secretary. The provisions of this subsection shall apply to any
14 facility or building utilized in any transitional release program or
15 conditional release program.

16 (c) The department of social and rehabilitation services is authorized
17 to enter into an interagency agreement with the department of corrections
18 for the confinement of such persons. Such persons who are in the
19 confinement of the secretary of corrections pursuant to an interagency
20 agreement shall be housed and managed separately from offenders in the
21 custody of the secretary of corrections, and except for occasional
22 instances of supervised incidental contact, shall be segregated from such
23 offenders.

24 (d) If any person while committed to the custody of the secretary
25 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be
26 taken into custody by any law enforcement officer as defined in ~~K.S.A.~~
27 ~~21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of Kansas*,
28 and amendments thereto pursuant to any parole revocation proceeding or
29 any arrest or conviction for a criminal offense of any nature, upon the
30 person's release from the custody of any law enforcement officer, the
31 person shall be returned to the custody of the secretary for further
32 treatment pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.
33 During any such period of time a person is not in the actual custody or
34 supervision of the secretary, the secretary shall be excused from the
35 provisions of K.S.A. 59-29a08, and amendments thereto, with regard to
36 providing that person an annual examination, annual notice and annual
37 report to the court, except that the secretary shall give notice to the court
38 as soon as reasonably possible after the taking of the person into custody
39 that the person is no longer in treatment pursuant to K.S.A. 59-29a01 et
40 seq., and amendments thereto, and notice to the court when the person is
41 returned to the custody of the secretary for further treatment.

42 (e) If the court or jury is not satisfied beyond a reasonable doubt that
43 the person is a sexually violent predator, the court shall direct the person's

1 release.

2 (f) Upon a mistrial, the court shall direct that the person be held at
3 an appropriate secure facility, including, but not limited to, a county jail,
4 until another trial is conducted. Any subsequent trial following a mistrial
5 shall be held within 90 days of the previous trial, unless such subsequent
6 trial is continued as provided in K.S.A. 59-29a06, and amendments
7 thereto.

8 (g) If the person charged with a sexually violent offense has been
9 found incompetent to stand trial, and is about to be released pursuant to
10 K.S.A. 22-3305, and amendments thereto, and such person's commitment
11 is sought pursuant to subsection (a), the court shall first hear evidence and
12 determine whether the person did commit the act or acts charged. The
13 hearing on this issue must comply with all the procedures specified in this
14 section. In addition, the rules of evidence applicable in criminal cases
15 shall apply, and all constitutional rights available to defendants at
16 criminal trials, other than the right not to be tried while incompetent, shall
17 apply. After hearing evidence on this issue, the court shall make specific
18 findings on whether the person did commit the act or acts charged, the
19 extent to which the person's incompetence or developmental disability
20 affected the outcome of the hearing, including its effect on the person's
21 ability to consult with and assist counsel and to testify on such person's
22 own behalf, the extent to which the evidence could be reconstructed
23 without the assistance of the person and the strength of the prosecution's
24 case. If after the conclusion of the hearing on this issue, the court finds,
25 beyond a reasonable doubt, that the person did commit the act or acts
26 charged, the court shall enter a final order, appealable by the person, on
27 that issue, and may proceed to consider whether the person should be
28 committed pursuant to this section.

29 Sec. 212. K.S.A. 2010 Supp. 59-29a14 is hereby amended to read as
30 follows: 59-29a14. (a) The county or district attorney shall file a special
31 allegation of sexual motivation within 14 days after arraignment in every
32 criminal case other than sex offenses as defined in article 35 of chapter 21
33 of the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
34 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
35 *of Kansas*, and amendments thereto, when sufficient admissible evidence
36 exists, which, when considered with the most plausible, reasonably
37 foreseeable defense that could be raised under the evidence, would justify
38 a finding of sexual motivation by a reasonable and objective fact finder.

39 (b) In a criminal case wherein there has been a special allegation, the
40 state shall prove beyond a reasonable doubt that the accused committed
41 the crime with a sexual motivation. The court shall make a finding of fact
42 of whether or not a sexual motivation was present at the time of the
43 commission of the crime, or if a jury trial is had, the jury, if it finds the

1 defendant guilty, also shall find a special verdict as to whether or not the
2 defendant committed the crime with a sexual motivation. This finding
3 shall not be applied to sex offenses as defined in article 35 of chapter 21
4 of the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
5 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
6 *of Kansas*, and amendments thereto.

7 (c) The county or district attorney shall not withdraw the special
8 allegation of sexual motivation without approval of the court through an
9 order of dismissal of the special allegation. The court shall not dismiss
10 this special allegation unless it finds that such an order is necessary to
11 correct an error in the initial charging decision or unless there are
12 evidentiary problems which make proving the special allegation doubtful.

13 Sec. 213. K.S.A. 2010 Supp. 59-29b48 is hereby amended to read as
14 follows: 59-29b48. (a) The fact that a person may have voluntarily
15 accepted any form of treatment for an alcohol or substance abuse
16 problem, or become subject to a court order entered under authority of
17 this act, shall not be construed to mean that such person shall have lost
18 any civil right they otherwise would have as a resident or citizen, any
19 property right or their legal capacity, except as may be specified within
20 any court order or as otherwise limited by the provisions of this act or the
21 reasonable rules and regulations which the head of a treatment facility
22 may for good cause find necessary to make for the orderly operations of
23 that facility. No person held in custody under the provisions of this act
24 shall be denied the right to apply for a writ of habeas corpus.

25 (b) There shall be no implication or presumption that a patient
26 within the terms of this act is for that reason alone a person in need of a
27 guardian or a conservator, or both, as provided in K.S.A. 59-3050 through
28 59-3095, and amendments thereto.

29 (c) A person who is a mentally ill person subject to involuntary
30 commitment for care and treatment as defined in K.S.A. 59-2946, and
31 amendments thereto, or a person with an alcohol or substance abuse
32 problem subject to involuntary commitment for care and treatment as
33 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
34 ~~K.S.A. 21-4204~~ *section 186 of chapter 136 of the 2010 Session Laws of*
35 *Kansas*, and amendments thereto.

36 Sec. 214. K.S.A. 2010 Supp. 60-312 is hereby amended to read as
37 follows: 60-312. Proof of service must be filed with the court and made
38 as follows:

39 (a) *Personal and residence service.*(1) Every officer to whom
40 summons or other process is delivered for service must make a statement
41 subject to penalty of perjury as provided in ~~K.S.A. 21-3805~~ *section 128 of*
42 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
43 thereto, as to the time, place and manner of service.

1 (2) If process is delivered to a person, other than an officer, for
2 service, the person must make an affidavit or a declaration pursuant to
3 K.S.A. 53-601, and amendments thereto, as to the time, place and manner
4 of service.

5 (b) *Service by return receipt delivery.* Service by return receipt
6 delivery must be proved in the manner provided by subsection (c) of
7 K.S.A. 60-303, and amendments thereto.

8 (c) *Publication service.* Service by publication must be proved by
9 an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments
10 thereto, showing the dates on which and the newspaper in which notice
11 was published. A copy of the notice must be filed with the affidavit or
12 declaration. When mailing of copies of the publication notice is required
13 by subsection (e) of K.S.A. 60-307, and amendments thereto, the proof of
14 mailing must be by affidavit or by declaration pursuant to K.S.A. 53-601,
15 and amendments thereto, of the person who mailed the copies. If mailing
16 was by certified mail, the return receipt must be filed with the affidavit or
17 declaration.

18 (d) *Time for return.* An officer or other person receiving a summons
19 or other process for service must file a return of service not later than 14
20 days after the service is effected. If the summons or other process cannot
21 be served it must be returned to the court within 30 days after the date
22 issued with a statement of the reason for the failure to serve it, except the
23 court may extend the time for service up to 90 days after the date issued.
24 Upon receipt of the return on any summons or other process, the clerk
25 must serve a copy of the return on the attorney for the party requesting
26 issuance of the summons or other process or, if the party has no attorney,
27 on the requesting party.

28 Sec. 215. K.S.A. 2010 Supp. 60-455 is hereby amended to read as
29 follows: 60-455. (a) Subject to K.S.A. 60-447, and amendments thereto,
30 evidence that a person committed a crime or civil wrong on a specified
31 occasion, is inadmissible to prove such person's disposition to commit
32 crime or civil wrong as the basis for an inference that the person
33 committed another crime or civil wrong on another specified occasion.

34 (b) Subject to K.S.A. 60-445 and 60-448, and amendments thereto,
35 such evidence is admissible when relevant to prove some other material
36 fact including motive, opportunity, intent, preparation, plan, knowledge,
37 identity or absence of mistake or accident.

38 (c) Subject to K.S.A. 60-445 and 60-448, and amendments thereto,
39 in any criminal action other than a criminal action in which the defendant
40 is accused of a sex offense under articles 34, 35 or 36 of chapter 21 of the
41 Kansas Statutes Annotated, *prior to their repeal, or sections 36 through*
42 *86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010 Session*
43 *Laws of Kansas*, and amendments thereto, such evidence is admissible to

1 show the modus operandi or general method used by a defendant to
2 perpetrate similar but totally unrelated crimes when the method of
3 committing the prior acts is so similar to that utilized in the current case
4 before the court that it is reasonable to conclude the same individual
5 committed both acts.

6 (d) Except as provided in K.S.A. 60-445, and amendments thereto,
7 in a criminal action in which the defendant is accused of a sex offense
8 under articles 34, 35 or 36 of chapter 21 of the Kansas Statutes
9 Annotated, *prior to their repeal, or sections 36 through 86, 174, 210, 211*
10 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas,*
11 and amendments thereto, evidence of the defendant's commission of
12 another act or offense of sexual misconduct is admissible, and may be
13 considered for its bearing on any matter to which it is relevant and
14 probative.

15 (e) In a criminal action in which the prosecution intends to offer
16 evidence under this rule, the prosecuting attorney shall disclose the
17 evidence to the defendant, including statements of witnesses, at least 10
18 days before the scheduled date of trial or at such later time as the court
19 may allow for good cause.

20 (f) This rule shall not be construed to limit the admission or
21 consideration of evidence under any other rule or to limit the
22 admissibility of the evidence of other crimes or civil wrongs in a criminal
23 action under a criminal statute other than in articles 34, 35 or 36 of
24 chapter 21 of the Kansas Statutes Annotated, *prior to their repeal, or*
25 *sections 36 through 86, 174, 210, 211 or 229 through 231 of chapter 136*
26 *of the 2010 Session Laws of Kansas,* and amendments thereto.

27 (g) As used in this section, an "act or offense of sexual misconduct"
28 includes:

29 (1) Any conduct proscribed by article 35 of chapter 21 of the Kansas
30 Statutes Annotated, *prior to their repeal, or sections 65 through 77 or*
31 *229 through 231 of chapter 136 of the 2010 Session Laws of Kansas,* and
32 amendments thereto;

33 (2) the sexual gratification component of aggravated *human*
34 *trafficking,* as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-
35 3447, *prior to its repeal, or subsection (b)(1)(B) or (b)(2) of section 61 of*
36 *chapter 136 of the 2010 Session Laws of Kansas,* and amendments
37 thereto;

38 (3) exposing another to a life threatening communicable disease, as
39 described in subsection (a)(1) of K.S.A. 21-3435, *prior to its repeal, or*
40 *subsection (a)(1) of section 59 of chapter 136 of the 2010 Session Laws*
41 *of Kansas,* and amendments thereto;

42 (4) incest, as described in K.S.A. 21-3602, *prior to its repeal, or*
43 *subsection (a) of section 81 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto;

2 (5) aggravated incest, as described in K.S.A. 21-3603, *prior to its*
3 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
4 *Laws of Kansas*, and amendments thereto;

5 (6) contact, without consent, between any part of the defendant's
6 body or an object and the genitals, mouth or anus of the victim;

7 (7) contact, without consent, between the genitals, mouth or anus of
8 the defendant and any part of the victim's body;

9 (8) deriving sexual pleasure or gratification from the infliction of
10 death, bodily injury or physical pain to the victim;

11 (9) an attempt, solicitation or conspiracy to engage in conduct
12 described in paragraphs (1) through (8); or

13 (10) any federal or other state conviction of an offense, or any
14 violation of a city ordinance or county resolution, that would constitute an
15 offense under article 35 of chapter 21 of the Kansas Statutes Annotated,
16 *prior to their repeal, or sections 65 through 77 or 229 through 231 of*
17 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
18 thereto, the sexual gratification component of aggravated *human*
19 *trafficking*, as described in subsection (a)(1)(B) and (a)(2) of K.S.A. 21-
20 *3447, prior to its repeal, or subsection (b)(1)(B) or (b)(2) of section 61 of*
21 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
22 thereto; incest, as described in K.S.A. 21-3602, *prior to its repeal, or*
23 *subsection (a) of section 81 of chapter 136 of the 2010 Session Laws of*
24 *Kansas*, and amendments thereto; or aggravated incest, as described in
25 K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of*
26 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
27 thereto, or involved conduct described in paragraphs (6) through (9).

28 (h) If any provisions of this section or the application thereof to any
29 person or circumstances is held invalid, the invalidity does not affect
30 other provisions or applications of this section which can be given effect
31 without the invalid provisions or application. To this end the provisions of
32 this section are severable.

33 Sec. 216. K.S.A. 60-523 is hereby amended to read as follows: 60-
34 523. (a) No action for recovery of damages suffered as a result of
35 childhood sexual abuse shall be commenced more than three years after
36 the date the person attains 18 years of age or more than three years from
37 the date the person discovers or reasonably should have discovered that
38 the injury or illness was caused by childhood sexual abuse, whichever
39 occurs later.

40 (b) As used in this section:

41 (1) "Injury or illness" includes psychological injury or illness, whether
42 or not accompanied by physical injury or illness.

43 (2) "Childhood sexual abuse" includes any act committed against the

1 person which act occurred when the person was under the age of 18 years
2 and which act would have been a violation of any of the following:

3 (A) Indecent liberties with a child as defined in K.S.A. 21-3503,
4 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
5 *2010 Session Laws of Kansas*, and amendments thereto; (B) aggravated
6 indecent liberties with a child as defined in K.S.A. 21-3504, *prior to its*
7 *repeal, or subsection (b) of section 70 of chapter 136 of the 2010 Session*
8 *Laws of Kansas*, and amendments thereto; (C) aggravated criminal
9 sodomy as defined in K.S.A. 21-3506, *prior to its repeal, or subsection*
10 *(b) of section 68 of chapter 136 of the 2010 Session Laws of Kansas*, and
11 amendments thereto; (D) enticement of a child as defined in K.S.A. 21-
12 3509, ~~and amendments thereto~~ *prior to its repeal*; (E) indecent solicitation
13 of a child as defined in K.S.A. 21-3510, *prior to its repeal, or subsection*
14 *(a) of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
15 amendments thereto; (F) aggravated indecent solicitation of a child as
16 defined in K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section*
17 *72 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
18 thereto; (G) sexual exploitation of a child as defined in K.S.A. 21-3516,
19 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
20 *of Kansas*, and amendments thereto; or (H) aggravated incest as defined
21 in K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of*
22 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto; or any prior laws of this state of similar effect at the time the act
24 was committed.

25 (c) Discovery that the injury or illness was caused by childhood
26 sexual abuse shall not be deemed to have occurred solely by virtue of the
27 person's awareness, knowledge or memory of the acts of abuse. The
28 person need not establish which act in a series of continuing sexual abuse
29 incidents caused the injury or illness complained of, but may compute the
30 date of discovery from the date of discovery of the last act by the same
31 perpetrator which is a part of a common scheme or plan of sexual abuse.

32 (d) This section shall be applicable to:

33 (1) Any action commenced on or after July 1, 1992, including any
34 action which would be barred by application of the period of limitation
35 applicable prior to July 1, 1992;

36 (2) any action commenced prior to July 1, 1992, and pending on July
37 1, 1992.

38 Sec. 217. K.S.A. 2010 Supp. 60-1610 is hereby amended to read as
39 follows: 60-1610. A decree in an action under this article may include
40 orders on the following matters:

41 (a) *Minor children.* (1) *Child support and education.* The court shall
42 make provisions for the support and education of the minor children.
43 Subject to the provisions of K.S.A. 23-9,207, and amendments thereto,

1 the court may modify or change any prior order, including any order
2 issued in a title IV-D case, within three years of the date of the original
3 order or a modification order, when a material change in circumstances is
4 shown, irrespective of the present domicile of the child or the parents. If
5 more than three years has passed since the date of the original order or
6 modification order, a material change in circumstance need not be shown.
7 The court may make a modification of child support retroactive to a date
8 at least one month after the date that the motion to modify was filed with
9 the court. Any increase in support ordered effective prior to the date the
10 court's judgment is filed shall not become a lien on real property pursuant
11 to K.S.A. 60-2202, and amendments thereto. Regardless of the type of
12 custodial arrangement ordered by the court, the court may order the child
13 support and education expenses to be paid by either or both parents for
14 any child less than 18 years of age, at which age the support shall
15 terminate unless: (A) The parent or parents agree, by written agreement
16 approved by the court, to pay support beyond the time the child reaches
17 18 years of age; (B) the child reaches 18 years of age before completing
18 the child's high school education in which case the support shall not
19 terminate automatically, unless otherwise ordered by the court, until June
20 30 of the school year during which the child became 18 years of age if the
21 child is still attending high school; or (C) the child is still a bona fide high
22 school student after June 30 of the school year during which the child
23 became 18 years of age, in which case the court, on motion, may order
24 support to continue through the school year during which the child
25 becomes 19 years of age so long as the child is a bona fide high school
26 student and the parents jointly participated or knowingly acquiesced in
27 the decision which delayed the child's completion of high school. The
28 court, in extending support pursuant to subsection (a)(1)(C), may impose
29 such conditions as are appropriate and shall set the child support utilizing
30 the guideline table category for 12-year through 18-year old children.
31 Provision for payment of support and educational expenses of a child
32 after reaching 18 years of age if still attending high school shall apply to
33 any child subject to the jurisdiction of the court, including those whose
34 support was ordered prior to July 1, 1992. If an agreement approved by
35 the court prior to July 1, 1992, provides for termination of support before
36 the date provided by subsection (a)(1)(C), the court may review and
37 modify such agreement, and any order based on such agreement, to
38 extend the date for termination of support to the date provided by
39 subsection (a)(1)(C). For purposes of this section, "bona fide high school
40 student" means a student who is enrolled in full accordance with the
41 policy of the accredited high school in which the student is pursuing a
42 high school diploma or a graduate equivalency diploma (GED). In
43 determining the amount to be paid for child support, the court shall

1 consider all relevant factors, without regard to marital misconduct,
2 including the financial resources and needs of both parents, the financial
3 resources and needs of the child and the physical and emotional condition
4 of the child. Until a child reaches 18 years of age, the court may set apart
5 any portion of property of either the husband or wife, or both, that seems
6 necessary and proper for the support of the child. Except for good cause
7 shown, every order requiring payment of child support under this section
8 shall require that the support be paid through the central unit for
9 collection and disbursement of support payments designated pursuant to
10 K.S.A. 23-4,118, and amendments thereto. A written agreement between
11 the parties to make direct child support payments to the obligee and not
12 pay through the central unit shall constitute good cause, unless the court
13 finds the agreement is not in the best interest of the child or children. The
14 obligor shall file such written agreement with the court. The obligor shall
15 maintain written evidence of the payment of the support obligation and, at
16 least annually, shall provide such evidence to the court and the obligee. If
17 the divorce decree of the parties provides for an abatement of child
18 support during any period provided in such decree, the child support such
19 nonresidential parent owes for such period shall abate during such period
20 of time, except that if the residential parent shows that the criteria for the
21 abatement has not been satisfied there shall not be an abatement of such
22 child support.

23 (2) *Child custody and residency. (A) Changes in custody.* Subject to
24 the provisions of the uniform child custody jurisdiction and enforcement
25 act (K.S.A. 38-1336 through 38-1377, and amendments thereto), the
26 court may change or modify any prior order of custody, residency,
27 visitation and parenting time, when a material change of circumstances is
28 shown, but no ex parte order shall have the effect of changing residency
29 of a minor child from the parent who has had the sole de facto residency
30 of the child to the other parent unless there is sworn testimony to support
31 a showing of extraordinary circumstances. If an interlocutory order is
32 issued ex parte, the court shall hear a motion to vacate or modify the
33 order within 15 days of the date that a party requests a hearing whether to
34 vacate or modify the order.

35 (B) *Examination of parties.* The court may order physical or mental
36 examinations of the parties if requested pursuant to K.S.A. 60-235, and
37 amendments thereto.

38 (3) *Child custody or residency criteria.* The court shall determine
39 custody or residency of a child in accordance with the best interests of the
40 child.

41 (A) If the parties have entered into a parenting plan, it shall be
42 presumed that the agreement is in the best interests of the child. This
43 presumption may be overcome and the court may make a different order

1 if the court makes specific findings of fact stating why the agreed
2 parenting plan is not in the best interests of the child.

3 (B) In determining the issue of child custody, residency and
4 parenting time, the court shall consider all relevant factors, including but
5 not limited to:

6 (i) The length of time that the child has been under the actual care
7 and control of any person other than a parent and the circumstances
8 relating thereto;

9 (ii) the desires of the child's parents as to custody or residency;

10 (iii) the desires of the child as to the child's custody or residency;

11 (iv) the interaction and interrelationship of the child with parents,
12 siblings and any other person who may significantly affect the child's best
13 interests;

14 (v) the child's adjustment to the child's home, school and
15 community;

16 (vi) the willingness and ability of each parent to respect and
17 appreciate the bond between the child and the other parent and to allow
18 for a continuing relationship between the child and the other parent;

19 (vii) evidence of spousal abuse;

20 (viii) whether a parent is subject to the registration requirements of
21 the Kansas offender registration act, K.S.A. 22-4901, et seq., and
22 amendments thereto, or any similar act in any other state, or under
23 military or federal law;

24 (ix) whether a parent has been convicted of abuse of a child, K.S.A.
25 21-3609, *prior to its repeal, or section 79 of chapter 136 of the 2010*
26 *Session Laws of Kansas*, and amendments thereto;

27 (x) whether a parent is residing with an individual who is subject to
28 registration requirements of the Kansas offender registration act, K.S.A.
29 22-4901, et seq., and amendments thereto, or any similar act in any other
30 state, or under military or federal law; and

31 (xi) whether a parent is residing with an individual who has been
32 convicted of abuse of a child, K.S.A. 21-3609, *prior to its repeal, or*
33 *section 79 of chapter 136 of the 2010 Session Laws of Kansas*, and
34 amendments thereto.

35 (C) Neither parent shall be considered to have a vested interest in the
36 custody or residency of any child as against the other parent, regardless of
37 the age of the child, and there shall be no presumption that it is in the best
38 interests of any infant or young child to give custody or residency to the
39 mother.

40 (D) There shall be a rebuttable presumption that it is not in the best
41 interest of the child to have custody or residency granted to a parent who:

42 (i) Is residing with an individual who is subject to registration
43 requirements of the Kansas offender registration act, K.S.A. 22-4901; et

1 seq., and amendments thereto, or any similar act in any other state, or
2 under military or federal law; or

3 (ii) is residing with an individual who has been convicted of abuse
4 of a child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter*
5 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

6 (E) If a court of competent jurisdiction within this state has entered
7 an order pursuant to the revised Kansas code for care of children
8 regarding custody of a child or children who are involved in a proceeding
9 filed pursuant to this section, and such court has determined pursuant to
10 subsection (i)(2) of K.S.A. 38-2264, and amendments thereto, that the
11 orders in that case shall become the custody orders in the divorce case,
12 such court shall file a certified copy of the orders with the civil case
13 number in the caption and then close the case under the revised Kansas
14 code for care of children. Such orders shall be binding on the parties,
15 unless modified based on a material change in circumstances, even if
16 such courts have different venues.

17 (4) *Types of legal custodial arrangements.* Subject to the provisions
18 of this article, the court may make any order relating to custodial
19 arrangements which is in the best interests of the child. The order shall
20 provide one of the following legal custody arrangements, in the order of
21 preference:

22 (A) *Joint legal custody.* The court may order the joint legal custody
23 of a child with both parties. In that event, the parties shall have equal
24 rights to make decisions in the best interests of the child.

25 (B) *Sole legal custody.* The court may order the sole legal custody of
26 a child with one of the parties when the court finds that it is not in the
27 best interests of the child that both of the parties have equal rights to
28 make decisions pertaining to the child. If the court does not order joint
29 legal custody, the court shall include on the record specific findings of
30 fact upon which the order for sole legal custody is based. The award of
31 sole legal custody to one parent shall not deprive the other parent of
32 access to information regarding the child unless the court shall so order,
33 stating the reasons for that determination.

34 (5) *Types of residential arrangements.* After making a determination
35 of the legal custodial arrangements, the court shall determine the
36 residency of the child from the following options, which arrangement the
37 court must find to be in the best interest of the child. The parties shall
38 submit to the court either an agreed parenting plan or, in the case of
39 dispute, proposed parenting plans for the court's consideration. Such
40 options are:

41 (A) *Residency.* The court may order a residential arrangement in
42 which the child resides with one or both parents on a basis consistent with
43 the best interests of the child.

1 (B) *Divided residency.* In an exceptional case, the court may order a
2 residential arrangement in which one or more children reside with each
3 parent and have parenting time with the other.

4 (C) *Nonparental residency.* If during the proceedings the court
5 determines that there is probable cause to believe that the child is a child
6 in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11)
7 of K.S.A. 2010 Supp. 38-2202, and amendments thereto, or that neither
8 parent is fit to have residency, the court may award temporary residency
9 of the child to a grandparent, aunt, uncle or adult sibling, or, another
10 person or agency if the court finds by written order that: (i) (a) The child
11 is likely to sustain harm if not immediately removed from the home;

12 (b) allowing the child to remain in home is contrary to the welfare of
13 the child; or

14 (c) immediate placement of the child is in the best interest of the
15 child; and

16 (ii) reasonable efforts have been made to maintain the family unit
17 and prevent the unnecessary removal of the child from the child's home
18 or that an emergency exists which threatens the safety to the child. In
19 making such a residency order, the court shall give preference, to the
20 extent that the court finds it is in the best interests of the child, first to
21 awarding such residency to a relative of the child by blood, marriage or
22 adoption and second to awarding such residency to another person with
23 whom the child has close emotional ties. The court may make temporary
24 orders for care, support, education and visitation that it considers
25 appropriate. Temporary residency orders are to be entered in lieu of
26 temporary orders provided for in K.S.A. 2010 Supp. 38-2243 and 38-
27 2244, and amendments thereto, and shall remain in effect until there is a
28 final determination under the revised Kansas code for care of children.
29 An award of temporary residency under this paragraph shall not terminate
30 parental rights nor give the court the authority to consent to the adoption
31 of the child. When the court enters orders awarding temporary residency
32 of the child to an agency or a person other than the parent, the court shall
33 refer a transcript of the proceedings to the county or district attorney. The
34 county or district attorney shall file a petition as provided in K.S.A. 2010
35 Supp. 38-2234, and amendments thereto, and may request termination of
36 parental rights pursuant to K.S.A. 2010 Supp. 38-2266, and amendments
37 thereto. The costs of the proceedings shall be paid from the general fund
38 of the county. If a final determination is made that the child is not a child
39 in need of care, the county or district attorney shall notify the court in
40 writing and the court, after a hearing, shall enter appropriate custody
41 orders pursuant to this section. If the same judge presides over both
42 proceedings, the notice is not required. Any order pursuant to the revised
43 Kansas code for care of children shall take precedence over any order

1 under this section.

2 (6) *Priority.* Any custody or parenting time order, or order relating to
3 the best interests of a child, issued pursuant to the revised Kansas code
4 for care of children or the revised Kansas juvenile justice code, shall be
5 binding and shall take precedence over any order under article 16 of
6 chapter 60 of the Kansas Statutes Annotated, and amendments thereto
7 (divorce), until jurisdiction under the revised Kansas code for care of
8 children or the revised Kansas juvenile justice code is terminated.

9 (7) *Child health insurance coverage.* The court may order that each
10 parent execute any and all documents, including any releases, necessary
11 so that both parents may obtain information from and to communicate
12 with any health insurance provider regarding the health insurance
13 coverage provided by such health insurance provider to the child. The
14 provisions of this paragraph shall apply irrespective of which parent
15 owns, subscribes or pays for such health insurance coverage.

16 (b) *Financial matters.* (1) *Division of property.* The decree shall
17 divide the real and personal property of the parties, including any
18 retirement and pension plans, whether owned by either spouse prior to
19 marriage, acquired by either spouse in the spouse's own right after
20 marriage or acquired by the spouses' joint efforts, by: (A) A division of
21 the property in kind; (B) awarding the property or part of the property to
22 one of the spouses and requiring the other to pay a just and proper sum;
23 or (C) ordering a sale of the property, under conditions prescribed by the
24 court, and dividing the proceeds of the sale. Upon request, the trial court
25 shall set a valuation date to be used for all assets at trial, which may be
26 the date of separation, filing or trial as the facts and circumstances of the
27 case may dictate. The trial court may consider evidence regarding
28 changes in value of various assets before and after the valuation date in
29 making the division of property. In dividing defined-contribution types of
30 retirement and pension plans, the court shall allocate profits and losses on
31 the nonparticipant's portion until date of distribution to that
32 nonparticipant. In making the division of property the court shall consider
33 the age of the parties; the duration of the marriage; the property owned by
34 the parties; their present and future earning capacities; the time, source
35 and manner of acquisition of property; family ties and obligations; the
36 allowance of maintenance or lack thereof; dissipation of assets; the tax
37 consequences of the property division upon the respective economic
38 circumstances of the parties; and such other factors as the court considers
39 necessary to make a just and reasonable division of property. The decree
40 shall provide for any changes in beneficiary designation on: (A) Any
41 insurance or annuity policy that is owned by the parties, or in the case of
42 group life insurance policies, under which either of the parties is a
43 covered person; (B) any trust instrument under which one party is the

1 grantor or holds a power of appointment over part or all of the trust
2 assets, that may be exercised in favor of either party; or (C) any transfer
3 on death or payable on death account under which one or both of the
4 parties are owners or beneficiaries. Nothing in this section shall relieve
5 the parties of the obligation to effectuate any change in beneficiary
6 designation by the filing of such change with the insurer or issuer in
7 accordance with the terms of such policy.

8 (2) *Maintenance.* The decree may award to either party an allowance
9 for future support denominated as maintenance, in an amount the court
10 finds to be fair, just and equitable under all of the circumstances. The
11 decree may make the future payments modifiable or terminable under
12 circumstances prescribed in the decree. The court may make a
13 modification of maintenance retroactive to a date at least one month after
14 the date that the motion to modify was filed with the court. In any event,
15 the court may not award maintenance for a period of time in excess of
16 121 months. If the original court decree reserves the power of the court to
17 hear subsequent motions for reinstatement of maintenance and such a
18 motion is filed prior to the expiration of the stated period of time for
19 maintenance payments, the court shall have jurisdiction to hear a motion
20 by the recipient of the maintenance to reinstate the maintenance
21 payments. Upon motion and hearing, the court may reinstate the
22 payments in whole or in part for a period of time, conditioned upon any
23 modifying or terminating circumstances prescribed by the court, but the
24 reinstatement shall be limited to a period of time not exceeding 121
25 months. The recipient may file subsequent motions for reinstatement of
26 maintenance prior to the expiration of subsequent periods of time for
27 maintenance payments to be made, but no single period of reinstatement
28 ordered by the court may exceed 121 months. Maintenance may be in a
29 lump sum, in periodic payments, on a percentage of earnings or on any
30 other basis. At any time, on a hearing with reasonable notice to the party
31 affected, the court may modify the amounts or other conditions for the
32 payment of any portion of the maintenance originally awarded that has
33 not already become due, but no modification shall be made without the
34 consent of the party liable for the maintenance, if it has the effect of
35 increasing or accelerating the liability for the unpaid maintenance beyond
36 what was prescribed in the original decree. Except for good cause shown,
37 every order requiring payment of maintenance under this section shall
38 require that the maintenance be paid through the central unit for
39 collection and disbursement of support payments designated pursuant to
40 K.S.A. 23-4,118, and amendments thereto. A written agreement between
41 the parties to make direct maintenance payments to the obligee and not
42 pay through the central unit shall constitute good cause. If child support
43 and maintenance payments are both made to an obligee by the same

1 obligor, and if the court has made a determination concerning the manner
2 of payment of child support, then maintenance payments shall be paid in
3 the same manner.

4 (3) *Separation agreement.* If the parties have entered into a
5 separation agreement which the court finds to be valid, just and equitable,
6 the agreement shall be incorporated in the decree. A separation agreement
7 may include provisions relating to a parenting plan. The provisions of the
8 agreement on all matters settled by it shall be confirmed in the decree
9 except that any provisions relating to the legal custody, residency,
10 visitation parenting time, support or education of the minor children shall
11 be subject to the control of the court in accordance with all other
12 provisions of this article. Matters settled by an agreement incorporated in
13 the decree, other than matters pertaining to the legal custody, residency,
14 visitation, parenting time, support or education of the minor children,
15 shall not be subject to subsequent modification by the court except: (A)
16 As prescribed by the agreement or (B) as subsequently consented to by
17 the parties.

18 (4) *Costs and fees.* Costs and attorney fees may be awarded to either
19 party as justice and equity require. The court may order that the amount
20 be paid directly to the attorney, who may enforce the order in the
21 attorney's name in the same case.

22 (c) *Miscellaneous matters.* (1) *Restoration of name.* Upon the request
23 of a spouse, the court shall order the restoration of that spouse's maiden
24 or former name. The court shall have jurisdiction to restore the spouse's
25 maiden or former name at or after the time the decree of divorce becomes
26 final. The judicial council shall develop a form which is simple, concise
27 and direct for use with this paragraph.

28 (2) *Effective date as to remarriage.* Any marriage contracted by a
29 party, within or outside this state, with any other person before a
30 judgment of divorce becomes final shall be voidable until the decree of
31 divorce becomes final. An agreement which waives the right of appeal
32 from the granting of the divorce and which is incorporated into the decree
33 or signed by the parties and filed in the case shall be effective to shorten
34 the period of time during which the remarriage is voidable.

35 Sec. 218. K.S.A. 60-1620 is hereby amended to read as follows: 60-
36 1620. (a) Except as provided in subsection (d), a parent entitled to legal
37 custody or residency of or parenting time with a child pursuant to K.S.A.
38 60-1610, and amendments thereto, shall give written notice to the other
39 parent not less than 30 days prior to: (1) Changing the residence of the
40 child; or (2) removing the child from this state for a period of time
41 exceeding 90 days. Such notice shall be sent by restricted mail, return
42 receipt requested, to the last known address of the other parent.

43 (b) Failure to give notice as required by subsection (a) is an indirect

1 civil contempt punishable as provided by law. In addition, the court may
2 assess, against the parent required to give notice, reasonable attorney fees
3 and any other expenses incurred by the other parent by reason of the
4 failure to give notice.

5 (c) A change of the residence or the removal of a child as described
6 in subsection (a) may be considered a material change of circumstances
7 which justifies modification of a prior order of legal custody, residency,
8 child support or parenting time. In determining any motion seeking a
9 modification of a prior order based on change of residence or removal as
10 described in (a), the court shall consider all factors the court deems
11 appropriate including, but not limited to: (1) The effect of the move on
12 the best interests of the child; (2) the effect of the move on any party
13 having rights granted pursuant to K.S.A. 60-1610, and amendments
14 thereto; and (3) the increased cost the move will impose on any party
15 seeking to exercise rights granted under K.S.A. 60-1610, and
16 amendments thereto.

17 (d) A parent entitled to the legal custody or residency of a child
18 pursuant to K.S.A. 60-1610, and amendments thereto, shall not be
19 required to give the notice required by this section to the other parent
20 when the other parent has been convicted of any crime specified in article
21 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their*
22 *repeal, or sections 36 through 86, 174, 210, 211 or 229 through 231 of*
23 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
24 *thereto, in which the child is the victim of such crime.*

25 Sec. 219. K.S.A. 2010 Supp. 60-1629 is hereby amended to read as
26 follows: 60-1629. (a) A parent entitled to legal custody of, or residency
27 of, or parenting time with a child pursuant to K.S.A. 60-1610, and
28 amendments thereto, shall give written notice to the other parent of one or
29 more of the following events when such parent: (1) Is subject to the
30 registration requirements of the Kansas offender registration act, K.S.A.
31 22-4901; et seq., and amendments thereto, or any similar act in any other
32 state, or under military or federal law; (2) has been convicted of abuse of
33 a child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136*
34 *of the 2010 Session Laws of Kansas, and amendments thereto;* (3) is
35 residing with an individual who is known by the parent to be subject to
36 the registration requirements of the Kansas offender registration act,
37 K.S.A. 22-4901; et seq., and amendments thereto, or any similar act in
38 any other state, or under military or federal law; or (4) is residing with an
39 individual who is known by the parent to have been convicted of abuse of
40 a child, K.S.A. 21-3609, *prior to its repeal, or section 79 of chapter 136*
41 *of the 2010 Session Laws of Kansas, and amendments thereto.* Such
42 notice shall be sent by restricted mail, return receipt requested, to the last
43 known address of the other parent within 14 days following such event.

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

6 (c) An event described in subsection (a) may be considered a
7 material change of circumstances which justifies modification of a prior
8 order of legal custody, residency, child support or parenting time.

9 Sec. 220. K.S.A. 60-2610 is hereby amended to read as follows: 60-
10 2610. (a) If a person gives a worthless check, the person shall be liable to
11 the holder of the check for the amount of the check, the incurred court
12 costs, the incurred service charge, interest at the statutory rate and the
13 costs of collection including but not limited to reasonable attorney fees,
14 plus an amount equal to the greater of the following:

15 (1) Damages equal to three times the amount of the check but not
16 exceeding the amount of the check by more than \$500; or

17 (2) \$100.

18 The court may waive all or part of the attorney fees provided for by
19 this subsection, if the court finds that the damages and other amounts
20 awarded are sufficient to adequately compensate the holder of the check.
21 In the event the court waives all or part of the attorney fees, the court
22 shall make written findings of fact as to the specific reasons that the
23 amounts awarded are sufficient to adequately compensate the holder of
24 the check.

25 (b) The amounts specified by subsection (a) shall be recoverable in a
26 civil action brought by or on behalf of the holder of the check only if: (1)
27 Not less than 14 days before filing the civil action, the holder of the check
28 made written demand on the maker or drawer for payment of the amount
29 of the check, the incurred service charge and accrued interest; and (2) the
30 maker or drawer failed to tender to the holder, prior to the filing of the
31 action, an amount not less than the amount demanded.

32 The written demand shall be sent by first class mail, to the person to
33 be given notice at such person's address as it appears on such check, draft
34 or order or to the last known address of the maker or drawer. The written
35 demand shall include notice that, if the money is not paid within 14 days,
36 triple damages in addition to an amount of money equal to the sum of the
37 amount of the check, the incurred service charge, court costs, accrued
38 interest, the costs of collection, including but not limited to, reasonable
39 attorney fees unless the court otherwise orders, may be incurred by the
40 maker or drawer of the check.

41 Notice required by subsection (b)(1) shall state the exact amount and
42 date due, as well as an estimate of the amount that may be incurred if the
43 amount demanded is not paid by the specified date.

1 (c) Subsequent to the filing of an action under this section but prior
2 to the commencement of a dispositional hearing by the court, the
3 defendant may tender to the plaintiff as satisfaction of the claim, an
4 amount of money equal to the sum of the amount of the check, the
5 incurred service charge, accrued interest, the costs of collection including,
6 but not limited to, reasonable attorney fees and court costs. The plaintiff
7 shall include in the petition a statement alleging that the defendant may
8 tender such amount as satisfaction of the claim as provided in this
9 subsection. If the amount alleged in the petition is tendered to the plaintiff
10 in full satisfaction of the debt prior to the commencement of the
11 dispositional hearing by the court, the case shall be dismissed by the
12 plaintiff. For purposes of this subsection only, the amount tendered as
13 satisfaction of the claim shall not include triple damages or damages of
14 \$100 as provided in subsections (a)(1) and (2). For purposes of this
15 subsection, a dispositional hearing means a trial or other hearing by the
16 court in which the plaintiff is seeking the entry of judgment against the
17 defendant. The court may waive all or part of the attorney fees provided
18 for by this subsection, if the court finds that the amount tendered is
19 sufficient to adequately compensate the holder of the check. In the event
20 the court waives all or part of the attorney fees, the court shall make
21 written findings of fact as to the specific reasons that the amount tendered
22 is sufficient to adequately compensate the holder of the check.

23 (d) If the trier of fact determines that the failure of the defendant to
24 satisfy the dishonored check was due to economic hardship, the court
25 may waive all or part of the damages provided for by this section, but the
26 court shall render judgment against defendant for not less than the
27 amount of the dishonored check, the incurred court costs, service charge
28 and the costs of collection, including but not limited to reasonable
29 attorney fees, unless otherwise provided in this subsection. The court may
30 waive all or part of the attorney fees provided for by this subsection, if
31 the court finds that the damages and other amounts awarded are sufficient
32 to adequately compensate the holder of the check. In the event the court
33 waives all or part of the attorney fees, the court shall make written
34 findings of fact as to the specific reasons that the amounts awarded are
35 sufficient to adequately compensate the holder of the check.

36 (e) Any amount previously paid as restitution or reparations to the
37 holder of the check by or on behalf of its maker or drawer shall be
38 credited against the amount for which the maker or drawer is liable under
39 subsection (a).

40 (f) Conviction of giving a worthless check ~~or habitually giving a~~
41 ~~worthless check~~, as defined by ~~K.S.A. 21-3707~~ *section 107 of chapter 136*
42 *of the 2010 Session Laws of Kansas*, and amendments thereto, shall not
43 be a prerequisite or bar to recovery pursuant to this section.

1 (g) The service charge on a check which is dishonored by the
2 drawee because the maker or drawer had no deposits in or credits with the
3 drawee or has not sufficient funds in, or credits with, the drawee for the
4 payment of each check, order or draft in full upon its presentation, shall
5 not exceed \$30.

6 (h) As used in this section, "giving a worthless check" means the
7 making, drawing, issuing or delivering or causing or directing the
8 making, drawing, issuing or delivering of any check, order or draft on any
9 bank, credit union, savings and loan association or depository for the
10 payment of money or its equivalent:

11 (1) With intent to defraud or in payment for a preexisting debt; or

12 (2) Which is dishonored by the drawee because the maker or drawer
13 had no deposits in or credits with the drawee or has not sufficient funds
14 in, or credits with, the drawee for the payment of such check, order or
15 draft in full upon its presentation; and

16 (3) for which the maker or drawer has not tendered to the holder's
17 agent the amount of money demanded and within the time allowed by the
18 demand required in subsection (b).

19 Sec. 221. K.S.A. 2010 Supp. 60-3107 is hereby amended to read as
20 follows: 60-3107. (a) The court may approve any consent agreement to
21 bring about a cessation of abuse of the plaintiff or minor children or grant
22 any of the following orders:

23 (1) Restraining the defendant from abusing, molesting or interfering
24 with the privacy or rights of the plaintiff or of any minor children of the
25 parties. Such order shall contain a statement that if such order is violated,
26 such violation may constitute assault as ~~provided in K.S.A. 21-~~
27 ~~3408~~ *defined in subsection (a) of section 47 of chapter 136 of the 2010*
28 *Session Laws of Kansas*, and amendments thereto, battery as ~~provided in~~
29 ~~K.S.A. 21-3412~~ *defined in subsection (a) of section 48 of chapter 136 of*
30 *the 2010 Session Laws of Kansas*, and amendments thereto, domestic
31 battery as ~~provided in K.S.A. 21-3412~~ *defined in section 49 of chapter*
32 *136 of the 2010 Session Laws of Kansas*, and amendments thereto and
33 violation of a protective order as ~~provided in K.S.A. 21-3843~~ *defined in*
34 *section 149 of chapter 136 of the 2010 Session Laws of Kansas*, and
35 amendments thereto.

36 (2) Granting possession of the residence or household to the plaintiff
37 to the exclusion of the defendant, and further restraining the defendant
38 from entering or remaining upon or in such residence or household,
39 subject to the limitation of subsection (d). Such order shall contain a
40 statement that if such order is violated, such violation shall constitute
41 criminal trespass as ~~provided in subsection (e) of K.S.A. 21-3721~~ *defined*
42 *in subsection (a)(1)(C) of section 94 of chapter 136 of the 2010 Session*
43 *Laws of Kansas*, and amendments thereto, and violation of a protective

1 order as provided in ~~K.S.A. 21-3843~~ defined in section 149 of chapter 136
2 of the 2010 Session Laws of Kansas, and amendments thereto. The court
3 may grant an order, which shall expire 60 days following the date of
4 issuance, restraining the defendant from cancelling utility service to the
5 residence or household.

6 (3) Requiring defendant to provide suitable, alternate housing for the
7 plaintiff and any minor children of the parties.

8 (4) Awarding temporary custody and residency and establishing
9 temporary parenting time with regard to minor children.

10 (5) Ordering a law enforcement officer to evict the defendant from
11 the residence or household.

12 (6) Ordering support payments by a party for the support of a party's
13 minor child, if the party is the father or mother of the child, or the
14 plaintiff, if the plaintiff is married to the defendant. Such support orders
15 shall remain in effect until modified or dismissed by the court or until
16 expiration and shall be for a fixed period of time not to exceed one year.
17 On the motion of the plaintiff, the court may extend the effect of such
18 order for 12 months.

19 (7) Awarding costs and attorney fees to either party.

20 (8) Making provision for the possession of personal property of the
21 parties and ordering a law enforcement officer to assist in securing
22 possession of that property, if necessary.

23 (9) Requiring any person against whom an order is issued to seek
24 counseling to aid in the cessation of abuse.

25 (10) Ordering or restraining any other acts deemed necessary to
26 promote the safety of the plaintiff or of any minor children of the parties.

27 (b) No protection from abuse order shall be entered against the
28 plaintiff unless:

29 (1) The defendant properly files a written cross or counter petition
30 seeking such a protection order;

31 (2) the plaintiff had reasonable notice of the written cross or counter
32 petition by personal service as provided in subsection (d) of K.S.A. 60-
33 3104, and amendments thereto; and

34 (3) the issuing court made specific findings of abuse against both the
35 plaintiff and the defendant and determined that both parties acted
36 primarily as aggressors and neither party acted primarily in self-defense.

37 (c) Any order entered under the protection from abuse act shall not
38 be subject to modification on ex parte application or on motion for
39 temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq.,
40 or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously
41 issued in an action filed pursuant to K.S.A. 60-1601 et seq., or K.S.A. 38-
42 1101 et seq., and amendments thereto, shall be subject to modification
43 under the protection from abuse act only as to those matters subject to

1 modification by the terms of K.S.A. 60-1610 et seq., and amendments
2 thereto, and on sworn testimony to support a showing of good cause.
3 Immediate and present danger of abuse to the plaintiff or minor children
4 shall constitute good cause. If an action is filed pursuant to K.S.A. 60-
5 1610 et seq., or K.S.A. 38-1101 et seq., and amendments thereto, during
6 the pendency of a proceeding filed under the protection from abuse act or
7 while an order issued under the protection from abuse act is in effect, the
8 court, on final hearing or on agreement of the parties, may issue final
9 orders authorized by K.S.A. 60-1610, and amendments thereto, that are
10 inconsistent with orders entered under the protection from abuse act. Any
11 inconsistent order entered pursuant to this subsection shall be specific in
12 its terms, reference the protection from abuse order and parts thereof
13 being modified and a copy thereof shall be filed in both actions. The court
14 shall consider whether the actions should be consolidated in accordance
15 with K.S.A. 60-242, and amendments thereto. Any custody or parenting
16 time order, or order relating to the best interests of a child, issued
17 pursuant to the revised Kansas code for care of children or the revised
18 Kansas juvenile justice code, shall be binding and shall take precedence
19 over any such custody or parenting order involving the same child issued
20 under the protection from abuse act, until jurisdiction under the revised
21 Kansas code for care of children or the revised Kansas juvenile justice
22 code is terminated. Any inconsistent custody or parenting order issued in
23 the revised Kansas code for care of children case or the revised Kansas
24 juvenile justice code case shall be specific in its terms, reference any
25 preexisting protection from abuse order and the custody being modified,
26 and a copy of such order shall be filed in the preexisting protection from
27 abuse case.

28 (d) If the parties to an action under the protection from abuse act are
29 not married to each other and one party owns the residence or household,
30 the court shall not have the authority to grant possession of the residence
31 or household under subsection (a)(2) to the exclusion of the party who
32 owns it.

33 (e) Subject to the provisions of subsections (b), (c) and (d), a
34 protective order or approved consent agreement shall remain in effect
35 until modified or dismissed by the court and shall be for a fixed period of
36 time not to exceed one year, except that, on motion of the plaintiff, such
37 period may be extended for one additional year.

38 (f) The court may amend its order or agreement at any time upon
39 motion filed by either party.

40 (g) No order or agreement under the protection from abuse act shall
41 in any manner affect title to any real property.

42 (h) If a person enters or remains on premises or property violating an
43 order issued pursuant to subsection (a)(2), such violation shall constitute

1 criminal trespass as ~~provided in subsection (e) of K.S.A. 21-3721~~ defined
2 in subsection (a)(1)(C) of section 94 of chapter 136 of the 2010 Session
3 Laws of Kansas, and amendments thereto, and violation of a protective
4 order as ~~provided in K.S.A. 21-3843~~ defined in section 149 of chapter 136
5 of the 2010 Session Laws of Kansas, and amendments thereto. If a person
6 abuses, molests or interferes with the privacy or rights of another
7 violating an order issued pursuant to subsection (a)(1), such violation
8 may constitute assault as ~~provided in K.S.A. 21-3408~~ defined in
9 subsection (a) of section 47 of chapter 136 of the 2010 Session Laws of
10 Kansas, and amendments thereto, battery as ~~provided in K.S.A. 21-~~
11 ~~3412~~ defined in subsection (a) of section 48 of chapter 136 of the 2010
12 Session Laws of Kansas, and amendments thereto, domestic battery as
13 ~~provided in K.S.A. 21-3412~~ defined in section 49 of chapter 136 of the
14 2010 Session Laws of Kansas, and amendments thereto, and violation of a
15 protective order as ~~provided in K.S.A. 21-3843~~ defined in section 149 of
16 chapter 136 of the 2010 Session Laws of Kansas, and amendments
17 thereto.

18 Sec. 222. K.S.A. 2010 Supp. 60-31a06 is hereby amended to read as
19 follows: 60-31a06. (a) The court may issue a protection from stalking
20 order granting any of the following orders:

21 (1) Restraining the defendant from following, harassing,
22 telephoning, contacting or otherwise communicating with the victim.
23 Such order shall contain a statement that if such order is violated such
24 violation may constitute stalking as ~~provided in K.S.A. 21-3438~~ defined in
25 section 62 of chapter 136 of the 2010 Session Laws of Kansas, and
26 amendments thereto, and violation of a protective order as ~~provided in~~
27 ~~K.S.A. 21-3843~~ defined in section 149 of chapter 136 of the 2010 Session
28 Laws of Kansas, and amendments thereto.

29 (2) Restraining the defendant from abusing, molesting or interfering
30 with the privacy rights of the victim. Such order shall contain a statement
31 that if such order is violated, such violation may constitute stalking as
32 ~~provided in K.S.A. 21-3438~~ defined in section 62 of chapter 136 of the
33 2010 Session Laws of Kansas, and amendments thereto, assault as
34 ~~provided in K.S.A. 21-3408~~ defined in subsection (a) of section 47 of
35 chapter 136 of the 2010 Session Laws of Kansas, and amendments
36 thereto, battery as ~~provided in K.S.A. 21-3412~~ defined in subsection (a) of
37 section 48 of chapter 136 of the 2010 Session Laws of Kansas, and
38 amendments thereto, and violation of a protective order as ~~provided in~~
39 ~~K.S.A. 21-3843~~ defined in section 149 of chapter 136 of the 2010 Session
40 Laws of Kansas, and amendments thereto.

41 (3) Restraining the defendant from entering upon or in the victim's
42 residence or the immediate vicinity thereof. Such order shall contain a
43 statement that if such order is violated, such violation shall constitute

1 criminal trespass as ~~provided in subsection (a)(1)(C) of K.S.A. 21-~~
2 ~~3721~~ defined in subsection (a)(1)(C) of section 94 of chapter 136 of the
3 2010 Session Laws of Kansas, and amendments thereto, and violation of a
4 protective order as ~~provided in K.S.A. 21-3843~~ defined in section 149 of
5 chapter 136 of the 2010 Session Laws of Kansas, and amendments
6 thereto.

7 (4) Any other order deemed necessary by the court to carry out the
8 provisions of this act.

9 (b) A protection from stalking order shall remain in effect until
10 modified or dismissed by the court and shall be for a fixed period of time
11 not to exceed one year, except that, on motion of the plaintiff, such period
12 may be extended for one additional year. Before the expiration of an
13 order for protection from stalking, a victim, or a parent on behalf of the
14 victim, may request an extension of the protection from stalking order for
15 up to one additional year on showing of continuing threat of stalking.

16 (c) The court may amend its order at any time upon motion filed by
17 either party.

18 (d) The court shall assess costs against the defendant and may award
19 attorney fees to the victim in any case in which the court issues a
20 protection from stalking order pursuant to this act. The court may award
21 attorney fees to the defendant in any case where the court finds that the
22 petition to seek relief pursuant to this act is without merit.

23 (e) A no contact or restraining provision in a protective order issued
24 pursuant to this section shall not be construed to prevent:

25 (1) Contact between the attorneys representing the parties;

26 (2) a party from appearing at a scheduled court or administrative
27 hearing; or

28 (3) a defendant or defendant's attorney from sending the plaintiff
29 copies of any legal pleadings filed in court relating to civil or criminal
30 matters presently relevant to the plaintiff.

31 Sec. 223. K.S.A. 2010 Supp. 60-4104 is hereby amended to read as
32 follows: 60-4104. Conduct and offenses giving rise to forfeiture under
33 this act, whether or not there is a prosecution or conviction related to the
34 offense, are:

35 (a) All offenses which statutorily and specifically authorize
36 forfeiture;

37 (b) violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, and
38 amendments thereto;

39 (c) theft which is classified as a felony violation pursuant to ~~K.S.A.~~
40 ~~21-3701~~ section 87 of chapter 136 of the 2010 Session Laws of Kansas,
41 and amendments thereto, in which the property taken was livestock;

42 (d) ~~unlawful~~ criminal discharge of a firearm, ~~K.S.A. 21-4219~~ as
43 defined in subsections (a)(1) and (a)(2) of section 193 of chapter 136 of

- 1 *the 2010 Session Laws of Kansas, and amendments thereto;*
2 (e) *violations of K.S.A. 2010 Supp. 21-36a16, and amendments*
3 *thereto;*
4 (f) *gambling, ~~K.S.A. 21-4303~~ section 215 of chapter 136 of the*
5 *2010 Session Laws of Kansas, and amendments thereto, and commercial*
6 *gambling, ~~K.S.A. 21-4304~~ as defined in subsection (a)(1) of section 217*
7 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
8 *thereto;*
9 (g) *counterfeiting, ~~K.S.A. 21-3763~~ section 111 of chapter 136 of the*
10 *2010 Session Laws of Kansas, and amendments thereto;*
11 (h) *violations of ~~K.S.A. 21-4019~~ section 178 of chapter 136 of the*
12 *2010 Session Laws of Kansas, and amendments thereto;*
13 (i) *medicaid fraud, ~~K.S.A. 21-3844 et seq.~~ sections 150 through 161*
14 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
15 *thereto;*
16 (j) *an act or omission occurring outside this state, which would be a*
17 *violation in the place of occurrence and would be described in this section*
18 *if the act occurred in this state, whether or not it is prosecuted in any*
19 *state;*
20 (k) *an act or omission committed in furtherance of any act or*
21 *omission described in this section including any inchoate or preparatory*
22 *offense, whether or not there is a prosecution or conviction related to the*
23 *act or omission;*
24 (l) *any solicitation or conspiracy to commit any act or omission*
25 *described in this section, whether or not there is a prosecution or*
26 *conviction related to the act or omission;*
27 (m) ~~*furtherance of terrorism or illegal use of weapons of mass*~~
28 ~~*destruction, ~~K.S.A. 21-3451~~ violations of section 58 of chapter 136 of the*~~
29 ~~*2010 Session Laws of Kansas, and amendments thereto;*~~
30 (n) *unlawful conduct of dog fighting and unlawful possession of dog*
31 *fighting paraphernalia, ~~K.S.A. 21-4315~~ as defined in subsections (a) and*
32 *(b) of section 225 of chapter 136 of the 2010 Session Laws of Kansas, and*
33 *amendments thereto;*
34 (o) *unlawful conduct of cockfighting and unlawful possession of*
35 *cockfighting paraphernalia, ~~K.S.A. 21-4319~~ as defined in subsections (a)*
36 *and (b) of section 228 of chapter 136 of the 2010 Session Laws of*
37 *Kansas, and amendments thereto;*
38 (p) *prostitution, ~~K.S.A. 21-3512~~ section 229 of chapter 136 of the*
39 *2010 Session Laws of Kansas, and amendments thereto, promoting*
40 *prostitution, ~~K.S.A. 21-3513~~ section 230 of chapter 136 of the 2010*
41 *Session Laws of Kansas, and amendments thereto, and patronizing a*
42 *prostitute, ~~K.S.A. 21-3515~~ section 231 of chapter 136 of the 2010 Session*
43 *Laws of Kansas, and amendments thereto; and*

1 (q) human trafficking, ~~K.S.A. 21-3446, and amendments thereto,~~
2 and aggravated human trafficking, ~~K.S.A. 21-3447~~ *section 61 of chapter*
3 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

4 Sec. 224. K.S.A. 2010 Supp. 60-4105 is hereby amended to read as
5 follows: 60-4105. The following property is subject to forfeiture:

6 (a) Property described in a statute authorizing forfeiture;

7 (b) except as otherwise provided by law, all property, of every kind,
8 including, but not limited to, cash and negotiable instruments and the
9 whole of any lot or tract of land and any appurtenances or improvements
10 to real property that is either:

11 (1) Furnished or intended to be furnished by any person in an
12 exchange that constitutes conduct giving rise to forfeiture; or

13 (2) used or intended to be used in any manner to facilitate conduct
14 giving rise to forfeiture, including, but not limited to, any computer,
15 computer system, computer network or any software or data owned by
16 the defendant which is used during the commission of a violation of
17 ~~K.S.A. 21-4019~~ *section 178 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto;

19 (c) all proceeds of any conduct giving rise to forfeiture;

20 (d) all property of every kind, including, but not limited to, cash and
21 negotiable instruments derived from or realized through any proceeds
22 which were obtained directly or indirectly from the commission of an
23 offense listed in K.S.A. 60-4104, and amendments thereto;

24 (e) all weapons possessed, used, or available for use in any manner
25 to facilitate conduct giving rise to forfeiture;

26 (f) ownership or interest in real property that is a homestead, to the
27 extent the homestead was acquired with proceeds from conduct giving
28 rise to forfeiture;

29 (g) contraband, which shall be seized and summarily forfeited to the
30 state without regard to the procedures set forth in this act;

31 (h) all controlled substances, raw materials, controlled substance
32 analogs, counterfeit substances, or imitation controlled substances that
33 have been manufactured, distributed, dispensed, possessed, or acquired in
34 violation of the laws of this state; and

35 (i) any items bearing a counterfeit mark.

36 Sec. 225. K.S.A. 60-4111 is hereby amended to read as follows: 60-

37 4111. (a) Only an owner of or interest holder in property seized for
38 forfeiture may file a claim, and shall do so in the manner provided in this
39 section. The claim shall be mailed to the seizing agency and to the
40 plaintiff's attorney by certified mail, return receipt requested, within 30
41 days after the effective date of notice of pending forfeiture. No extension
42 of time for the filing of a claim shall be granted except for good cause
43 shown.

1 (b) The claim and all supporting documents shall be in affidavit
2 form, signed by the claimant under oath, and sworn to by the affiant
3 before one who has authority to administer the oath, under penalty of
4 perjury, ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the 2010 Session*
5 *Laws of Kansas*, and amendments thereto, or making a false writing,
6 ~~K.S.A. 21-3711~~ *section 110 of chapter 136 of the 2010 Session Laws of*
7 *Kansas*, and amendments thereto, and shall set forth all of the following:

8 (1) The caption of the proceedings and identifying number, if any, as
9 set forth on the notice of pending forfeiture or complaint, the name of the
10 claimant, and the name of the plaintiff's attorney who authorized the
11 notice of pending forfeiture or complaint.

12 (2) The address where the claimant will accept mail.

13 (3) The nature and extent of the claimant's interest in the property.

14 (4) The date, the identity of the transferor, and a detailed description
15 of the circumstances of the claimant's acquisition of the interest in the
16 property.

17 (5) The specific provision of this act relied on in asserting that the
18 property is not subject to forfeiture.

19 (6) All essential facts supporting each assertion.

20 (7) The specific relief sought.

21 Sec. 226. K.S.A. 2010 Supp. 60-4113 is hereby amended to read as
22 follows: 60-4113. (a) A judicial *in rem* forfeiture proceeding brought by
23 the plaintiff's attorney pursuant to a notice of pending forfeiture or
24 verified petition for forfeiture is also subject to the provisions of this
25 section. If a forfeiture is authorized by this act, it shall be ordered by the
26 court in the *in rem* action.

27 (b) An action *in rem* may be brought by the plaintiff's attorney in
28 addition to, or in lieu of, civil *in personam* forfeiture procedures. The
29 seizing agency may serve the complaint in the manner provided by
30 subsection (a)(3) of K.S.A. 60-4109, and amendments thereto, or as
31 provided by the rules of civil procedure.

32 (c) Only an owner of or an interest holder in the property who has
33 timely filed a proper claim may file an answer in an action *in rem*. For
34 the purposes of this section, an owner of or interest holder in property
35 who has filed a claim and answer shall be referred to as a claimant.

36 (d) The answer shall be in affidavit form, signed by the claimant
37 under oath, and sworn to by the affiant before one who has authority to
38 administer the oath, under penalty of perjury, ~~K.S.A. 21-3805~~ *section 128*
39 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
40 thereto, or making a false writing, ~~K.S.A. 21-3711~~ *section 110 of chapter*
41 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, and
42 shall otherwise be in accordance with the rules of civil procedure on
43 answers and shall also set forth all of the following:

1 (1) The caption of the proceedings and identifying number, if any, as
2 set forth on the notice of pending forfeiture or complaint and the name of
3 the claimant.

4 (2) The address where the claimant will accept mail.

5 (3) The nature and extent of the claimant's interest in the property.

6 (4) The date, the identity of the transferor, and the detailed
7 description of the circumstances of the claimant's acquisition of the
8 interest in the property.

9 (5) The specific provision of this act relied on in asserting that such
10 property is not subject to forfeiture.

11 (6) All essential facts supporting each assertion.

12 (7) The specific relief sought.

13 (e) The answer shall be filed within 21 days after service of the civil
14 *in rem* complaint.

15 (f) The seizing agency and any claimant who has timely answered
16 the complaint, at the time of filing such agency's pleadings, or at any
17 other time not less than 30 days prior to the hearing, may serve discovery
18 requests on any other party, the answers or response to which shall be due
19 within 21 days of service. Discovery may include deposition of any
20 person at any time after the expiration of 14 days after the filing and
21 service of the complaint. Any party may move for a summary judgment at
22 any time after an answer or responsive pleading is served and not less
23 than 30 days prior to the hearing.

24 (g) The issue shall be determined by the court alone, and the hearing
25 on the claim shall be held within 60 days after service of the petition
26 unless continued for good cause. The plaintiff's attorney shall have the
27 initial burden of proving the interest in the property is subject to forfeiture
28 by a preponderance of the evidence. If the state proves the interest in the
29 property is subject to forfeiture, the claimant has the burden of showing
30 by a preponderance of the evidence that the claimant has an interest in the
31 property which is not subject to forfeiture.

32 (h) If the plaintiff's attorney fails to meet the burden of proof for
33 forfeiture, or a claimant establishes by a preponderance of the evidence
34 that the claimant has an interest that is exempt under the provisions of
35 K.S.A. 60-4106, and amendments thereto, the court shall order the
36 interest in the property returned or conveyed to the claimant. The court
37 shall order all other property forfeited to the seizing agency and conduct
38 further proceedings pursuant to the provision of K.S.A. 60-4116 and 60-
39 4117, and amendments thereto.

40 Sec. 227. K.S.A. 2010 Supp. 60-4119 is hereby amended to read as
41 follows: 60-4119. (a) If a person is or may be called to produce evidence
42 at a deposition, hearing or trial under this act or at an investigation
43 brought by the attorney under K.S.A. 60-4118, and amendments thereto,

1 the district court for the county in which the deposition, hearing, trial, or
2 investigation is or may be held, upon certification in writing of a request
3 of the county or district attorney for the county, or the attorney general,
4 shall issue an order, ex parte or after a hearing, requiring the person to
5 produce evidence, notwithstanding that person's refusal to do so on the
6 basis of the privilege against self-incrimination.

7 (b) The county or district attorney, or the attorney general, may
8 certify in writing a request for an ex parte order under this section if in
9 such attorney's judgment:

10 (1) The production of the evidence may be necessary to the public
11 interest; and

12 (2) the person has refused or is likely to refuse to produce evidence
13 on the basis of such person's privilege against self-incrimination.

14 (c) If a person refuses, on the basis of such person's privilege against
15 self-incrimination, to produce evidence in any proceeding described in
16 this act, and the presiding officer informs the person of an order issued
17 under this section, the person may not refuse to comply with the order.
18 The person may be compelled or punished by the district court issuing an
19 order for civil or criminal contempt.

20 (d) The production of evidence compelled by order issued under this
21 section, and any information directly or indirectly derived from such
22 evidence, may not be used against the person in a subsequent criminal
23 case, except in a prosecution for perjury, ~~K.S.A. 21-3805~~*section 128 of*
24 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
25 thereto, making false writing, ~~K.S.A. 21-371~~*section 110 of chapter 136*
26 *of the 2010 Session Laws of Kansas*, and amendments thereto, or an
27 offense otherwise involving a failure to comply with the order. Nothing in
28 this subsection shall be interpreted as preventing the use in a criminal
29 action any evidence lawfully obtained independently of these procedures.

30 Sec. 228. K.S.A. 60-4402 is hereby amended to read as follows: 60-
31 4402. As used in *section 42 of chapter 136 of the 2010 Session Laws of*
32 *Kansas*, ~~K.S.A. 21-3406~~, 60-4401 through 60-4407, 65-1120, 65-1436,
33 65-1627i, 65-2006 and 65-2836, *and amendments thereto*:

34 (a) "Licensed health care professional" means a person licensed to
35 practice medicine and surgery, licensed podiatrist, licensed physician
36 assistant, licensed nurse, dentist or licensed pharmacist.

37 (b) "Suicide" means the act or instance of taking one's own life
38 voluntarily and intentionally.

39 Sec. 229. K.S.A. 2010 Supp. 60-4403 is hereby amended to read as
40 follows: 60-4403. (a) A licensed health care professional who
41 administers, prescribes or dispenses medications or procedures to relieve
42 another person's pain or discomfort does not violate ~~K.S.A. 21-~~
43 ~~3406~~*section 42 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto unless the medications or procedures are knowingly
2 administered, prescribed or dispensed with the intent to cause death. A
3 mid-level practitioner as defined in K.S.A. 65-1626, and amendments
4 thereto, who prescribes medications or procedures to relieve another
5 person's pain or discomfort does not violate ~~K.S.A. 21-3406~~ *section 42 of*
6 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
7 thereto unless the medications or procedures are knowingly prescribed
8 with the intent to cause death.

9 (b) A licensed health care professional, family member or other
10 legally authorized person who participates in the act of, or the decision
11 making process which results in the withholding or withdrawal of a life-
12 sustaining procedure does not violate ~~K.S.A. 21-3406~~ *section 42 of*
13 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
14 thereto.

15 (c) Providing spiritual treatment through prayer alone, in lieu of
16 medical treatment, does not violate ~~K.S.A. 21-3406~~ *section 42 of chapter*
17 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

18 Sec. 230. K.S.A. 60-4404 is hereby amended to read as follows: 60-
19 4404. (a) A cause of action for injunctive relief may be maintained
20 against any person who is reasonably believed to be about to violate or
21 who is in the course of violating ~~K.S.A. 21-3406~~ *section 42 of chapter*
22 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, by any
23 person who is:

24 (1) The spouse, parent, child or sibling of the person who would
25 commit suicide.

26 (2) Entitled to inherit from the person who would commit suicide.

27 (3) A health care provider of the person who would commit suicide.

28 (4) A public official with appropriate jurisdiction to prosecute or
29 enforce the laws of this state.

30 Sec. 231. K.S.A. 60-4405 is hereby amended to read as follows: 60-
31 4405. A cause of action for civil damages may be maintained against any
32 person who violates or who attempts to violate ~~K.S.A. 21-3406~~ *section 42*
33 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
34 thereto, by any person who is the spouse, parent, child, sibling, or entitled
35 to inherit from the person or who is the personal representative of the
36 person who did or would commit suicide for compensatory damages and
37 exemplary damages, whether or not the plaintiff consented to or had prior
38 knowledge of the violation or attempt.

39 Sec. 232. K.S.A. 2010 Supp. 60-5001 is hereby amended to read as
40 follows: 60-5001. (a) Any person who, while under the age of 18, was a
41 victim of an offense described in article 35 of chapter 21 of the Kansas
42 Statutes Annotated, *prior to their repeal, or sections 65 through 77 or*
43 *229 through 231 of chapter 136 of the 2010 Session Laws of Kansas*, and

1 amendments thereto, incest as defined in K.S.A. 21-3602, *prior to its*
2 *repeal, or subsection (a) of section 81 of chapter 136 of the 2010 Session*
3 *Laws of Kansas*, and amendments thereto, or aggravated incest as defined
4 in subsection (a)(2) of K.S.A. 21-3603, *prior to its repeal, or subsection*
5 *(b)(2) of section 81 of chapter 136 of the 2010 Session Laws of Kansas*,
6 and amendments thereto, where such offense resulted in a conviction and
7 any portion of such offense was used in the production of child
8 pornography, and who suffers personal or psychological injury as a result
9 of the production, promotion, or possession of such child pornography,
10 may bring an action in an appropriate state court against the producer,
11 promoter or intentional possessor of such child pornography, regardless
12 of whether the victim is now an adult.

13 (b) In any action brought under this section, a prevailing plaintiff
14 shall recover the actual damages such person sustained and the cost of the
15 suit, including reasonable attorney's fees. Any victim who is awarded
16 damages under this section shall be deemed to have sustained damages of
17 at least \$150,000.

18 (c) Notwithstanding any other provision of law, any action
19 commenced under this section shall be filed within three years after the
20 later of:

21 (1) The conclusion of a related criminal case;

22 (2) the notification to the victim by a member of a law enforcement
23 agency of the creation, possession, or promotion of the child
24 pornography; or

25 (3) in the case of a victim younger than 18, within three years after
26 the person reaches the age of 18.

27 (d) It is not a defense to a civil cause of action under this section that
28 the respondent did not know the victim or commit the abuse depicted in
29 the child pornography.

30 (e) At the victim's request, the attorney general may pursue cases on
31 behalf of any Kansas victim under this section. All damages obtained
32 shall go to the victim, and the attorney general may seek reasonable
33 attorney's fees and costs.

34 (f) Any action brought under this section shall be subject to the
35 provisions of K.S.A. 74-7312, and amendments thereto.

36 (g) As used in this section, "child pornography" includes, but is not
37 limited to, any visual depiction, as described in subsection (a) of K.S.A.
38 21-3516, *prior to its repeal, or subsection (a) of section 74 of chapter*
39 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, and
40 any performance, as defined in subsection (b) of K.S.A. 21-3516, *prior to*
41 *its repeal, or subsection (c) of section 74 of chapter 136 of the 2010*
42 *Session Laws of Kansas*, and amendments thereto.

43 (h) This section shall not apply to acts done in the performance of

1 duty by any: (1) Law enforcement officer of the state of Kansas or any
2 political subdivision thereof; (2) forensic examiner; (3) any prosecuting
3 attorney, as defined in K.S.A. 22-2202, and amendments thereto; or (4)
4 any bona fide child advocacy organization, including, but not limited to,
5 the national center for missing and exploited children.

6 Sec. 233. K.S.A. 65-444 is hereby amended to read as follows: 65-
7 444. No hospital, hospital administrator or governing board shall be
8 required to permit the termination of human pregnancies within its
9 institution and the refusal to permit such procedures shall not be grounds
10 for civil liability to any person. A hospital may establish criteria and
11 procedures under which pregnancies may be terminated within its
12 institution, in addition to those which may be prescribed by licensing,
13 regulating or accrediting agencies: ~~Provided, No pregnancy shall be~~
14 ~~purposely terminated until the opinions of three (3) duly licensed~~
15 ~~physicians attesting to the necessity of such termination have been~~
16 ~~recorded in writing in the permanent records of the hospital, except in an~~
17 ~~emergency as defined in section 21-3407 (2) (b) of the Kansas criminal~~
18 ~~code.~~

19 Sec. 234. K.S.A. 2010 Supp. 65-448 is hereby amended to read as
20 follows: 65-448. (a) Upon the request of any law enforcement officer and
21 with the written consent of the reported victim, or upon the request of the
22 victim, any physician, a licensed physician assistant, who has been
23 specially trained in performing sexual assault evidence collection, or a
24 registered professional nurse, who has been specially trained in
25 performing sexual assault evidence collection, on call or on duty at a
26 medical care facility of this state, as defined by subsection (h) of K.S.A.
27 65-425, and amendments thereto, shall examine persons who may be
28 victims of sexual offenses cognizable as violations of ~~K.S.A. 21-3502,~~
29 ~~21-3503, 21-3504, 21-3505, 21-3506, 21-3602 or 21-3603~~ *section 67, 68,*
30 *70 or 81 of chapter 136 of the 2010 Session Laws of Kansas,* and
31 amendments thereto, using Kansas bureau of investigation sexual assault
32 evidence collection kits or similar kits approved by the Kansas bureau of
33 investigation, for the purposes of gathering evidence of any such crime. If
34 an examination has taken place solely upon the request of the victim, the
35 medical care facility shall not notify any law enforcement agency without
36 the written consent of the victim, unless otherwise required by law. If the
37 physician, licensed physician assistant or registered professional nurse
38 refuses to perform such physical examination the prosecuting attorney is
39 hereby empowered to seek a mandatory injunction against such
40 physician, licensed physician assistant or registered professional nurse to
41 enforce the provisions of this act. Any refusal by a physician, licensed
42 physician assistant or registered professional nurse to perform an
43 examination which has been requested pursuant to this section shall be

1 reported by the county or district attorney to the state board of healing
2 arts or the board of nursing, whichever is applicable, for appropriate
3 disciplinary action. The department of health and environment, in
4 cooperation with the Kansas bureau of investigation, shall establish
5 procedures for gathering evidence pursuant to this section. A minor may
6 consent to examination under this section. Such consent is not subject to
7 disaffirmance because of minority, and consent of parent or guardian of
8 the minor is not required for such examination. The hospital or medical
9 facility shall give written notice to the parent or guardian of a minor that
10 such an examination has taken place.

11 (b) All sexual assault kits collected that are not released to law
12 enforcement shall be sealed by either the sexual assault nurse examiner
13 program or the facility that provided the examination and kept for five
14 years in the evidence storage facilities of the Kansas bureau of
15 investigation. After five years, such kits shall be destroyed by the Kansas
16 bureau of investigation.

17 (c) The fee chargeable for conducting an examination of a victim as
18 herein provided shall be established by the department of health and
19 environment. Such fee, including the cost of the sexual assault evidence
20 collection kit shall be charged to and paid by the county where the
21 alleged offense was committed, and refusal of the victim to report the
22 alleged offense to law enforcement shall not excuse or exempt the county
23 from paying such fee. The fee for conducting an examination of a victim
24 as herein provided shall not be charged or billed to the victim or to the
25 victim's insurance carrier. Such county shall be reimbursed such fee upon
26 the costs being paid by the defendant as court costs assessed pursuant to
27 K.S.A. 28-172a, and amendments thereto.

28 (d) No medical care facility shall incur any civil, administrative or
29 criminal liability as a result of notifying or failing to notify any law
30 enforcement agency if an examination has taken place solely upon the
31 request of the victim and such notification is not otherwise required by
32 law.

33 (e) The Kansas bureau of investigation may adopt rules and
34 regulations as deemed necessary to implement the provisions of this
35 section.

36 Sec. 235. K.S.A. 2010 Supp. 65-516 is hereby amended to read as
37 follows: 65-516. (a) No person shall knowingly maintain a child care
38 facility ~~or maintain a family day care home~~ if, ~~in the child care facility or~~
39 ~~family day care home~~, there resides, works or regularly volunteers any
40 person who in this state or in other states or the federal government:

41 (1) (A) Has a felony conviction for a crime against persons, (B) has
42 a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-
43 36a17, and amendments thereto, or any felony violation of any provision

1 of the uniform controlled substances act prior to July 1, 2009, (C) has a
2 conviction of any act which is described in articles 34, 35 or 36 of chapter
3 21 of the Kansas Statutes Annotated, *prior to their repeal, or sections 36*
4 *through 86, 174, 210, 211 or 229 through 231 of chapter 136 of the 2010*
5 *Session Laws of Kansas*, and amendments thereto, or a conviction of an
6 attempt under K.S.A. 21-3301, *prior to its repeal, or section 33 of*
7 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
8 thereto, to commit any such act or a conviction of conspiracy under
9 K.S.A. 21-3302, *prior to its repeal, or section 34 of chapter 136 of the*
10 *2010 Session Laws of Kansas*, and amendments thereto, to commit such
11 act, or similar statutes of other states or the federal government, or (D)
12 has been convicted of any act which is described in K.S.A. 21-4301 or
13 21-4301a, *prior to their repeal, or section 212 of chapter 136 of the 2010*
14 *Session Laws of Kansas*, and amendments thereto, or similar statutes of
15 other states or the federal government;

16 (2) has been adjudicated a juvenile offender because of having
17 committed an act which if done by an adult would constitute the
18 commission of a felony and which is a crime against persons, is any act
19 described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes
20 Annotated, *prior to their repeal, or sections 36 through 86, 174, 210, 211*
21 *or 229 through 231 of chapter 136 of the 2010 Session Laws of Kansas*,
22 and amendments thereto, or similar statutes of other states or the federal
23 government, or is any act described in K.S.A. 21-4301 or 21-4301a, *prior*
24 *to their repeal, or section 212 of chapter 136 of the 2010 Session Laws of*
25 *Kansas*, and amendments thereto, or similar statutes of other states or the
26 federal government;

27 (3) has committed an act of physical, mental or emotional abuse or
28 neglect or sexual abuse and who is listed in the child abuse and neglect
29 registry maintained by the department of social and rehabilitation services
30 pursuant to K.S.A. 2010 Supp. 38-2226, and amendments thereto, and
31 (A) the person has failed to successfully complete a corrective action plan
32 which had been deemed appropriate and approved by the department of
33 social and rehabilitation services, or (B) the record has not been
34 expunged pursuant to rules and regulations adopted by the secretary of
35 social and rehabilitation services;

36 (4) has had a child removed from home based on a court order
37 pursuant to K.S.A. 2010 Supp. 38-2251, and amendments thereto, in this
38 state, or a court order in any other state based upon a similar statute that
39 finds the child to be deprived or a child in need of care based on a finding
40 of physical, mental or emotional abuse or neglect or sexual abuse and the
41 child has not been returned to the home or the child reaches majority
42 before being returned to the home and the person has failed to
43 satisfactorily complete a corrective action plan approved by the

1 department of health and environment;

2 (5) has had parental rights terminated pursuant to the Kansas
3 juvenile code or K.S.A. 2010 Supp. 38-2266 through 38-2270, and
4 amendments thereto, or a similar statute of other states;

5 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
6 seq., and amendments thereto, or an immediate intervention agreement
7 pursuant to K.S.A. 2010 Supp. 38-2346, and amendments thereto,
8 involving a charge of child abuse or a sexual offense; or

9 (7) has an infectious or contagious disease.

10 (b) No person shall maintain a child care facility ~~or a family day~~
11 ~~care home~~ if such person has been found to be a person in need of a
12 guardian or a conservator, or both, as provided in K.S.A. 59-3050 through
13 59-3095, and amendments thereto.

14 (c) Any person who resides in a child care facility ~~or family day care~~
15 ~~home~~ and who has been found to be in need of a guardian or a
16 conservator, or both, shall be counted in the total number of children
17 allowed in care.

18 (d) In accordance with the provisions of this subsection, the
19 secretary of health and environment shall have access to any court orders
20 or adjudications of any court of record, any records of such orders or
21 adjudications, criminal history record information including, but not
22 limited to, diversion agreements, in the possession of the Kansas bureau
23 of investigation and any report of investigations as authorized by K.S.A.
24 2010 Supp. 38-2226, and amendments thereto, in the possession of the
25 department of social and rehabilitation services or court of this state
26 concerning persons working, regularly volunteering or residing in a child
27 care facility ~~or a family day care home~~. The secretary shall have access to
28 these records for the purpose of determining whether or not the home
29 meets the requirements of K.S.A. 59-2132, 65-503, 65-508; *and* 65-516
30 ~~and 65-519~~, and amendments thereto.

31 (e) In accordance with the provisions of this subsection, the
32 secretary is authorized to conduct national criminal history record checks
33 to determine criminal history on persons residing, working or regularly
34 volunteering in a child care facility ~~or family day care home~~. In order to
35 conduct a national criminal history check the secretary shall require
36 fingerprinting for identification and determination of criminal history.
37 The secretary shall submit the fingerprints to the Kansas bureau of
38 investigation and to the federal bureau of investigation and receive a
39 reply to enable the secretary to verify the identity of such person and
40 whether such person has been convicted of any crime that would prohibit
41 such person from residing, working or regularly volunteering in a child
42 care facility ~~or family day care home~~. The secretary is authorized to use
43 information obtained from the national criminal history record check to

1 determine such person's fitness to reside, work or regularly volunteer in a
2 child care facility ~~or family day care home~~ .

3 (f) The secretary shall notify the child care applicant, ~~or licensee or~~
4 ~~registrant~~, within seven days by certified mail with return receipt
5 requested, when the result of the national criminal history record check or
6 other appropriate review reveals unfitness specified in subsection (a)(1)
7 through (7) with regard to the person who is the subject of the review.

8 (g) No child care facility ~~or family day care home~~ or the employees
9 thereof, shall be liable for civil damages to any person refused
10 employment or discharged from employment by reason of such facility's
11 or home's compliance with the provisions of this section if such home
12 acts in good faith to comply with this section.

13 (h) For the purpose of subsection (a)(3), a person listed in the child
14 abuse and neglect central registry shall not be prohibited from residing,
15 working or volunteering in a child care facility ~~or family day care home~~
16 unless such person has: (1) Had an opportunity to be interviewed and
17 present information during the investigation of the alleged act of abuse or
18 neglect; and (2) been given notice of the agency decision and an
19 opportunity to appeal such decision to the secretary and to the courts
20 pursuant to the Kansas judicial review act.

21 (i) In regard to Kansas issued criminal history records:

22 (1) The secretary of health and environment shall provide in writing
23 information available to the secretary to each child placement agency
24 requesting information under this section, including the information
25 provided by the Kansas bureau of investigation pursuant to this section,
26 for the purpose of assessing the fitness of persons living, working or
27 regularly volunteering in a family foster home under the child placement
28 agency's sponsorship.

29 (2) The child placement agency is considered to be a governmental
30 entity and the designee of the secretary of health and environment for the
31 purposes of obtaining, using and disseminating information obtained
32 under this section.

33 (3) The information shall be provided to the child placement agency
34 regardless of whether the information discloses that the subject of the
35 request has been convicted of any offense.

36 (4) Whenever the information available to the secretary reveals that
37 the subject of the request has no criminal history on record, the secretary
38 shall provide notice thereof in writing to each child placement agency
39 requesting information under this section.

40 (5) Any staff person of a child placement agency who receives
41 information under this subsection shall keep such information
42 confidential, except that the staff person may disclose such information
43 on a need-to-know basis to: (A) The person who is the subject of the

1 request for information, (B) the applicant or operator of the family foster
2 home in which the person lives, works or regularly volunteers, (C) the
3 department of health and environment, (D) the department of social and
4 rehabilitation services, (E) the juvenile justice authority, and (F) the
5 courts.

6 (6) A violation of the provisions of subsection (i)(5) shall be an
7 unclassified misdemeanor punishable by a fine of \$100 for each violation.

8 (j) *Except as provided in this subsection, no person shall maintain a*
9 *child care facility unless such person is a high school graduate or the*
10 *equivalent thereof. The provisions of this subsection shall not apply to*
11 *any person who was maintaining a child care facility on the day*
12 *immediately prior to July 1, 2010 or who has an application for an initial*
13 *license or the renewal of an existing license pending on July 1, 2010.*

14 Sec. 236. K.S.A. 65-1120 is hereby amended to read as follows: 65-
15 1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke,
16 limit or suspend any license, certificate of qualification or authorization
17 to practice nursing as a registered professional nurse, as a licensed
18 practical nurse, as an advanced registered nurse practitioner or as a
19 registered nurse anesthetist that is issued by the board or applied for
20 under this act or may publicly or privately censure a licensee or holder of
21 a certificate of qualification or authorization, if the applicant, licensee or
22 holder of a certificate of qualification or authorization is found after
23 hearing:

24 (1) To be guilty of fraud or deceit in practicing nursing or in
25 procuring or attempting to procure a license to practice nursing;

26 (2) to have been guilty of a felony or to have been guilty of a
27 misdemeanor involving an illegal drug offense unless the applicant or
28 licensee establishes sufficient rehabilitation to warrant the public trust,
29 except that notwithstanding K.S.A. 74-120, *and amendments thereto*, no
30 license, certificate of qualification or authorization to practice nursing as
31 a licensed professional nurse, as a licensed practical nurse, as an
32 advanced registered nurse practitioner or registered nurse anesthetist shall
33 be granted to a person with a felony conviction for a crime against
34 persons as specified in article 34 of chapter 21 of the Kansas Statutes
35 Annotated ~~and acts amendatory thereof or supplemental thereto~~, *prior to*
36 *their repeal, or sections 64, 174, 210 or 211 of chapter 136 of*
37 *the 2010 Session Laws of Kansas, and amendments thereto*;

38 (3) to have committed an act of professional incompetency as
39 defined in subsection (e);

40 (4) to be unable to practice with skill and safety due to current abuse
41 of drugs or alcohol;

42 (5) to be a person who has been adjudged in need of a guardian or
43 conservator, or both, under the act for obtaining a guardian or

1 conservator, or both, and who has not been restored to capacity under that
2 act;

3 (6) to be guilty of unprofessional conduct as defined by rules and
4 regulations of the board;

5 (7) to have willfully or repeatedly violated the provisions of the
6 Kansas nurse practice act or any rules and regulations adopted pursuant to
7 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

8 (8) to have a license to practice nursing as a registered nurse or as a
9 practical nurse denied, revoked, limited or suspended, or to be publicly or
10 privately censured, by a licensing authority of another state, agency of the
11 United States government, territory of the United States or country or to
12 have other disciplinary action taken against the applicant or licensee by a
13 licensing authority of another state, agency of the United States
14 government, territory of the United States or country. A certified copy of
15 the record or order of public or private censure, denial, suspension,
16 limitation, revocation or other disciplinary action of the licensing
17 authority of another state, agency of the United States government,
18 territory of the United States or country shall constitute prima facie
19 evidence of such a fact for purposes of this paragraph (8); or

20 (9) to have assisted suicide in violation of K.S.A. 21-3406, *prior to*
21 *its repeal, or section 42 of chapter 136 of the 2010 Session Laws of*
22 *Kansas*, and amendments thereto as established by any of the following:

23 (A) A copy of the record of criminal conviction or plea of guilty for
24 a felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42*
25 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
26 thereto.

27 (B) A copy of the record of a judgment of contempt of court for
28 violating an injunction issued under K.S.A. 2002 Supp. 60-4404 and
29 amendments thereto.

30 (C) A copy of the record of a judgment assessing damages under
31 K.S.A. 2002 Supp. 60-4405 and amendments thereto.

32 (b) *Proceedings*. Upon filing of a sworn complaint with the board
33 charging a person with having been guilty of any of the unlawful
34 practices specified in subsection (a), two or more members of the board
35 shall investigate the charges, or the board may designate and authorize an
36 employee or employees of the board to conduct an investigation. After
37 investigation, the board may institute charges. If an investigation, in the
38 opinion of the board, reveals reasonable grounds for believing the
39 applicant or licensee is guilty of the charges, the board shall fix a time
40 and place for proceedings, which shall be conducted in accordance with
41 the provisions of the Kansas administrative procedure act.

42 (c) *Witnesses*. No person shall be excused from testifying in any
43 proceedings before the board under this act or in any civil proceedings

1 under this act before a court of competent jurisdiction on the ground that
2 such testimony may incriminate the person testifying, but such testimony
3 shall not be used against the person for the prosecution of any crime
4 under the laws of this state except the crime of perjury as defined in
5 ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the 2010 Session Laws of*
6 *Kansas*, and amendments thereto.

7 (d) *Costs.* If final agency action of the board in a proceeding under
8 this section is adverse to the applicant or licensee, the costs of the board's
9 proceedings shall be charged to the applicant or licensee as in ordinary
10 civil actions in the district court, but if the board is the unsuccessful party,
11 the costs shall be paid by the board. Witness fees and costs may be taxed
12 by the board according to the statutes relating to procedure in the district
13 court. All costs accrued by the board, when it is the successful party, and
14 which the attorney general certifies cannot be collected from the applicant
15 or licensee shall be paid from the board of nursing fee fund. All moneys
16 collected following board proceedings shall be credited in full to the
17 board of nursing fee fund.

18 (e) *Professional incompetency defined.* As used in this section,
19 "professional incompetency" means:

20 (1) One or more instances involving failure to adhere to the
21 applicable standard of care to a degree which constitutes gross
22 negligence, as determined by the board;

23 (2) repeated instances involving failure to adhere to the applicable
24 standard of care to a degree which constitutes ordinary negligence, as
25 determined by the board; or

26 (3) a pattern of practice or other behavior which demonstrates a
27 manifest incapacity or incompetence to practice nursing.

28 (f) *Criminal justice information.* The board upon request shall
29 receive from the Kansas bureau of investigation such criminal history
30 record information relating to arrests and criminal convictions as
31 necessary for the purpose of determining initial and continuing
32 qualifications of licensees of and applicants for licensure by the board.

33 Sec. 237. K.S.A. 2010 Supp. 65-1436 is hereby amended to read as
34 follows: 65-1436. (a) The Kansas dental board may refuse to issue the
35 license provided for in this act, or may take any of the actions with
36 respect to any dental or dental hygiene license as set forth in subsection
37 (b), whenever it is established, after notice and opportunity for hearing in
38 accordance with the provisions of the Kansas administrative procedure
39 act, that any applicant for a dental or dental hygiene license or any
40 licensed dentist or dental hygienist practicing in the state of Kansas has:

41 (1) Committed fraud, deceit or misrepresentation in obtaining any
42 license, money or other thing of value;

43 (2) habitually used intoxicants or drugs which have rendered such

- 1 person unfit for the practice of dentistry or dental hygiene;
- 2 (3) been determined by the board to be professionally incompetent;
- 3 (4) committed gross, wanton or willful negligence in the practice of
- 4 dentistry or dental hygiene;
- 5 (5) employed, allowed or permitted any unlicensed person or
- 6 persons to perform any work in the licensee's office which constitutes the
- 7 practice of dentistry or dental hygiene under the provisions of this act;
- 8 (6) willfully violated the laws of this state relating to the practice of
- 9 dentistry or dental hygiene or the rules and regulations of the secretary of
- 10 health and environment or of the board regarding sanitation;
- 11 (7) engaged in the division of fees, or agreed to split or divide the
- 12 fee received for dental service with any person for bringing or referring a
- 13 patient without the knowledge of the patient or the patient's legal
- 14 representative, except the division of fees between dentists practicing in a
- 15 partnership and sharing professional fees, or in case of one licensed
- 16 dentist employing another;
- 17 (8) committed complicity in association with or allowed the use of
- 18 the licensed dentist's name in conjunction with any person who is
- 19 engaged in the illegal practice of dentistry;
- 20 (9) been convicted of a felony or a misdemeanor involving moral
- 21 turpitude in any jurisdiction and the licensee fails to show that the
- 22 licensee has been sufficiently rehabilitated to warrant the public trust;
- 23 (10) prescribed, dispensed, administered or distributed a prescription
- 24 drug or substance, including a controlled substance, in an excessive,
- 25 improper or inappropriate manner or quantity outside the scope of
- 26 practice of dentistry or in a manner that impairs the health and safety of
- 27 an individual;
- 28 (11) prescribed, purchased, administered, sold or given away
- 29 prescription drugs, including a controlled substance, for other than legal
- 30 and legitimate purposes;
- 31 (12) violated or been convicted of any federal or state law regulating
- 32 possession, distribution or use of any controlled substance;
- 33 (13) failed to pay license fees;
- 34 (14) used the name "clinic," "institute" or other title that may
- 35 suggest a public or semipublic activity except that the name "clinic" may
- 36 be used as authorized in K.S.A. 65-1435, and amendments thereto;
- 37 (15) committed, after becoming a licensee, any conduct which is
- 38 detrimental to the public health, safety or welfare as defined by rules and
- 39 regulations of the board;
- 40 (16) engaged in a misleading, deceptive, untrue or fraudulent
- 41 misrepresentation in the practice of dentistry or on any document
- 42 connected with the practice of dentistry by knowingly submitting any
- 43 misleading, deceptive, untrue or fraudulent misrepresentation on a claim

1 form, bill or statement, including the systematic waiver of patient co-
2 payment or co-insurance;

3 (17) failed to keep adequate records;

4 (18) the licensee has had a license to practice dentistry revoked,
5 suspended or limited, has been censured or has had other disciplinary
6 action taken, an application for license denied, or voluntarily surrendered
7 the license after formal proceedings have been commenced by the proper
8 licensing authority or another state, territory or the District of Columbia
9 or other country, a certified copy of the record of the action of the other
10 jurisdiction being conclusive evidence thereof;

11 (19) failed to furnish the board, or its investigators or representatives
12 any information legally requested by the board; or

13 (20) assisted suicide in violation of K.S.A. 21-3406, *prior to its*
14 *repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas,*
15 and amendments thereto, as established by any of the following:

16 (A) A copy of the record of criminal conviction or plea of guilty for
17 a felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42*
18 *of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
19 thereto.

20 (B) A copy of the record of a judgment of contempt of court for
21 violating an injunction issued under K.S.A. 60-4404, and amendments
22 thereto.

23 (C) A copy of the record of a judgment assessing damages under
24 K.S.A. 60-4405, and amendments thereto.

25 (b) Whenever it is established, after notice and opportunity for
26 hearing in accordance with the provisions of the Kansas administrative
27 procedure act, that a licensee is in any of the circumstances or has
28 committed any of the acts described in subsection (a), the Kansas dental
29 board may take one or any combination of the following actions with
30 respect to the license of the licensee:

31 (1) Revoke the license.

32 (2) Suspend the license for such period of time as may be
33 determined by the board.

34 (3) Restrict the right of the licensee to practice by imposing
35 limitations upon dental or dental hygiene procedures which may be
36 performed, categories of dental disease which may be treated or types of
37 patients which may be treated by the dentist or dental hygienist. Such
38 restrictions shall continue for such period of time as may be determined
39 by the board, and the board may require the licensee to provide additional
40 evidence at hearing before lifting such restrictions.

41 (4) Grant a period of probation during which the imposition of one
42 or more of the actions described in subsections (b)(1) through (b)(3) will
43 be stayed subject to such conditions as may be imposed by the board

1 including a requirement that the dentist or dental hygienist refrain from
2 any course of conduct which may result in further violation of the dental
3 practice act or the dentist or dental hygienist complete additional or
4 remedial instruction. The violation of any provision of the dental practice
5 act or failure to meet any condition imposed by the board as set forth in
6 the order of the board will result in immediate termination of the period
7 of probation and imposition of such other action as has been taken by the
8 board.

9 (c) As used in this section, "professionally incompetent" means:

10 (1) One or more instances involving failure to adhere to the
11 applicable standard of dental or dental hygienist care to a degree which
12 constitutes gross negligence, as determined by the board;

13 (2) repeated instances involving failure to adhere to the applicable
14 standard of dental or dental hygienist care to a degree which constitutes
15 ordinary negligence, as determined by the board; or

16 (3) a pattern of dental or dental hygienist practice or other behavior
17 which demonstrates a manifest incapacity or incompetence to practice
18 dentistry.

19 (d) In addition to or in lieu of one or more of the actions described in
20 subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444,
21 and amendments thereto, the board may assess a fine not in excess of
22 \$10,000 against a licensee. All fines collected pursuant to this subsection
23 shall be remitted to the state treasurer in accordance with the provisions
24 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall deposit the entire amount in the state
26 treasury and of the amount so remitted, an amount equal to the board's
27 actual costs related to fine assessment and enforcement under this
28 subsection, as certified by the president of the board to the state treasurer,
29 shall be credited to the dental board fee fund and the balance shall be
30 credited to the state general fund.

31 (e) The board, upon its own motion or upon the request of any
32 licensee who is a party to a licensure action, may require a physical or
33 mental examination, or both, of such licensee either prior to a hearing to
34 be held as a part of a licensure action or prior to the termination of any
35 period of suspension or the termination of any restrictions imposed upon
36 the licensee as provided in subsection (b).

37 Sec. 238. K.S.A. 2010 Supp. 65-1627 is hereby amended to read as
38 follows: 65-1627. (a) The board may revoke, suspend, place in a
39 probationary status or deny a renewal of any license of any pharmacist
40 upon a finding that:

41 (1) The license was obtained by fraudulent means;

42 (2) the licensee has been convicted of a felony and the licensee fails
43 to show that the licensee has been sufficiently rehabilitated to warrant the

- 1 public trust;
- 2 (3) the licensee is found by the board to be guilty of unprofessional
3 conduct or professional incompetency;
- 4 (4) the licensee is addicted to the liquor or drug habit to such a
5 degree as to render the licensee unfit to practice the profession of
6 pharmacy;
- 7 (5) the licensee has violated a provision of the federal or state food,
8 drug and cosmetic act, the uniform controlled substances act of the state
9 of Kansas, or any rule and regulation adopted under any such act;
- 10 (6) the licensee is found by the board to have filled a prescription
11 not in strict accordance with the directions of the practitioner or a mid-
12 level practitioner;
- 13 (7) the licensee is found to be mentally or physically incapacitated to
14 such a degree as to render the licensee unfit to practice the profession of
15 pharmacy;
- 16 (8) the licensee has violated any of the provisions of the pharmacy
17 act of the state of Kansas or any rule and regulation adopted by the board
18 pursuant to the provisions of such pharmacy act;
- 19 (9) the licensee has failed to comply with the requirements of the
20 board relating to the continuing education of pharmacists;
- 21 (10) the licensee as a pharmacist in charge or consultant pharmacist
22 under the provisions of subsection (c) or (d) of K.S.A. 65-1648, and
23 amendments, thereto has failed to comply with the requirements of
24 subsection (c) or (d) of K.S.A. 65-1648, and amendments thereto;
- 25 (11) the licensee has knowingly submitted a misleading, deceptive,
26 untrue or fraudulent misrepresentation on a claim form, bill or statement;
- 27 (12) the licensee has had a license to practice pharmacy revoked,
28 suspended or limited, has been censured or has had other disciplinary
29 action taken, or voluntarily surrendered the license after formal
30 proceedings have been commenced, or has had an application for license
31 denied, by the proper licensing authority of another state, territory,
32 District of Columbia or other country, a certified copy of the record of the
33 action of the other jurisdiction being conclusive evidence thereof;
- 34 (13) the licensee has self-administered any controlled substance
35 without a practitioner's prescription order or a mid-level practitioner's
36 prescription order; or
- 37 (14) the licensee has assisted suicide in violation of K.S.A. 21-3406,
38 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
39 *of Kansas*, and amendments thereto as established by any of the
40 following:
- 41 (A) A copy of the record of criminal conviction or plea of guilty for
42 a felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42*
43 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments

1 thereto.

2 (B) A copy of the record of a judgment of contempt of court for
3 violating an injunction issued under K.S.A. 60-4404, and amendments
4 thereto.

5 (C) A copy of the record of a judgment assessing damages under
6 K.S.A. 60-4405, and amendments thereto; or

7 (15) the licensee has failed to furnish the board, its investigators or
8 its representatives any information legally requested by the board.

9 (b) In determining whether or not the licensee has violated
10 subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable
11 suspicion of such violation has authority to compel a licensee to submit to
12 mental or physical examination or drug screen, or any combination
13 thereof, by such persons as the board may designate. To determine
14 whether reasonable suspicion of such violation exists, the investigative
15 information shall be presented to the board as a whole. Information
16 submitted to the board as a whole and all reports, findings and other
17 records shall be confidential and not subject to discovery by or release to
18 any person or entity. The licensee shall submit to the board a release of
19 information authorizing the board to obtain a report of such examination
20 or drug screen, or both. A person affected by this subsection shall be
21 offered, at reasonable intervals, an opportunity to demonstrate that such
22 person can resume the competent practice of pharmacy with reasonable
23 skill and safety to patients. For the purpose of this subsection, every
24 person licensed to practice pharmacy and who shall accept the privilege
25 to practice pharmacy in this state by so practicing or by the making and
26 filing of a renewal application to practice pharmacy in this state shall be
27 deemed to have consented to submit to a mental or physical examination
28 or a drug screen, or any combination thereof, when directed in writing by
29 the board and further to have waived all objections to the admissibility of
30 the testimony, drug screen or examination report of the person conducting
31 such examination or drug screen, or both, at any proceeding or hearing
32 before the board on the ground that such testimony or examination or
33 drug screen report constitutes a privileged communication. In any
34 proceeding by the board pursuant to the provisions of this subsection, the
35 record of such board proceedings involving the mental and physical
36 examination or drug screen, or any combination thereof, shall not be used
37 in any other administrative or judicial proceeding.

38 (c) The board may temporarily suspend or temporarily limit the
39 license of any licensee in accordance with the emergency adjudicative
40 proceedings under the Kansas administrative procedure act if the board
41 determines that there is cause to believe that grounds exist for
42 disciplinary action under subsection (a) against the licensee and that the
43 licensee's continuation in practice would constitute an imminent danger to

1 the public health and safety.

2 (d) The board may suspend, revoke, place in a probationary status or
3 deny a renewal of any retail dealer's permit issued by the board when
4 information in possession of the board discloses that such operations for
5 which the permit was issued are not being conducted according to law or
6 the rules and regulations of the board. When the board determines that
7 action under this subsection requires the immediate protection of the
8 public interest, the board shall conduct an emergency proceeding in
9 accordance with K.S.A. 77-536, and amendments thereto, under the
10 Kansas administrative procedure act.

11 (e) The board may revoke, suspend, place in a probationary status or
12 deny a renewal of the registration of a pharmacy upon a finding that: (1)
13 Such pharmacy has been operated in such manner that violations of the
14 provisions of the pharmacy act of the state of Kansas or of the rules and
15 regulations of the board have occurred in connection therewith; (2) the
16 owner or any pharmacist employed at such pharmacy is convicted,
17 subsequent to such owner's acquisition of or such employee's
18 employment at such pharmacy, of a violation of the pharmacy act or
19 uniform controlled substances act of the state of Kansas, or the federal or
20 state food, drug and cosmetic act; (3) the owner or any pharmacist
21 employed by such pharmacy has fraudulently claimed money for
22 pharmaceutical services; or (4) the registrant has had a registration
23 revoked, suspended or limited, has been censured or has had other
24 disciplinary action taken, or an application for registration denied, by the
25 proper registering authority of another state, territory, District of
26 Columbia or other country, a certified copy of the record of the action of
27 the other jurisdiction being conclusive evidence thereof. When the board
28 determines that action under this subsection requires the immediate
29 protection of the public interest, the board shall conduct an emergency
30 proceeding in accordance with K.S.A. 77-536, and amendments thereto,
31 under the Kansas administrative procedure act.

32 (f) A registration to manufacture drugs, to distribute at wholesale a
33 drug, to sell durable medical equipment or a registration for the place of
34 business where any such operation is conducted may be suspended,
35 revoked, placed in a probationary status or the renewal of such
36 registration may be denied by the board upon a finding that the registrant
37 or the registrant's agent: (1) Has materially falsified any application filed
38 pursuant to or required by the pharmacy act of the state of Kansas; (2) has
39 been convicted of a felony under any federal or state law relating to the
40 manufacture or distribution of drugs; (3) has had any federal registration
41 for the manufacture or distribution of drugs suspended or revoked; (4) has
42 refused to permit the board or its duly authorized agents to inspect the
43 registrant's establishment in accordance with the provisions of K.S.A. 65-

1 1629, and amendments thereto; (5) has failed to keep, or has failed to file
2 with the board or has falsified records required to be kept or filed by the
3 provisions of the pharmacy act of the state of Kansas or by the board's
4 rules and regulations; or (6) has violated the pharmacy act of the state of
5 Kansas or rules and regulations adopted by the state board of pharmacy
6 under the pharmacy act of the state of Kansas or has violated the uniform
7 controlled substances act or rules and regulations adopted by the state
8 board of pharmacy under the uniform controlled substances act. When the
9 board determines that action under this subsection requires the immediate
10 protection of the public interest, the board shall conduct an emergency
11 proceeding in accordance with K.S.A. 77-536, and amendments thereto,
12 under the Kansas administrative procedure act.

13 (g) Orders under this section, and proceedings thereon, shall be
14 subject to the provisions of the Kansas administrative procedure act.

15 Sec. 239. K.S.A. 65-2006 is hereby amended to read as follows: 65-
16 2006. (a) The board, upon hearing, may revoke, suspend or limit any
17 license or permit to practice podiatry, may deny issuance or renewal of
18 any such license or permit, or may publicly or privately censure a
19 licensee or permittee, if the person holding or applying for such license or
20 permit is found by the board to:

21 (1) Have committed fraud in securing the license or permit;

22 (2) have engaged in unprofessional or dishonorable conduct or
23 professional incompetency;

24 (3) have been convicted of a felony if the board determines, after
25 investigation, that such person has not been sufficiently rehabilitated to
26 warrant the public trust;

27 (4) have used untruthful or improbable statements or flamboyant,
28 exaggerated or extravagant claims in advertisements concerning the
29 licensee's or permit holder's professional excellence or abilities;

30 (5) be addicted to or have distributed intoxicating liquors or drugs
31 for any other than lawful purposes;

32 (6) have willfully or repeatedly violated the podiatry act, the
33 pharmacy act or the uniform controlled substances act, or any rules and
34 regulations adopted thereunder, or any rules and regulations of the
35 secretary of health and environment which are relevant to the practice of
36 podiatry;

37 (7) have unlawfully invaded the field of practice of any branch of
38 the healing arts;

39 (8) have failed to submit proof of completion of a continuing
40 education course required pursuant to the podiatry act;

41 (9) have engaged in the practice of podiatry under a false or assumed
42 name or impersonated another podiatrist, but practice by a licensee or
43 permit holder under a professional corporation or other legal entity duly

1 authorized to provide podiatry services in the state shall not be considered
2 to be practice under an assumed name;

3 (10) be unable to practice podiatry with reasonable skill and safety
4 to patients by reason of any mental or physical condition, illness,
5 alcoholism or excessive use of drugs, controlled substances or chemical
6 or any other type of material;

7 (11) have had the person's license or permit to practice podiatry
8 revoked, suspended or limited, or have had other disciplinary actions
9 taken or an application for a license or permit denied, by the proper
10 licensing authority of any state, territory or country or the District of
11 Columbia;

12 (12) have violated any rules and regulations of the board or any
13 lawful order or directive of the board;

14 (13) have knowingly submitted a misleading, deceptive, untrue or
15 fraudulent misrepresentation on a claim form, bill or statement; or

16 (14) have assisted suicide in violation of K.S.A. 21-3406, *prior to*
17 *its repeal, or section 42 of chapter 136 of the 2010 Session Laws of*
18 *Kansas*, and amendments thereto as established by any of the following:

19 (A) A copy of the record of criminal conviction or plea of guilty for
20 a felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42*
21 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
22 thereto.

23 (B) A copy of the record of a judgment of contempt of court for
24 violating an injunction issued under K.S.A. ~~2002-Supp.~~ 60-4404 and
25 amendments thereto.

26 (C) A copy of the record of a judgment assessing damages under
27 K.S.A. ~~2002-Supp.~~ 60-4405 and amendments thereto.

28 (b) In determining whether or not a licensee or permit holder is
29 unable to practice podiatry with reasonable skill and safety to patients as
30 provided in subsection (a)(10), the board, upon probable cause, shall have
31 authority to compel a licensee or permit holder to submit to mental or
32 physical examination by such persons as the board may designate. Failure
33 of a licensee or permit holder to submit to such examination when
34 directed shall constitute an admission of the allegations against the
35 licensee or permit holder, unless the failure was due to circumstances
36 beyond the licensee's or permit holder's control. A person affected by this
37 subsection shall be offered, at reasonable intervals, an opportunity to
38 demonstrate that such person can resume the competent practice of
39 podiatry with reasonable skill and safety to patients. Each licensee or
40 permit holder accepting the privilege to practice podiatry in this state, by
41 practicing podiatry in this state or by making and filing an application for
42 a license or permit, or renewal of a license or permit, to practice podiatry
43 in this state, shall be deemed to have consented to submit to a mental or

1 physical examination when directed in writing by the board pursuant to
2 this subsection and to have waived all objections to the admissibility of
3 the testimony or examination report of the person conducting such
4 examination at any proceeding or hearing before the board on the ground
5 that such testimony or examination report constitutes a privileged
6 communication. The record of any board proceedings involving a mental
7 or physical examination pursuant to this subsection shall not be used in
8 any other administrative or judicial proceeding.

9 Whenever the board directs that a licensee or permit holder submit to
10 an examination pursuant to this subsection, the time from the date of the
11 board's directive until the submission to the board of the report of the
12 examination shall not be included in the computation of the time limit for
13 hearing prescribed by the Kansas administrative procedure act.

14 (c) As used in this section, "professional incompetency" and
15 "unprofessional conduct" shall have the meanings ascribed thereto by
16 K.S.A. 65-2837, and amendments thereto.

17 (d) The procedure for revocation, suspension, limitation, temporary
18 suspension, temporary limitation, or for denial of issuance or renewal
19 pursuant to this section, of any license or permit to practice podiatry shall
20 be in accordance with the provisions of the Kansas administrative
21 procedure act.

22 Sec. 240. K.S.A. 2010 Supp. 65-2434 is hereby amended to read as
23 follows: 65-2434. (a) Vital records identity fraud related to birth, death,
24 marriage and divorce certificates shall be prosecuted pursuant to ~~K.S.A.~~
25 ~~21-3830~~ *section 143 of chapter 136 of the 2010 Session Laws of Kansas,*
26 and amendments thereto.

27 (b) Any person who knowingly transports or accepts for
28 transportation, a dead body located in this state to a location outside the
29 boundaries of this state without an accompanying permit issued in
30 accordance with the provisions of K.S.A. 65-2428a, and amendments
31 thereto, shall be guilty of a class C misdemeanor.

32 (c) Except where a different penalty is provided in this section, any
33 person who violates any of the provisions of this act or neglects or refuses
34 to perform any of the duties imposed upon such person by this act, shall
35 be fined not more than \$200.

36 Sec. 241. K.S.A. 2010 Supp. 65-2836 is hereby amended to read as
37 follows: 65-2836. A licensee's license may be revoked, suspended or
38 limited, or the licensee may be publicly or privately censured or placed
39 under probationary conditions, or an application for a license or for
40 reinstatement of a license may be denied upon a finding of the existence
41 of any of the following grounds:

42 (a) The licensee has committed fraud or misrepresentation in
43 applying for or securing an original, renewal or reinstated license.

1 (b) The licensee has committed an act of unprofessional or
2 dishonorable conduct or professional incompetency, except that the board
3 may take appropriate disciplinary action or enter into a non-disciplinary
4 resolution when a licensee has engaged in any conduct or professional
5 practice on a single occasion that, if continued, would reasonably be
6 expected to constitute an inability to practice the healing arts with
7 reasonable skill and safety to patients or unprofessional conduct as
8 defined in K.S.A. 65-2837, and amendments thereto.

9 (c) The licensee has been convicted of a felony or class A
10 misdemeanor, whether or not related to the practice of the healing arts.
11 The board shall revoke a licensee's license following conviction of a
12 felony occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board
13 members present and voting determine by clear and convincing evidence
14 that such licensee will not pose a threat to the public in such person's
15 capacity as a licensee and that such person has been sufficiently
16 rehabilitated to warrant the public trust. In the case of a person who has
17 been convicted of a felony and who applies for an original license or to
18 reinstate a canceled license, the application for a license shall be denied
19 unless a $\frac{2}{3}$ majority of the board members present and voting on such
20 application determine by clear and convincing evidence that such person
21 will not pose a threat to the public in such person's capacity as a licensee
22 and that such person has been sufficiently rehabilitated to warrant the
23 public trust.

24 (d) The licensee has used fraudulent or false advertisements.

25 (e) The licensee is addicted to or has distributed intoxicating liquors
26 or drugs for any other than lawful purposes.

27 (f) The licensee has willfully or repeatedly violated this act, the
28 pharmacy act of the state of Kansas or the uniform controlled substances
29 act, or any rules and regulations adopted pursuant thereto, or any rules
30 and regulations of the secretary of health and environment which are
31 relevant to the practice of the healing arts.

32 (g) The licensee has unlawfully invaded the field of practice of any
33 branch of the healing arts in which the licensee is not licensed to practice.

34 (h) The licensee has engaged in the practice of the healing arts under
35 a false or assumed name, or the impersonation of another practitioner.
36 The provisions of this subsection relating to an assumed name shall not
37 apply to licensees practicing under a professional corporation or other
38 legal entity duly authorized to provide such professional services in the
39 state of Kansas.

40 (i) The licensee has the inability to practice the healing arts with
41 reasonable skill and safety to patients by reason of physical or mental
42 illness, or condition or use of alcohol, drugs or controlled substances. In
43 determining whether or not such inability exists, the board, upon

1 reasonable suspicion of such inability, shall have authority to compel a
2 licensee to submit to mental or physical examination or drug screen, or
3 any combination thereof, by such persons as the board may designate
4 either in the course of an investigation or a disciplinary proceeding. To
5 determine whether reasonable suspicion of such inability exists, the
6 investigative information shall be presented to the board as a whole, to a
7 review committee of professional peers of the licensee established
8 pursuant to K.S.A. 65-2840c, and amendments thereto, or to a committee
9 consisting of the officers of the board elected pursuant to K.S.A. 65-
10 2818, and amendments thereto, and the executive director appointed
11 pursuant to K.S.A. 65-2878, and amendments thereto, or to a presiding
12 officer authorized pursuant to K.S.A. 77-514, and amendments thereto.
13 The determination shall be made by a majority vote of the entity which
14 reviewed the investigative information. Information submitted to the
15 board as a whole or a review committee of peers or a committee of the
16 officers and executive director of the board and all reports, findings and
17 other records shall be confidential and not subject to discovery by or
18 release to any person or entity. The licensee shall submit to the board a
19 release of information authorizing the board to obtain a report of such
20 examination or drug screen, or both. A person affected by this subsection
21 shall be offered, at reasonable intervals, an opportunity to demonstrate
22 that such person can resume the competent practice of the healing arts
23 with reasonable skill and safety to patients. For the purpose of this
24 subsection, every person licensed to practice the healing arts and who
25 shall accept the privilege to practice the healing arts in this state by so
26 practicing or by the making and filing of a renewal to practice the healing
27 arts in this state shall be deemed to have consented to submit to a mental
28 or physical examination or a drug screen, or any combination thereof,
29 when directed in writing by the board and further to have waived all
30 objections to the admissibility of the testimony, drug screen or
31 examination report of the person conducting such examination or drug
32 screen, or both, at any proceeding or hearing before the board on the
33 ground that such testimony or examination or drug screen report
34 constitutes a privileged communication. In any proceeding by the board
35 pursuant to the provisions of this subsection, the record of such board
36 proceedings involving the mental and physical examination or drug
37 screen, or any combination thereof, shall not be used in any other
38 administrative or judicial proceeding.

39 (j) The licensee has had a license to practice the healing arts
40 revoked, suspended or limited, has been censured or has had other
41 disciplinary action taken, or an application for a license denied, by the
42 proper licensing authority of another state, territory, District of Columbia,
43 or other country, a certified copy of the record of the action of the other

1 jurisdiction being conclusive evidence thereof.

2 (k) The licensee has violated any lawful rule and regulation
3 promulgated by the board or violated any lawful order or directive of the
4 board previously entered by the board.

5 (l) The licensee has failed to report or reveal the knowledge required
6 to be reported or revealed under K.S.A. 65-28,122, and amendments
7 thereto.

8 (m) The licensee, if licensed to practice medicine and surgery, has
9 failed to inform in writing a patient suffering from any form of
10 abnormality of the breast tissue for which surgery is a recommended form
11 of treatment, of alternative methods of treatment recognized by licensees
12 of the same profession in the same or similar communities as being
13 acceptable under like conditions and circumstances.

14 (n) The licensee has cheated on or attempted to subvert the validity
15 of the examination for a license.

16 (o) The licensee has been found to be mentally ill, disabled, not
17 guilty by reason of insanity, not guilty because the licensee suffers from a
18 mental disease or defect or incompetent to stand trial by a court of
19 competent jurisdiction.

20 (p) The licensee has prescribed, sold, administered, distributed or
21 given a controlled substance to any person for other than medically
22 accepted or lawful purposes.

23 (q) The licensee has violated a federal law or regulation relating to
24 controlled substances.

25 (r) The licensee has failed to furnish the board, or its investigators or
26 representatives, any information legally requested by the board.

27 (s) Sanctions or disciplinary actions have been taken against the
28 licensee by a peer review committee, health care facility, a governmental
29 agency or department or a professional association or society for acts or
30 conduct similar to acts or conduct which would constitute grounds for
31 disciplinary action under this section.

32 (t) The licensee has failed to report to the board any adverse action
33 taken against the licensee by another state or licensing jurisdiction, a peer
34 review body, a health care facility, a professional association or society, a
35 governmental agency, by a law enforcement agency or a court for acts or
36 conduct similar to acts or conduct which would constitute grounds for
37 disciplinary action under this section.

38 (u) The licensee has surrendered a license or authorization to
39 practice the healing arts in another state or jurisdiction, has surrendered
40 the authority to utilize controlled substances issued by any state or federal
41 agency, has agreed to a limitation to or restriction of privileges at any
42 medical care facility or has surrendered the licensee's membership on any
43 professional staff or in any professional association or society while

1 under investigation for acts or conduct similar to acts or conduct which
2 would constitute grounds for disciplinary action under this section.

3 (v) The licensee has failed to report to the board surrender of the
4 licensee's license or authorization to practice the healing arts in another
5 state or jurisdiction or surrender of the licensee's membership on any
6 professional staff or in any professional association or society while
7 under investigation for acts or conduct similar to acts or conduct which
8 would constitute grounds for disciplinary action under this section.

9 (w) The licensee has an adverse judgment, award or settlement
10 against the licensee resulting from a medical liability claim related to acts
11 or conduct similar to acts or conduct which would constitute grounds for
12 disciplinary action under this section.

13 (x) The licensee has failed to report to the board any adverse
14 judgment, settlement or award against the licensee resulting from a
15 medical malpractice liability claim related to acts or conduct similar to
16 acts or conduct which would constitute grounds for disciplinary action
17 under this section.

18 (y) The licensee has failed to maintain a policy of professional
19 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
20 amendments thereto.

21 (z) The licensee has failed to pay the premium surcharges as
22 required by K.S.A. 40-3404, and amendments thereto.

23 (aa) The licensee has knowingly submitted any misleading,
24 deceptive, untrue or fraudulent representation on a claim form, bill or
25 statement.

26 (bb) The licensee as the responsible physician for a physician
27 assistant has failed to adequately direct and supervise the physician
28 assistant in accordance with the physician assistant licensure act or rules
29 and regulations adopted under such act.

30 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,
31 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
32 *of Kansas*, and amendments thereto, as established by any of the
33 following:

34 (A) A copy of the record of criminal conviction or plea of guilty for
35 a felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42*
36 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
37 thereto.

38 (B) A copy of the record of a judgment of contempt of court for
39 violating an injunction issued under K.S.A. 60-4404, and amendments
40 thereto.

41 (C) A copy of the record of a judgment assessing damages under
42 K.S.A. 60-4405, and amendments thereto.

43 Sec. 242. K.S.A. 65-2859 is hereby amended to read as follows: 65-

1 2859. Any person who shall file or attempt to file with the board any false
2 or forged diploma, certificate, affidavit or identification or qualification,
3 or any other written or printed instrument, shall be guilty of forgery as
4 ~~provided by K.S.A. 21-3710 and a severity level 8, nonperson~~
5 ~~felony defined in section 109 of chapter 136 of the 2010 Session Laws of~~
6 ~~Kansas, and amendments thereto.~~

7 Sec. 243. K.S.A. 65-28,108 is hereby amended to read as follows:
8 65-28,108. (a) The withholding or withdrawal of life-sustaining
9 procedures from a qualified patient in accordance with the provisions of
10 this act shall not, for any purpose, constitute a suicide and shall not
11 constitute the crime of assisting suicide as defined by ~~K.S.A. 21-3406~~ in
12 *section 42 of chapter 136 of the 2010 Session Laws of Kansas, and*
13 *amendments thereto.*

14 (b) The making of a declaration pursuant to K.S.A. 65-28,103, *and*
15 *amendments thereto,* shall not affect in any manner the sale,
16 procurement, or issuance of any policy of life insurance, nor shall it be
17 deemed to modify the terms of an existing policy of life insurance. No
18 policy of life insurance shall be legally impaired or invalidated in any
19 manner by the withholding or withdrawal of life-sustaining procedures
20 from an insured qualified patient, notwithstanding any term of the policy
21 to the contrary.

22 (c) No physician, medical care facility, or other health care provider,
23 and no health care service plan, health maintenance organization, insurer
24 issuing disability insurance, self-insured employee welfare benefit plan or
25 nonprofit medical and hospital service corporation shall require any
26 person to execute a declaration as a condition for being insured for, or
27 receiving, health care services.

28 (d) Nothing in this act shall impair or supersede any legal right or
29 legal responsibility which any person may have to effect the withholding
30 or withdrawal of life-sustaining procedures in any lawful manner. In
31 such respect the provisions of this act are cumulative.

32 (e) This act shall create no presumption concerning the intention of
33 an individual who has not executed a declaration to consent to the use or
34 withholding of life-sustaining procedures in the event of a terminal
35 condition.

36 Sec. 244. K.S.A. 65-28a05 is hereby amended to read as follows:
37 65-28a05. A licensee's license may be revoked, suspended or limited, or
38 the licensee may be publicly or privately censured, or an application for a
39 license or for reinstatement of a license may be denied upon a finding of
40 the existence of any of the following grounds:

41 (a) The licensee has committed an act of unprofessional conduct as
42 defined by rules and regulations adopted by the board;

43 (b) the licensee has obtained a license by means of fraud,

- 1 misrepresentations or concealment of material facts;
- 2 (c) the licensee has committed an act of professional incompetency
3 as defined by rules and regulations adopted by the board;
- 4 (d) the licensee has been convicted of a felony;
- 5 (e) the licensee has violated any provision of this act and
6 amendments thereto;
- 7 (f) the licensee has violated any lawful order or rule and regulation
8 of the board;
- 9 (g) the licensee has exceeded or has acted outside the scope of
10 authority given the physician assistant by the responsible physician or by
11 this act;
- 12 (h) the licensee has assisted suicide in violation of K.S.A. 21-3406,
13 *prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws*
14 *of Kansas*, and amendments thereto, as established by any of the
15 following:
- 16 (1) A copy of the record of criminal conviction or plea of guilty for a
17 felony in violation of K.S.A. 21-3406, *prior to its repeal, or section 42 of*
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto.
- 20 (2) A copy of the record of a judgment of contempt of court for
21 violating an injunction issued under K.S.A. ~~2002-Supp.~~ 60-4404 and
22 amendments thereto.
- 23 (3) A copy of the record of a judgment assessing damages under
24 K.S.A. 2002 Supp. 60-4405, and amendments thereto.
- 25 Sec. 245. K.S.A. 65-4209 is hereby amended to read as follows: 65-
26 4209. (a) The board may deny, revoke, limit or suspend any license to
27 practice as a mental health technician issued or applied for in accordance
28 with the provisions of this act, may publicly or privately censure a
29 licensee or may otherwise discipline a licensee upon proof that the
30 licensee:
- 31 (1) Is guilty of fraud or deceit in procuring or attempting to procure
32 a license to practice mental health technology;
- 33 (2) is unable to practice with reasonable skill and safety due to
34 current abuse of drugs or alcohol;
- 35 (3) to be a person who has been adjudged in need of a guardian or
36 conservator, or both, under the act for obtaining a guardian or
37 conservator, or both, and who has not been restored to capacity under that
38 act;
- 39 (4) is incompetent or grossly negligent in carrying out the functions
40 of a mental health technician;
- 41 (5) has committed unprofessional conduct as defined by rules and
42 regulations of the board;
- 43 (6) has been convicted of a felony or has been convicted of a

1 misdemeanor involving an illegal drug offense, unless the applicant or
2 licensee establishes sufficient rehabilitation to warrant the public trust,
3 except that notwithstanding K.S.A. 74-120, *and amendments thereto*, no
4 license, certificate of qualification or authorization to practice as a
5 licensed mental health technician shall be granted to a person with a
6 felony conviction for a crime against persons as specified in article 34 of
7 chapter 21 of the Kansas Statutes Annotated ~~and acts amendatory thereof~~
8 ~~or supplemental thereto~~, *prior to their repeal, or sections 36 through 64,*
9 *174, 210 or 211 of chapter 136 of the 2010 Session Laws of Kansas, and*
10 *amendments thereto*;

11 (7) has committed an act of professional incompetency as defined in
12 subsection (e);

13 (8) to have willfully or repeatedly violated the provisions of the
14 mental health technician's licensure act or rules and regulations adopted
15 under that act and amendments thereto; or

16 (9) to have a license to practice mental health technology denied,
17 revoked, limited or suspended, or to be publicly or privately censured, by
18 a licensing authority of another state, agency of the United States
19 government, territory of the United States or country or to have other
20 disciplinary action taken against the applicant or licensee by a licensing
21 authority of another state, agency of the United States government,
22 territory of the United States or country. A certified copy of the record or
23 order of public or private censure, denial, suspension, limitation,
24 revocation or other disciplinary action of the licensing authority of
25 another state, agency of the United States government, territory of the
26 United States or country shall constitute prima facie evidence of such a
27 fact for purposes of this paragraph (9).

28 (b) Upon filing a sworn complaint with the board charging a person
29 with having been guilty of any of the unlawful practices specified in
30 subsection (a), two or more members of the board shall investigate the
31 charges, or the board may designate and authorize an employee or
32 employees of the board to conduct an investigation. After investigation,
33 the board may institute charges. If an investigation, in the opinion of the
34 board, reveals reasonable grounds to believe the applicant or licensee is
35 guilty of the charges, the board shall fix a time and place for proceedings,
36 which shall be conducted in accordance with the Kansas administrative
37 procedure act.

38 (c) No person shall be excused from testifying in any proceedings
39 before the board under the mental health technician's licensure act or in
40 any civil proceedings under such act before a court of competent
41 jurisdiction on the ground that the testimony may incriminate the person
42 testifying, but such testimony shall not be used against the person for the
43 prosecution of any crime under the laws of this state except the crime of

1 perjury as defined in ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the*
2 *2010 Session Laws of Kansas*, and amendments thereto.

3 (d) If final agency action of the board in a proceeding under this
4 section is adverse to the applicant or licensee, the costs of the board's
5 proceedings shall be charged to the applicant or licensee as in ordinary
6 civil actions in the district court, but if the board is the unsuccessful party,
7 the costs shall be paid by the board. Witness fees and costs may be taxed
8 by the board according to the statutes relating to procedure in the district
9 court. All costs accrued by the board, when it is the successful party, and
10 which the attorney general certifies cannot be collected from the applicant
11 or licensee shall be paid from the board of nursing fee fund. All moneys
12 collected following board proceedings shall be credited in full to the
13 board of nursing fee fund.

14 (e) As used in this section, "professional incompetency" means:

15 (1) One or more instances involving failure to adhere to the
16 applicable standard of care to a degree which constitutes gross
17 negligence, as determined by the board;

18 (2) repeated instances involving failure to adhere to the applicable
19 standard of care to a degree which constitutes ordinary negligence, as
20 determined by the board; or

21 (3) a pattern of practice or other behavior which demonstrates a
22 manifest incapacity or incompetence to practice mental health
23 technology.

24 (f) The board upon request shall receive from the Kansas bureau of
25 investigation such criminal history record information relating to criminal
26 convictions as necessary for the purpose of determining initial and
27 continuing qualifications of licensees of and applicants for licensure by
28 the board.

29 (g) All proceedings under this section shall be conducted in
30 accordance with the provisions of the Kansas administrative procedure
31 act.

32 Sec. 246. K.S.A. 2010 Supp. 65-5117 is hereby amended to read as
33 follows: 65-5117. (a) (1) No person shall knowingly operate a home
34 health agency if, for the home health agency, there works any person who
35 has been convicted of or has been adjudicated a juvenile offender because
36 of having committed an act which if done by an adult would constitute
37 the commission of capital murder, pursuant to K.S.A. 21-3439, *prior to*
38 *its repeal, or section 36 of chapter 136 of the 2010 Session Laws of*
39 *Kansas*, and amendments thereto, first degree murder, pursuant to K.S.A.
40 21-3401, *prior to its repeal, or section 37 of chapter 136 of the 2010*
41 *Session Laws of Kansas*, and amendments thereto, second degree murder,
42 pursuant to subsection (a) of K.S.A. 21-3402, *prior to its repeal, or*
43 *subsection (a) of section 38 of chapter 136 of the 2010 Session Laws of*

1 *Kansas*, and amendments thereto, voluntary manslaughter, pursuant to
2 K.S.A. 21-3403, *prior to its repeal, or section 39 of chapter 136 of the*
3 *2010 Session Laws of Kansas*, and amendments thereto, assisting suicide,
4 pursuant to K.S.A. 21-3406, *prior to its repeal, or section 42 of chapter*
5 *136 of the 2010 Session Laws of Kansas*, and amendments thereto,
6 mistreatment of a dependent adult, pursuant to K.S.A. 21-3437, *prior to*
7 *its repeal, or section 52 of chapter 136 of the 2010 Session Laws of*
8 *Kansas*, and amendments thereto, rape, pursuant to K.S.A. 21-3502 ,
9 *prior to its repeal, or section 67 of chapter 136 of the 2010 Session Laws*
10 *of Kansas*, and amendments thereto, indecent liberties with a child,
11 pursuant to K.S.A. 21-3503, *prior to its repeal, or subsection (a) of*
12 *section 70 of chapter 136 of the 2010 Session Laws of Kansas*, and
13 amendments thereto, aggravated indecent liberties with a child, pursuant
14 to K.S.A. 21-3504, *prior to its repeal, or subsection (b) of section 70 of*
15 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
16 thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, *prior*
17 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
18 *Session Laws of Kansas*, and amendments thereto, indecent solicitation of
19 a child, pursuant to K.S.A. 21-3510, *prior to its repeal, or subsection (a)*
20 *of section 72 of chapter 136 of the 2010 Session Laws of Kansas*, and
21 amendments thereto, aggravated indecent solicitation of a child, pursuant
22 to K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section 72 of*
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, *prior*
25 *to its repeal, or section 74 of chapter 136 of the 2010 Session Laws of*
26 *Kansas*, and amendments thereto, sexual battery, pursuant to K.S.A. 21-
27 3517, *prior to its repeal, or subsection (a) of section 69 of chapter 136 of*
28 *the 2010 Session Laws of Kansas*, and amendments thereto, or aggravated
29 sexual battery, pursuant to K.S.A. 21-3518, *prior to its repeal, or*
30 *subsection (b) of section 69 of chapter 136 of the 2010 Session Laws of*
31 *Kansas*, and amendments thereto, an attempt to commit any of the crimes
32 listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, *prior to its*
33 *repeal, or section 33 of chapter 136 of the 2010 Session Laws of Kansas*,
34 and amendments thereto, a conspiracy to commit any of the crimes listed
35 in this subsection (a)(1), pursuant to K.S.A. 21-3302, *prior to its repeal,*
36 *or section 34 of chapter 136 of the 2010 Session Laws of Kansas*, and
37 amendments thereto, or criminal solicitation of any of the crimes listed in
38 this subsection (a)(1), pursuant to K.S.A. 21-3303, *prior to its repeal, or*
39 *section 35 of chapter 136 of the 2010 Session Laws of Kansas*, and
40 amendments thereto, or similar statutes of other states or the federal
41 government. The provisions of subsection (a)(2)(C) shall not apply to any
42 person who is employed by a home health agency on ~~the effective date of~~
43 ~~this act~~ July 1, 2010 and while continuously employed by the same home

1 health agency.

2 (2) A person operating a home health agency may employ an
3 applicant who has been convicted of any of the following if five or more
4 years have elapsed since the applicant satisfied the sentence imposed or
5 was discharged from probation, a community correctional services
6 program, parole, postrelease supervision, conditional release or a
7 suspended sentence; or if five or more years have elapsed since the
8 applicant has been finally discharged from the custody of the
9 commissioner of juvenile justice or from probation or has been
10 adjudicated a juvenile offender, whichever time is longer: A felony
11 conviction for a crime which is described in: (A) Article 34 of chapter 21
12 of the Kansas Statutes Annotated, *prior to their repeal, or sections 36*
13 *through 64, 174, 210 or 211 of chapter 136 of the 2010 Session Laws of*
14 *Kansas*, and amendments thereto, except those crimes listed in subsection
15 (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
16 Annotated, *prior to their repeal, or sections 65 through 86 or 229*
17 *through 231 of chapter 136 of the 2010 Session Laws of Kansas*, and
18 amendments thereto, except those crimes listed in subsection (a)(1) and
19 K.S.A. 21-3605, *prior to its repeal, or section 83 of chapter 136 of the*
20 *2010 Session Laws of Kansas*, and amendments thereto; (C) K.S.A. 21-
21 3701, *prior to its repeal, or section 87 of chapter 136 of the 2010 Session*
22 *Laws of Kansas*, and amendments thereto; (D) an attempt to commit any
23 of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301,
24 *prior to its repeal, or section 33 of chapter 136 of the 2010 Session Laws*
25 *of Kansas*, and amendments thereto; (E) a conspiracy to commit any of
26 the crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3302, *prior to*
27 *its repeal, or section 34 of chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto; (F) criminal solicitation of any of the
29 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, *prior to its*
30 *repeal, or section 35 of chapter 136 of the 2010 Session Laws of Kansas*,
31 and amendments thereto; or (G) similar statutes of other states or the
32 federal government.

33 (b) No person shall operate a home health agency if such person has
34 been found to be a person in need of a guardian or a conservator, or both,
35 as provided in K.S.A. 59-3050 through 59-3095, and amendments
36 thereto. The provisions of this subsection shall not apply to a minor found
37 to be in need of a guardian or conservator for reasons other than
38 impairment.

39 (c) The secretary of health and environment shall have access to any
40 criminal history record information in the possession of the Kansas
41 bureau of investigation regarding any criminal history information,
42 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
43 *repeal, or section 52, subsection (a) of section 69 and section 87 of*

1 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
2 thereto, adjudications of a juvenile offender which if committed by an
3 adult would have been a felony conviction, and adjudications of a
4 juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
5 and 21-3701, *prior to their repeal, or section 52, subsection (a) of section*
6 *69 and section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
7 and amendments thereto, concerning persons working for a home health
8 agency. The secretary shall have access to these records for the purpose
9 of determining whether or not the home health agency meets the
10 requirements of this section. The Kansas bureau of investigation may
11 charge to the department of health and environment a reasonable fee for
12 providing criminal history record information under this subsection.

13 (d) For the purpose of complying with this section, the operator of a
14 home health agency shall request from the department of health and
15 environment information regarding any criminal history information,
16 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to their*
17 *repeal, or section 52, subsection (a) of section 69 and section 87 of*
18 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto, adjudications of a juvenile offender which if committed by an
20 adult would have been a felony conviction, and adjudications of a
21 juvenile offender for an offense described in K.S.A. 21-3437, 21-3517
22 and 21-3701, *prior to their repeal, or section 52, subsection (a) of section*
23 *69 and section 87 of chapter 136 of the 2010 Session Laws of Kansas*,
24 and amendments thereto, and which relates to a person who works for the
25 home health agency or is being considered for employment by the home
26 health agency, for the purpose of determining whether such person is
27 subject to the provisions of this section. For the purpose of complying
28 with this section, information relating to convictions and adjudications by
29 the federal government or to convictions and adjudications in states other
30 than Kansas shall not be required until such time as the secretary of
31 health and environment determines the search for such information could
32 reasonably be performed and the information obtained within a two-week
33 period. For the purpose of complying with this section, the operator of a
34 home health agency shall receive from any employment agency which
35 provides employees to work for the home health agency written
36 certification that such employees are not prohibited from working for the
37 home health agency under this section. For the purpose of complying
38 with this section, a person who operates a home health agency may hire
39 an applicant for employment on a conditional basis pending the results
40 from the department of health and environment of a request for
41 information under this subsection. No home health agency, the operator
42 or employees of a home health agency or an employment agency, or the
43 operator or employees of an employment agency, which provides

1 employees to work for the home health agency shall be liable for civil
2 damages resulting from any decision to employ, to refuse to employ or to
3 discharge from employment any person based on such home health
4 agency's compliance with the provisions of this section if such home
5 health agency or employment agency acts in good faith to comply with
6 this section.

7 (e) The secretary of health and environment shall charge each person
8 requesting information under this section a fee equal to cost, not to
9 exceed \$10, for each name about which an information request has been
10 submitted under this section.

11 (f) (1) The secretary of health and environment shall provide each
12 operator requesting information under this section with the criminal
13 history record information concerning any criminal history information
14 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, *prior to*
15 *their repeal, or section 52, subsection (a) of section 69 and section 87 of*
16 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
17 thereto, in writing and within three working days of receipt of such
18 information from the Kansas bureau of investigation. The criminal history
19 record information shall be provided regardless of whether the
20 information discloses that the subject of the request has been convicted of
21 an offense enumerated in subsection (a).

22 (2) When an offense enumerated in subsection (a) exists in the
23 criminal history record information, and when further confirmation
24 regarding criminal history record information is required from the
25 appropriate court of jurisdiction or Kansas department of corrections, the
26 secretary shall notify each operator that requests information under this
27 section in writing and within three working days of receipt from the
28 Kansas bureau of investigation that further confirmation is required. The
29 secretary shall provide to the operator requesting information under this
30 section information in writing and within three working days of receipt of
31 such information from the appropriate court of jurisdiction or Kansas
32 department of corrections regarding confirmation regarding the criminal
33 history record information.

34 (3) Whenever the criminal history record information reveals that
35 the subject of the request has no criminal history on record, the secretary
36 shall provide notice to each operator requesting information under this
37 section, in writing and within three working days after receipt of such
38 information from the Kansas bureau of investigation.

39 (4) The secretary of health and environment shall not provide each
40 operator requesting information under this section with the juvenile
41 criminal history record information which relates to a person subject to a
42 background check as is provided by K.S.A. 2010 Supp. 38-2326, and
43 amendments thereto, except for adjudications of a juvenile offender for

1 an offense described in K.S.A. 21-3701, *prior to its repeal, or section 87*
2 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
3 thereto. The secretary shall notify the operator that requested the
4 information, in writing and within three working days of receipt of such
5 information from the Kansas bureau of investigation, whether juvenile
6 criminal history record information received pursuant to this section
7 reveals that the operator would or would not be prohibited by this section
8 from employing the subject of the request for information and whether
9 such information contains adjudications of a juvenile offender for an
10 offense described in K.S.A. 21-3701, *prior to its repeal, or section 87 of*
11 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto.

13 (5) An operator who receives criminal history record information
14 under this subsection (f) shall keep such information confidential, except
15 that the operator may disclose such information to the person who is the
16 subject of the request for information. A violation of this paragraph (5)
17 shall be an unclassified misdemeanor punishable by a fine of \$100.

18 (g) No person who works for a home health agency and who is
19 currently licensed or registered by an agency of this state to provide
20 professional services in this state and who provides such services as part
21 of the work which such person performs for the home health agency shall
22 be subject to the provisions of this section.

23 (h) A person who volunteers to assist a home health agency shall not
24 be subject to the provisions of this section because of such volunteer
25 activity.

26 (i) An operator may request from the department of health and
27 environment criminal history information on persons employed under
28 subsections (g) and (h).

29 (j) No person who has been employed by the same home health
30 agency since July 1, 1992, shall be subject to the requirements of this
31 section while employed by such home health agency.

32 (k) The operator of a home health agency shall not be required under
33 this section to conduct a background check on an applicant for
34 employment with the home health agency if the applicant has been the
35 subject of a background check under this act within one year prior to the
36 application for employment with the home health agency. The operator of
37 a home health agency where the applicant was the subject of such
38 background check may release a copy of such background check to the
39 operator of a home health agency where the applicant is currently
40 applying.

41 (l) For purposes of this section, the Kansas bureau of investigation
42 shall only report felony convictions, convictions under K.S.A. 21-3437,
43 21-3517 and 21-3701, *prior to their repeal, or section 52, subsection (a)*

1 *of section 69 and section 87 of chapter 136 of the 2010 Session Laws of*
2 *Kansas, and amendments thereto, adjudications of a juvenile offender*
3 *which if committed by an adult would have been a felony conviction, and*
4 *adjudications of a juvenile offender for an offense described in K.S.A.*
5 *21-3437, 21-3517 and 21-3701, prior to their repeal, or section 52,*
6 *subsection (a) of section 69 and section 87 of chapter 136 of the 2010*
7 *Session Laws of Kansas, and amendments thereto, to the secretary of*
8 *health and environment when a background check is requested.*

9 (m) This section shall be part of and supplemental to the provisions
10 of article 51 of chapter 65 of the Kansas Statutes Annotated ~~and acts~~
11 ~~amendatory thereof or supplemental thereto, and amendments thereto.~~

12 Sec. 247. K.S.A. 65-6703 is hereby amended to read as follows: 65-
13 6703. (a) No person shall perform or induce an abortion when the fetus is
14 viable unless such person is a physician and has a documented referral
15 from another physician not legally or financially affiliated with the
16 physician performing or inducing the abortion and both physicians
17 determine that: (1) The abortion is necessary to preserve the life of the
18 pregnant woman; or (2) a continuation of the pregnancy will cause a
19 substantial and irreversible impairment of a major bodily function of the
20 pregnant woman.

21 (b) (1) Except in the case of a medical emergency, prior to
22 performing an abortion upon a woman, the physician shall determine the
23 gestational age of the fetus according to accepted obstetrical and neonatal
24 practice and standards applied by physicians in the same or similar
25 circumstances. If the physician determines the gestational age is less than
26 22 weeks, the physician shall document as part of the medical records of
27 the woman the basis for the determination.

28 (2) If the physician determines the gestational age of the fetus is 22
29 or more weeks, prior to performing an abortion upon the woman the
30 physician shall determine if the fetus is viable by using and exercising
31 that degree of care, skill and proficiency commonly exercised by the
32 ordinary skillful, careful and prudent physician in the same or similar
33 circumstances. In making this determination of viability, the physician
34 shall perform or cause to be performed such medical examinations and
35 tests as are necessary to make a finding of the gestational age of the fetus
36 and shall enter such findings and determinations of viability in the
37 medical record of the woman.

38 (3) If the physician determines the gestational age of a fetus is 22 or
39 more weeks, and determines that the fetus is not viable and performs an
40 abortion on the woman, the physician shall report such determinations
41 and the reasons for such determinations in writing to the medical care
42 facility in which the abortion is performed for inclusion in the report of
43 the medical care facility to the secretary of health and environment under

1 K.S.A. 65-445, and amendments thereto, or if the abortion is not
2 performed in a medical care facility, the physician shall report such
3 determinations and the reasons for such determinations in writing to the
4 secretary of health and environment as part of the written report made by
5 the physician to the secretary of health and environment under K.S.A. 65-
6 445, and amendments thereto.

7 (4) If the physician who is to perform the abortion determines the
8 gestational age of a fetus is 22 or more weeks, and determines that the
9 fetus is viable, both physicians under subsection (a) determine in
10 accordance with the provisions of subsection (a) that an abortion is
11 necessary to preserve the life of the pregnant woman or that a
12 continuation of the pregnancy will cause a substantial and irreversible
13 impairment of a major bodily function of the pregnant woman and the
14 physician performs an abortion on the woman, the physician who
15 performs the abortion shall report such determinations, the reasons for
16 such determinations and the basis for the determination that an abortion is
17 necessary to preserve the life of the pregnant woman or that a
18 continuation of the pregnancy will cause a substantial and irreversible
19 impairment of a major bodily function of the pregnant woman in writing
20 to the medical care facility in which the abortion is performed for
21 inclusion in the report of the medical care facility to the secretary of
22 health and environment under K.S.A. 65-445, and amendments thereto,
23 or if the abortion is not performed in a medical care facility, the physician
24 who performs the abortion shall report such determinations, the reasons
25 for such determinations and the basis for the determination that an
26 abortion is necessary to preserve the life of the pregnant woman or that a
27 continuation of the pregnancy will cause a substantial and irreversible
28 impairment of a major bodily function of the pregnant woman in writing
29 to the secretary of health and environment as part of the written report
30 made by the physician to the secretary of health and environment under
31 K.S.A. 65-445, and amendments thereto.

32 (5) The physician shall retain the medical records required to be kept
33 under paragraphs (1) and (2) of this subsection (b) for not less than five
34 years and shall retain a copy of the written reports required under
35 paragraphs (3) and (4) of this subsection (b) for not less than five years.

36 (c) A woman upon whom an abortion is performed shall not be
37 prosecuted under this section for a conspiracy to violate this section
38 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*
39 *Laws of Kansas*, and amendments thereto.

40 (d) Nothing in this section shall be construed to create a right to an
41 abortion. Notwithstanding any provision of this section, a person shall not
42 perform an abortion that is prohibited by law.

43 (e) As used in this section, "viable" means that stage of fetal

1 development when it is the physician's judgment according to accepted
2 obstetrical or neonatal standards of care and practice applied by
3 physicians in the same or similar circumstances that there is a reasonable
4 probability that the life of the child can be continued indefinitely outside
5 the mother's womb with natural or artificial life-supportive measures.

6 (f) If any provision of this section is held to be invalid or
7 unconstitutional, it shall be conclusively presumed that the legislature
8 would have enacted the remainder of this section without such invalid or
9 unconstitutional provision.

10 (g) Upon a first conviction of a violation of this section, a person
11 shall be guilty of a class A nonperson misdemeanor. Upon a second or
12 subsequent conviction of a violation of this section, a person shall be
13 guilty of a severity level 10, nonperson felony.

14 Sec. 248. K.S.A. 65-6721 is hereby amended to read as follows: 65-
15 6721. (a) No person shall perform or induce a partial birth abortion on a
16 viable fetus unless such person is a physician and has a documented
17 referral from another physician not legally or financially affiliated with
18 the physician performing or inducing the abortion and both physicians
19 determine: (1) The abortion is necessary to preserve the life of the
20 pregnant woman; or (2) a continuation of the pregnancy will cause a
21 substantial and irreversible impairment of a major physical or mental
22 function of the pregnant woman.

23 (b) As used in this section:

24 (1) "Partial birth abortion" means an abortion procedure which
25 includes the deliberate and intentional evacuation of all or a part of the
26 intracranial contents of a viable fetus prior to removal of such otherwise
27 intact fetus from the body of the pregnant woman.

28 (2) "Partial birth abortion" shall not include the: (A) Suction
29 curettage abortion procedure; (B) suction aspiration abortion procedure;
30 or (C) dilation and evacuation abortion procedure involving
31 dismemberment of the fetus prior to removal from the body of the
32 pregnant woman.

33 (c) If a physician determines in accordance with the provisions of
34 subsection (a) that a partial birth abortion is necessary and performs a
35 partial birth abortion on the woman, the physician shall report such
36 determination and the reasons for such determination in writing to the
37 medical care facility in which the abortion is performed for inclusion in
38 the report of the medical care facility to the secretary of health and
39 environment under K.S.A. 65-445, and amendments thereto, or if the
40 abortion is not performed in a medical care facility, the physician shall
41 report the reasons for such determination in writing to the secretary of
42 health and environment as part of the written report made by the
43 physician to the secretary of health and environment under K.S.A. 65-

1 445, and amendments thereto. The physician shall retain a copy of the
2 written reports required under this subsection for not less than five years.

3 (d) A woman upon whom an abortion is performed shall not be
4 prosecuted under this section for a conspiracy to violate this section
5 pursuant to ~~K.S.A. 21-3302~~ *section 34 of chapter 136 of the 2010 Session*
6 *Laws of Kansas*, and amendments thereto.

7 (e) Nothing in this section shall be construed to create a right to an
8 abortion. Notwithstanding any provision of this section, a person shall not
9 perform an abortion that is prohibited by law.

10 (f) Upon conviction of a violation of this section, a person shall be
11 guilty of a severity level 10 person felony.

12 Sec. 249. K.S.A. 2010 Supp. 66-2304 is hereby amended to read as
13 follows: 66-2304. (a) An armed nuclear security guard is justified in
14 using physical force against another person at a nuclear generating
15 facility or structure or fenced yard of a nuclear generating facility if the
16 armed nuclear security guard reasonably believes that such force is
17 necessary to prevent or terminate the commission or attempted
18 commission of criminal damage to property ~~under K.S.A. 21-3720 (a)~~
19 ~~(+)as defined in subsection (a)(1) of section 99 of chapter 136 of the 2010~~
20 *Session Laws of Kansas*, and amendments thereto, criminal use of
21 weapons ~~under K.S.A. 21-4201as defined in subsections (a)(1) through~~
22 ~~(a)(6) of section 186 or subsection (a)(1) through (a)(5) of section 187 of~~
23 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
24 thereto, or criminal trespass on a nuclear generating facility under K.S.A.
25 2010 Supp. 66-2303, and amendments thereto.

26 (b) Notwithstanding the provisions of ~~K.S.A. 21-3211, 21-3212, 21-~~
27 ~~3213, 21-3215 and 21-3216~~ *sections 21, 22, 23, 25 and 26 of chapter 136*
28 *of the 2010 Session Laws of Kansas*, and amendments thereto, an armed
29 nuclear security guard is justified in using physical force up to and
30 including deadly physical force against another person at a nuclear
31 generating facility or structure or fenced yard of a nuclear generating
32 facility if the armed nuclear security guard reasonably believes that such
33 force is necessary to:

34 (1) Prevent the commission of manslaughter ~~under K.S.A. 21-3403~~
35 ~~or 21-3404as defined in section 39 or 40 of chapter 136 of the 2010~~
36 *Session Laws of Kansas*, and amendments thereto, murder in the first
37 degree ~~under K.S.A. 21-3401as defined in section 37 of chapter 136 of~~
38 *the 2010 Session Laws of Kansas*, and amendments thereto, murder in the
39 second degree ~~under K.S.A. 21-3402as defined in section 38 of chapter~~
40 *136 of the 2010 Session Laws of Kansas*, and amendments thereto,
41 aggravated assault ~~under K.S.A. 21-3410as defined in subsection (b) of~~
42 *section 47 of chapter 136 of the 2010 Session Laws of Kansas*, and
43 amendments thereto, kidnapping ~~under K.S.A. 21-3420as defined in~~

1 *subsection (a) of section 44 of chapter 136 of the 2010 Session Laws of*
2 *Kansas, and amendments thereto, aggravated kidnapping ~~under K.S.A.~~*
3 *~~21-3421~~as defined in subsection (b) of section 44 of chapter 136 of the*
4 *2010 Session Laws of Kansas, and amendments thereto, aggravated*
5 *burglary ~~under K.S.A. 21-3716~~as defined in subsection (b) of section 93*
6 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
7 *thereto, arson ~~under K.S.A. 21-3718~~as defined in subsection (a) of*
8 *section 98 of chapter 136 of the 2010 Session Laws of Kansas, and*
9 *amendments thereto, aggravated arson ~~under K.S.A. 21-3719~~as defined*
10 *in subsection (b) of section 98 of chapter 136 of the 2010 Session Laws of*
11 *Kansas, and amendments thereto, aggravated robbery ~~under K.S.A. 21-~~*
12 *~~3427~~as defined in subsection (b) of section 55 of chapter 136 of the 2010*
13 *Session Laws of Kansas, and amendments thereto; or*

14 (2) defend oneself or a third person from the use or imminent use of
15 deadly physical force.

16 (c) Notwithstanding any other provision of this act, an armed
17 nuclear security guard is justified in threatening to use physical or deadly
18 physical force if and to the extent a reasonable armed nuclear security
19 guard believes it necessary to protect oneself or others against another
20 person's potential use of physical force or deadly physical force.

21 (d) No armed nuclear security guard, employer of an armed nuclear
22 security guard or owner of a nuclear generating facility shall be subject to
23 civil liability for conduct of an armed nuclear security guard which is
24 justified pursuant to this act.

25 Sec. 250. K.S.A. 68-422a is hereby amended to read as follows: 68-
26 422a. The secretary of transportation, the board of county commissioners
27 of each county and the governing body of each incorporated city shall
28 cause signs to be erected at suitable intervals on public highways in their
29 respective areas of authority, including public parks, informing the public
30 that littering, as defined by ~~K.S.A. 21-3722~~in section 101 of chapter 136
31 of the 2010 Session Laws of Kansas, and amendments thereto, is
32 unlawful.

33 Sec. 251. K.S.A. 2010 Supp. 72-1397 is hereby amended to read as
34 follows: 72-1397. (a) The state board of education shall not knowingly
35 issue a license to or renew the license of any person who has been
36 convicted of:

37 (1) Rape, as defined in K.S.A. 21-3502, *prior to its repeal, or*
38 *section 67 of chapter 136 of the 2010 Session Laws of Kansas, and*
39 *amendments thereto;*

40 (2) indecent liberties with a child, as defined in K.S.A. 21-3503,
41 *prior to its repeal, or subsection (a) of section 70 of chapter 136 of the*
42 *2010 Session Laws of Kansas, and amendments thereto;*

43 (3) aggravated indecent liberties with a child, as defined in K.S.A.

- 1 21-3504, *prior to its repeal, or subsection (b) of section 70 of chapter*
2 *136 of the 2010 Session Laws of Kansas, and amendments thereto;*
- 3 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
4 K.S.A. 21-3505, *prior to its repeal, or subsection (a)(3) or (a)(4) of*
5 *section 68 of chapter 136 of the 2010 Session Laws of Kansas, and*
6 *amendments thereto;*
- 7 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, *prior*
8 *to its repeal, or subsection (b) of section 68 of chapter 136 of the 2010*
9 *Session Laws of Kansas, and amendments thereto;*
- 10 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
11 *prior to its repeal, or subsection (a) of section 72 of chapter 136 of the*
12 *2010 Session Laws of Kansas, and amendments thereto;*
- 13 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
14 21-3511, *prior to its repeal, or subsection (b) of section 72 of chapter 136*
15 *of the 2010 Session Laws of Kansas, and amendments thereto;*
- 16 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516,
17 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
18 *of Kansas, and amendments thereto;*
- 19 (9) aggravated incest, as defined in K.S.A. 21-3603, *prior to its*
20 *repeal, or subsection (b) of section 81 of chapter 136 of the 2010 Session*
21 *Laws of Kansas, and amendments thereto;*
- 22 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
23 *prior to its repeal, or subsection (b) of section 78 of chapter 136 of the*
24 *2010 Session Laws of Kansas, and amendments thereto;*
- 25 (11) abuse of a child, as defined in K.S.A. 21-3609, *prior to its*
26 *repeal, or section 79 of chapter 136 of the 2010 Session Laws of Kansas,*
27 *and amendments thereto;*
- 28 (12) capital murder, as defined in K.S.A. 21-3439, *prior to its*
29 *repeal, or section 36 of chapter 136 of the 2010 Session Laws of Kansas,*
30 *and amendments thereto;*
- 31 (13) murder in the first degree, as defined in K.S.A. 21-3401, *prior*
32 *to its repeal, or section 37 of chapter 136 of the 2010 Session Laws of*
33 *Kansas, and amendments thereto;*
- 34 (14) murder in the second degree, as defined in K.S.A. 21-3402,
35 *prior to its repeal, or section 38 of chapter 136 of the 2010 Session Laws*
36 *of Kansas, and amendments thereto;*
- 37 (15) voluntary manslaughter, as defined in K.S.A. 21-3403, *prior to*
38 *its repeal, or section 39 of chapter 136 of the 2010 Session Laws of*
39 *Kansas, and amendments thereto;*
- 40 (16) involuntary manslaughter, as defined in K.S.A. 21-3404, *prior*
41 *to its repeal, or section 40 of chapter 136 of the 2010 Session Laws of*
42 *Kansas, and amendments thereto;*
- 43 (17) involuntary manslaughter while driving under the influence of

1 alcohol or drugs, as defined in K.S.A. 21-3442, ~~and amendments~~
2 ~~thereto~~ prior to its repeal;

3 (18) sexual battery, as defined in K.S.A. 21-3517, *prior to its repeal,*
4 *or subsection (a) of section 69 of chapter 136 of the 2010 Session Laws*
5 *of Kansas,* and amendments thereto, when, at the time the crime was
6 committed, the victim was less than 18 years of age or a student of the
7 person committing such crime;

8 (19) aggravated sexual battery, as defined in K.S.A. 21-3518, *prior*
9 *to its repeal, or subsection (b) of section 69 of chapter 136 of the 2010*
10 *Session Laws of Kansas,* and amendments thereto;

11 (20) attempt under K.S.A. 21-3301, *prior to its repeal, or section 33*
12 *of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
13 thereto, to commit any act specified in this subsection;

14 (21) conspiracy under K.S.A. 21-3302, *prior to its repeal, or section*
15 *34 of chapter 136 of the 2010 Session Laws of Kansas,* and amendments
16 thereto, to commit any act specified in this subsection;

17 (22) an act in another state or by the federal government that is
18 comparable to any act described in this subsection; or

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

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

25 (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,
26 and amendments thereto, or any felony violation of any provision of the
27 uniform controlled substances act prior to July 1, 2009;

28 (2) a felony described in any section of article 34 of chapter 21 of
29 the Kansas Statutes Annotated, *prior to their repeal, or sections 36*
30 *through 64, 174, 210 or 211 of chapter 136 of the 2010 Session Laws of*
31 *Kansas, and amendments thereto,* other than an act specified in
32 subsection (a), or a battery, as described in K.S.A. 21-3412, *prior to its*
33 *repeal, or subsection (a) of section 48 of chapter 136 of the 2010 Session*
34 *Laws of Kansas,* and amendments thereto, or domestic battery, as
35 described in K.S.A. 21-3412a, *prior to its repeal, or section 49 of chapter*
36 *136 of the 2010 Session Laws of Kansas,* and amendments thereto, if the
37 victim is a minor or student;

38 (3) a felony described in any section of article 35 of chapter 21 of
39 the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
40 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
41 *of Kansas, and amendments thereto,* other than an act specified in
42 subsection (a);

43 (4) any act described in any section of article 36 of chapter 21 of the

1 Kansas Statutes Annotated, *prior to their repeal, or sections 78 through*
2 *86 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
3 *thereto, other than an act specified in subsection (a);*

4 (5) a felony described in article 37 of chapter 21 of the Kansas
5 Statutes Annotated, *prior to their repeal, or sections 87 through 125 or*
6 *subsection (a)(6) of section 223 of chapter 136 of the 2010 Session Laws*
7 *of Kansas, and amendments thereto;*

8 (6) promoting obscenity, as described in K.S.A. 21-4301, *prior to its*
9 *repeal, or subsection (a) of section 212 of chapter 136 of the 2010*
10 *Session Laws of Kansas, and amendments thereto, promoting obscenity to*
11 *minors, as described in K.S.A. 21-4301a, prior to its repeal, or*
12 *subsection (b) of section 212 of chapter 136 of the 2010 Session Laws of*
13 *Kansas, and amendments thereto, or promoting to minors obscenity*
14 *harmful to minors, as described in K.S.A. 21-4301c, prior to its repeal,*
15 *or section 213 of chapter 136 of the 2010 Session Laws of Kansas, and*
16 *amendments thereto;*

17 (7) endangering a child, as defined in K.S.A. 21-3608, *prior to its*
18 *repeal, or subsection (a) of section 78 of chapter 136 of the 2010 Session*
19 *Laws of Kansas, and amendments thereto;*

20 (8) driving under the influence of alcohol or drugs in violation of
21 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
22 punishable as a felony;

23 (9) attempt under K.S.A. 21-3301, *prior to its repeal, or section 33*
24 *of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
25 *thereto, to commit any act specified in this subsection;*

26 (10) conspiracy under K.S.A. 21-3302, *prior to its repeal, or section*
27 *34 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
28 *thereto, to commit any act specified in this subsection; or*

29 (11) an act committed in violation of a federal law or in violation of
30 another state's law that is comparable to any act described in this
31 subsection.

32 (c) The state board of education may issue a license to or renew the
33 license of a person who has been convicted of committing an offense or
34 act described in subsection (b) or who has entered into a criminal
35 diversion agreement after having been charged with an offense or act
36 described in subsection (b) if the state board determines, following a
37 hearing, that the person has been rehabilitated for a period of at least five
38 years from the date of conviction of the offense or commission of the act
39 or, in the case of a person who has entered into a criminal diversion
40 agreement, that the person has satisfied the terms and conditions of the
41 agreement. The state board of education may consider factors including,
42 but not limited to, the following in determining whether to grant a
43 license:

- 1 (1) The nature and seriousness of the offense or act;
- 2 (2) the conduct of the person subsequent to commission of the
3 offense or act;
- 4 (3) the time elapsed since the commission of the offense or act;
- 5 (4) the age of the person at the time of the offense or act;
- 6 (5) whether the offense or act was an isolated or recurring incident;
- 7 and
- 8 (6) discharge from probation, pardon or expungement.

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

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

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

25 Sec. 252. K.S.A. 2010 Supp. 72-5445 is hereby amended to read as
26 follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the
27 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,
28 apply only to: (A) Teachers who have completed not less than three
29 consecutive years of employment, and been offered a fourth contract, in
30 the school district, area vocational-technical school or community college
31 by which any such teacher is currently employed; and (B) teachers who
32 have completed not less than two consecutive years of employment, and
33 been offered a third contract, in the school district, area vocational-
34 technical school or community college by which any such teacher is
35 currently employed if at any time prior to the current employment the
36 teacher has completed the years of employment requirement of subpart
37 (A) in any school district, area vocational-technical school or community
38 college in this state.

39 (2) Any board may waive, at any time, the years of employment
40 requirements of provision (1) for any teachers employed by it.

41 (3) The provisions of this subsection are subject to the provisions of
42 K.S.A. 72-5446, and amendments thereto.

43 (b) The provisions of K.S.A. 72-5438 through 72-5443, and

1 amendments thereto, do not apply to any teacher whose license has been
2 nonrenewed or revoked by the state board of education for the reason that
3 the teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp.
4 21-36a01 through 21-36a17, and amendments thereto, or any felony
5 violation of any provision of the uniform controlled substances act prior
6 to July 1, 2009; (2) has been convicted of a felony described in any
7 section of article 34 of chapter 21 of the Kansas Statutes Annotated, *prior*
8 *to their repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136*
9 *of the 2010 Session Laws of Kansas, and amendments thereto, or an act*
10 *described in K.S.A. 21-3412, prior to its repeal, or subsection (a) of*
11 *section 48 of chapter 136 of the 2010 Session Laws of Kansas, or K.S.A.*
12 *21-3412a, prior to its repeal, or section 49 of chapter 136 of the 2010*
13 *Session Laws of Kansas, and amendments thereto, if the victim is a minor*
14 *or student; (3) has been convicted of a felony described in any section of*
15 *article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their*
16 *repeal, or sections 65 through 77 or 229 through 231 of chapter 136 of*
17 *the 2010 Session Laws of Kansas, and amendments thereto, or has been*
18 *convicted of an act described in K.S.A. 21-3517, prior to its repeal, or*
19 *subsection (a) of section 69 of chapter 136 of the 2010 Session Laws of*
20 *Kansas, and amendments thereto, if the victim is a minor or student; (4)*
21 *has been convicted of any act described in any section of article 36 of*
22 *chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*
23 *sections 78 through 86 of chapter 136 of the 2010 Session Laws of*
24 *Kansas, and amendments thereto; (5) has been convicted of a felony*
25 *described in article 37 of chapter 21 of the Kansas Statutes Annotated,*
26 *prior to their repeal, or sections 87 through 125 or subsection (a)(6) of*
27 *section 223 of chapter 136 of the 2010 Session Laws of Kansas, and*
28 *amendments thereto; (6) has been convicted of an attempt under K.S.A.*
29 *21-3301, prior to its repeal, or section 33 of chapter 136 of the 2010*
30 *Session Laws of Kansas, and amendments thereto, to commit any act*
31 *specified in this subsection; (7) has been convicted of any act which is*
32 *described in K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their*
33 *repeal, or section 212 or 213 of chapter 136 of the 2010 Session Laws of*
34 *Kansas, and amendments thereto; (8) has been convicted in another state*
35 *or by the federal government of an act similar to any act described in this*
36 *subsection; or (9) has entered into a criminal diversion agreement after*
37 *having been charged with any offense described in this subsection.*

38 Sec. 253. K.S.A. 2010 Supp. 74-4924 is hereby amended to read as
39 follows: 74-4924. (1) Any person who shall knowingly make any false
40 statement, or who shall falsify or permit to be falsified any record
41 necessary for carrying out the intent of this act for the purpose of
42 committing fraud, shall be subject to the provisions of ~~K.S.A. 21-~~
43 ~~3904~~ *subsection (a) of section 168 of chapter 136 of the 2010 Session*

1 *Laws of Kansas*, and amendments thereto.

2 (2) Should any error in any records or in any calculation of the
3 Kansas public employees retirement system result in any member or
4 beneficiary receiving more or less than he would have been entitled to
5 receive had the records or calculations been correct, the board shall
6 correct such error, and, as far as practicable, make future payments in
7 such a manner that the actuarial equivalent of the benefit to which such
8 member or beneficiary was entitled shall be paid and may recover any
9 overpayments. In the event a member has withdrawn, all or part of, such
10 member's accumulated contributions in a manner not in compliance with
11 the provisions of this act or the regulations of the system, the member
12 shall forfeit all service credit related to such withdrawn accumulated
13 contributions.

14 (3) (a) Notwithstanding the provisions of subsection (2) and except
15 as provided in subsection (3)(d), the board is not required to collect any
16 benefit overpayment that is of more than 60 months' standing when
17 discovered, if any errors in the records or calculations of the system that
18 resulted in such overpayment are attributable solely to incorrect
19 procedures or calculations by the system and there is no evidence of fraud
20 or misconduct on the part of the member or other person receiving the
21 benefit.

22 (b) The board shall make reasonable efforts to recover all benefit
23 overpayment of 60 months' standing or less, including the imposition of
24 an actuarially calculated reduction in an ongoing monthly benefit
25 payment or the deduction of the total overpaid amount from any refund of
26 contributions or group life insurance benefits that become due and
27 payable to the member or member's beneficiary.

28 (c) No monthly benefit reduction imposed under this section for the
29 purpose of collecting an overpayment shall result in a monthly benefit
30 payment that is more than 10% lower than the monthly benefit payment
31 would have been without such collection-related reduction, except that
32 the monthly benefit payment in all cases must first be reduced to the
33 correct amount as provided by the terms of this section before the 10%
34 cap on collection-related reductions is imposed.

35 (d) Notwithstanding the provisions of this section, on and after the
36 effective date of this act, the board shall not collect any benefit
37 overpayment, attributable to errors in the calculation of benefits by the
38 system that resulted in such overpayments to any person that first
39 occurred after and as a result of a statutory increase in benefits passed by
40 the legislature in 1993, and there is no evidence of fraud or other
41 misconduct on the part of the person receiving the benefit.

42 Sec. 254. K.S.A. 2010 Supp. 74-5602 is hereby amended to read as
43 follows: 74-5602. As used in the Kansas law enforcement training act:

1 (a) "Training center" means the law enforcement training center
2 within the division of continuing education of the university of Kansas,
3 created by K.S.A. 74-5603, and amendments thereto.

4 (b) "Commission" means the Kansas commission on peace officers'
5 standards and training, created by K.S.A. 74-5606 and amendments
6 thereto.

7 (c) "Dean" means the dean of continuing education of the university
8 of Kansas.

9 (d) "Director of police training" means the director of police training
10 at the law enforcement training center.

11 (e) "Director" means the executive director of the Kansas
12 commission on peace officers' standards and training.

13 (f) "Law enforcement" means the prevention or detection of crime
14 and the enforcement of the criminal or traffic laws of this state or of any
15 municipality thereof.

16 (g) "Police officer" or "law enforcement officer" means a full-time
17 or part-time salaried officer or employee of the state, a county or a city,
18 whose duties include the prevention or detection of crime and the
19 enforcement of the criminal or traffic laws of this state or of any
20 municipality thereof. Such terms shall include, but not be limited to, the
21 sheriff, undersheriff and full-time or part-time salaried deputies in the
22 sheriff's office in each county; deputy sheriffs deputized pursuant to
23 K.S.A. 19-2858, and amendments thereto; conservation officers of the
24 Kansas department of wildlife and parks; university police officers, as
25 defined in K.S.A. 22-2401a, and amendments thereto; campus police
26 officers, as defined in K.S.A. 22-2401a, and amendments thereto; law
27 enforcement agents of the director of alcoholic beverage control; law
28 enforcement agents designated by the secretary of revenue pursuant to
29 K.S.A. 2010 Supp. 75-5157, and amendments thereto; law enforcement
30 agents of the Kansas lottery; law enforcement agents of the Kansas racing
31 commission; deputies and assistants of the state fire marshal having law
32 enforcement authority; capitol police, existing under the authority of
33 K.S.A. 75-4503, and amendments thereto; and law enforcement officers
34 appointed by the adjutant general pursuant to K.S.A. 48-204, and
35 amendments thereto. Such terms shall also include railroad policemen
36 appointed pursuant to K.S.A. 66-524, and amendments thereto; school
37 security officers designated as school law enforcement officers pursuant
38 to K.S.A. 72-8222, and amendments thereto; the manager and employees
39 of the horsethief reservoir benefit district pursuant to K.S.A. 2010 Supp.
40 82a-2212, and amendments thereto; and the director of the Kansas
41 commission on peace officers' standards and training and any other
42 employee of such commission designated by the director pursuant to
43 K.S.A. 74-5603, and amendments thereto, as a law enforcement officer.

1 Such terms shall not include any elected official, other than a sheriff,
2 serving in the capacity of a law enforcement or police officer solely by
3 virtue of such official's elected position; any attorney-at-law having
4 responsibility for law enforcement and discharging such responsibility
5 solely in the capacity of an attorney; any employee of the commissioner
6 of juvenile justice, the secretary of corrections or the secretary of social
7 and rehabilitation services; any deputy conservation officer of the Kansas
8 department of wildlife and parks; or any employee of a city or county
9 who is employed solely to perform correctional duties related to jail
10 inmates and the administration and operation of a jail; or any full-time or
11 part-time salaried officer or employee whose duties include the issuance
12 of a citation or notice to appear provided such officer or employee is not
13 vested by law with the authority to make an arrest for violation of the
14 laws of this state or any municipality thereof, and is not authorized to
15 carry firearms when discharging the duties of such person's office or
16 employment. Such term shall include any officer appointed or elected on
17 a provisional basis.

18 (h) "Full-time" means employment requiring at least 1,000 hours of
19 law enforcement related work per year.

20 (i) "Part-time" means employment on a regular schedule or
21 employment which requires a minimum number of hours each payroll
22 period, but in any case requiring less than 1,000 hours of law
23 enforcement related work per year.

24 (j) "Misdemeanor crime of domestic violence" means a violation of
25 domestic battery as provided by K.S.A. 21-3412a, *prior to its repeal, or*
26 *section 49 of chapter 136 of the 2010 Session Laws of Kansas*, and
27 amendments thereto, or any other misdemeanor under federal, municipal
28 or state law that has as an element the use or attempted use of physical
29 force, or the threatened use of a deadly weapon, committed by a current
30 or former spouse, parent, or guardian of the victim, by a person with
31 whom the victim shares a child in common, by a person who is
32 cohabiting with or has cohabited with the victim as a spouse, parent or
33 guardian, or by a person similarly situated to a spouse, parent or guardian
34 of the victim.

35 (k) "Auxiliary personnel" means members of organized nonsalaried
36 groups which operate as an adjunct to a police or sheriff's department,
37 including reserve officers, posses and search and rescue groups.

38 (l) "Active law enforcement certificate" means a certificate which
39 attests to the qualification of a person to perform the duties of a law
40 enforcement officer and which has not been suspended or revoked by
41 action of the Kansas commission on peace officers' standards and training
42 and has not lapsed by operation of law as provided in K.S.A. 74-5622,
43 and amendments thereto.

1 Sec. 255. K.S.A. 2010 Supp. 74-7301 is hereby amended to read as
2 follows: 74-7301. As used in this act:

3 (a) "Allowance expense" means reasonable charges incurred for
4 reasonably needed products, services and accommodations, including
5 those for medical care, rehabilitation, rehabilitative occupational training
6 and other remedial treatment and care and for the replacement of items of
7 clothing or bedding which were seized for evidence. Such term includes a
8 total charge not in excess of \$5,000 for expenses in any way related to
9 funeral, cremation or burial; but such term shall not include that portion
10 of a charge for a room in a hospital, clinic, convalescent or nursing home
11 or any other institution engaged in providing nursing care and related
12 services, in excess of a reasonable and customary charge for semi-private
13 accommodations, unless other accommodations are medically required.
14 Such term includes a total charge not in excess of \$1,000 for expenses in
15 any way related to crime scene cleanup.

16 (b) "Board" means the crime victims compensation board
17 established under K.S.A. 74-7303, and amendments thereto.

18 (c) "Claimant" means any of the following persons claiming
19 compensation under this act: A victim; a dependent of a deceased victim;
20 a third person other than a collateral source; or an authorized person
21 acting on behalf of any of them.

22 (d) "Collateral source" means a source of benefits or advantages for
23 economic loss otherwise reparable under this act which the victim or
24 claimant has received, or which is readily available to the victim or
25 claimant, from:

26 (1) The offender;

27 (2) the government of the United States or any agency thereof, a
28 state or any of its political subdivisions or an instrumentality or two or
29 more states, unless the law providing for the benefits or advantages
30 makes them excess or secondary to benefits under this act;

31 (3) social security, medicare and medicaid;

32 (4) state-required temporary nonoccupational disability insurance;

33 (5) workers' compensation;

34 (6) wage continuation programs of any employer;

35 (7) proceeds of a contract of insurance payable to the victim for loss
36 which the victim sustained because of the criminally injurious conduct; or

37 (8) a contract providing prepaid hospital and other health care
38 services or benefits for disability.

39 (e) "Criminally injurious conduct" means conduct that: (1) (A)
40 Occurs or is attempted in this state or occurs to a person whose domicile
41 is in Kansas who is the victim of a violent crime which occurs in another
42 state, possession, or territory of the United States of America may make
43 an application for compensation if:

1 (i) The crimes would be compensable had it occurred in the state of
2 Kansas; and

3 (ii) the places the crimes occurred are states, possessions or
4 territories of the United States of America not having eligible crime
5 victim compensation programs;

6 (B) poses a substantial threat or personal injury or death; and

7 (C) either is punishable by fine, imprisonment or death or would be
8 so punishable but for the fact that the person engaging in the conduct
9 lacked capacity to commit the crime under the laws of this state; or

10 (2) is an act of terrorism, as defined in 18 U.S.C. § 2331, or a violent
11 crime that posed a substantial threat or caused personal injury or death,
12 committed outside of the United States against a person whose domicile
13 is in Kansas, except that criminally injurious conduct does not include
14 any conduct resulting in injury or death sustained as a member of the
15 United States armed forces while serving on active duty.

16 Such term shall not include conduct arising out of the ownership,
17 maintenance or use of a motor vehicle, except for violations of K.S.A. 8-
18 1567 and amendments thereto, or violations of municipal ordinances
19 prohibiting the acts prohibited by that statute, or violations of K.S.A. 8-
20 1602, *and amendments thereto*, K.S.A. 21-3404, 21-3405 and 21-3414,
21 *prior to their repeal, or sections 40, 41 and subsection (b) of section 48*
22 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
23 thereto or when such conduct was intended to cause personal injury or
24 death.

25 (f) "Dependent" means a natural person wholly or partially
26 dependent upon the victim for care or support, and includes a child of the
27 victim born after the victim's death.

28 (g) "Dependent's economic loss" means loss after decedent's death
29 of contributions of things of economic value to the decedent's dependents,
30 not including services they would have received from the decedent if the
31 decedent had not suffered the fatal injury, less expenses of the dependents
32 avoided by reason of decedent's death.

33 (h) "Dependent's replacement services loss" means loss reasonably
34 incurred by dependents after decedent's death in obtaining ordinary and
35 necessary services in lieu of those the decedent would have performed for
36 their benefit if the decedent had not suffered the fatal injury, less expenses
37 of the dependents avoided by reason of decedent's death and not
38 subtracted in calculating dependent's economic loss.

39 (i) "Economic loss" means economic detriment consisting only of
40 allowable expense, work loss, replacement services loss and, if injury
41 causes death, dependent's economic loss and dependent's replacement
42 service loss. Noneconomic detriment is not loss, but economic detriment
43 is loss although caused by pain and suffering or physical impairment.

1 (j) "Noneconomic detriment" means pain, suffering, inconvenience,
2 physical impairment and nonpecuniary damage.

3 (k) "Replacement services loss" means expenses reasonably incurred
4 in obtaining ordinary and necessary services in lieu of those the injured
5 person would have performed, not for income, but for the benefit of self
6 or family, if such person had not been injured.

7 (l) "Work loss" means loss of income from work the injured person
8 would have performed if such person had not been injured, and expenses
9 reasonably incurred by such person in obtaining services in lieu of those
10 the person would have performed for income, reduced by any income
11 from substitute work actually performed by such person or by income
12 such person would have earned in available appropriate substitute work
13 that the person was capable of performing but unreasonably failed to
14 undertake.

15 (m) "Victim" means a person who suffers personal injury or death as
16 a result of: (1) Criminally injurious conduct; (2) the good faith effort of
17 any person to prevent criminally injurious conduct; or (3) the good faith
18 effort of any person to apprehend a person suspected of engaging in
19 criminally injurious conduct.

20 (n) "Crime scene cleanup" means removal of blood, stains, odors or
21 other debris caused by the crime or the processing of the crime scene.

22 Sec. 256. K.S.A. 2010 Supp. 74-7305 is hereby amended to read as
23 follows: 74-7305. (a) An application for compensation shall be made in
24 the manner and form prescribed by the board.

25 (b) Compensation may not be awarded unless an application has
26 been filed with the board within two years of the reporting of the incident
27 to law enforcement officials if the victim was less than 16 years of age
28 and the injury or death is the result of any of the following crimes: (1)
29 Indecent liberties with a child as defined in K.S.A. 21-3503, *prior to its*
30 *repeal, or subsection (a) of section 70 of chapter 136 of the 2010 Session*
31 *Laws of Kansas, and amendments thereto;* (2) aggravated indecent
32 liberties with a child as defined in K.S.A. 21-3504, *prior to its repeal, or*
33 *subsection (b) of section 70 of chapter 136 of the 2010 Session Laws of*
34 *Kansas, and amendments thereto;* (3) aggravated criminal sodomy as
35 defined in K.S.A. 21-3506, *prior to its repeal, or subsection (b) of section*
36 *68 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*
37 *thereto;* (4) enticement of a child as defined in K.S.A. 21-3509 ~~and~~
38 ~~amendments thereto~~ *prior to its repeal;* (5) indecent solicitation of a child
39 as defined in K.S.A. 21-3510, *prior to its repeal, or subsection (a) of*
40 *section 72 of chapter 136 of the 2010 Session Laws of Kansas, and*
41 *amendments thereto;* (6) aggravated indecent solicitation of a child as
42 defined in K.S.A. 21-3511, *prior to its repeal, or subsection (b) of section*
43 *72 of chapter 136 of the 2010 Session Laws of Kansas, and amendments*

1 thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516,
2 *prior to its repeal, or section 74 of chapter 136 of the 2010 Session Laws*
3 *of Kansas*, and amendments thereto; or (8) aggravated incest as defined in
4 K.S.A. 21-3603, *prior to its repeal, or subsection (b) of section 81 of*
5 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
6 thereto. Compensation for mental health counseling may be awarded, if a
7 claim is filed within two years of testimony, to a claimant who is, or will
8 be, required to testify in a sexually violent predator commitment,
9 pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated,
10 and amendments thereto, of an offender who victimized the claimant or
11 the victim on whose behalf the claim is made. For all other incidents of
12 criminally injurious conduct, compensation may not be awarded unless
13 the claim has been filed with the board within two years after the injury
14 or death upon which the claim is based. Compensation may not be
15 awarded to a claimant who was the offender or an accomplice of the
16 offender and may not be awarded to another person if the award would
17 unjustly benefit the offender or accomplice.

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

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

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

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

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

36 (1) The number of claimant's dependents;

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

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

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

41 (5) the claimant's resources.

42 (e) Compensation may not be awarded unless the criminally
43 injurious conduct resulting in injury or death was reported to a law

1 enforcement officer within 72 hours after its occurrence or the board
2 finds there was good cause for the failure to report within that time.

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

6 (g) Except in K.S.A. 21-3602 or 21-3603, *prior to their repeal, or*
7 *section 81 of chapter 136 of the 2010 Session Laws of Kansas, and*
8 *amendments thereto*, or cases of sex offenses established in article 35 of
9 chapter 21, of the Kansas Statutes Annotated, *prior to their repeal, or*
10 *sections 65 through 77 or 229 through 231 of chapter 136 of the 2010*
11 *Session Laws of Kansas*, and amendments thereto, compensation may not
12 be awarded if the economic loss is less than \$100.

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

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

19 Sec. 257. K.S.A. 74-7325 is hereby amended to read as follows: 74-
20 7325. (a) There is hereby created in the state treasury the protection from
21 abuse fund. All moneys credited to the fund shall be used solely for the
22 purpose of making grants to programs providing: (1) Temporary
23 emergency shelter for adult victims of domestic abuse or sexual assault
24 and their dependent children; (2) counseling and assistance to those
25 victims and their children; or (3) educational services directed at reducing
26 the incidence of domestic abuse or sexual assault and diminishing its
27 impact on the victims. All moneys credited to the fund pursuant to K.S.A.
28 20-367, and amendments thereto, shall be used only for on-going
29 operating expenses of domestic violence programs. All moneys credited
30 to the fund pursuant to any increase in docket fees as provided by this act
31 as described in K.S.A. 20-367 and 60-2001, and amendments thereto,
32 shall not be awarded to programs until July 1, 2003, and shall be used for
33 ongoing operating expenses of domestic violence or sexual assault
34 programs.

35 (b) All expenditures from the protection from abuse fund shall be
36 made in accordance with appropriation acts upon warrants of the director
37 of accounts and reports issued pursuant to vouchers approved by the
38 attorney general or by a person or persons designated by the attorney
39 general.

40 (c) The attorney general may apply for, receive and accept moneys
41 from any source for the purposes for which moneys in the protection
42 from abuse fund may be expended. Upon receipt of any such moneys, the
43 attorney general shall remit the entire amount to the state treasurer in

1 accordance with the provisions of K.S.A. 75-4215, and amendments
2 thereto. Upon receipt of each such remittance, the state treasurer shall
3 deposit the entire amount in the state treasury to the credit of the
4 protection from abuse fund.

5 (d) Grants made to programs pursuant to this section shall be based
6 on the numbers of persons served by the program and shall be made only
7 to the city of Wichita or to agencies which are engaged, as their primary
8 function, in programs aimed at preventing domestic violence or sexual
9 assault or providing residential services or facilities to family or
10 household members who are victims of domestic violence or sexual
11 assault. In order for programs to qualify for funding under this section,
12 they must:

13 (1) Meet the requirements of section 501(c) of the internal revenue
14 code of 1986;

15 (2) be registered and in good standing as a nonprofit corporation;

16 (3) meet normally accepted standards for nonprofit organizations;

17 (4) have trustees who represent the racial, ethnic and socioeconomic
18 diversity of the county or counties served;

19 (5) have received 50% or more of their funds from sources other
20 than funds distributed through the fund, which other sources may be
21 public or private and may include contributions of goods or services,
22 including materials, commodities, transportation, office space or other
23 types of facilities or personal services;

24 (6) demonstrate ability to successfully administer programs;

25 (7) make available an independent certified audit of the previous
26 year's financial records;

27 (8) have obtained appropriate licensing or certification, or both;

28 (9) serve a significant number of residents of the county or counties
29 served;

30 (10) not unnecessarily duplicate services already adequately
31 provided to county residents; and

32 (11) agree to comply with reporting requirements of the attorney
33 general.

34 The attorney general may adopt rules and regulations establishing
35 additional standards for eligibility and accountability for grants made
36 pursuant to this section.

37 (e) As used in this section:

38 (1) "Domestic abuse" means abuse as defined by the protection from
39 abuse act (K.S.A. 60-3101 *et seq.*, and amendments thereto).

40 (2) "Sexual assault" means acts defined in article 35 of chapter 21 of
41 the Kansas Statutes Annotated, *prior to their repeal, or sections 65*
42 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
43 *of Kansas*, and amendments thereto.

1 (f) On or before the 10th day of each month, the director of accounts
2 and reports shall transfer from the state general fund to the protection
3 from abuse fund interest earnings based on:

4 (1) The average daily balance of moneys in the protection from
5 abuse fund for the preceding month; and

6 (2) the net earnings rate for the pooled money investment portfolio
7 for the preceding month.

8 Sec. 258. K.S.A. 74-7333 is hereby amended to read as follows: 74-
9 7333. (a) In order to ensure the fair and compassionate treatment of
10 victims of crime and to increase the effectiveness of the criminal justice
11 system by affording victims of crime certain basic rights and
12 considerations, victims of crime shall have the following rights:

13 (1) Victims should be treated with courtesy, compassion and with
14 respect for their dignity and privacy and should suffer the minimum of
15 necessary inconvenience from their involvement with the criminal justice
16 system.

17 (2) Victims should receive, through formal and informal procedures,
18 prompt and fair redress for the harm which they have suffered.

19 (3) Information regarding the availability of criminal restitution,
20 recovery of damages in a civil cause of action, the crime victims
21 compensation fund and other remedies and the mechanisms to obtain
22 such remedies should be made available to victims.

23 (4) Information should be made available to victims about their
24 participation in criminal proceedings and the scheduling, progress and
25 ultimate disposition of the proceedings.

26 (5) The views and concerns of victims should be ascertained and the
27 appropriate assistance provided throughout the criminal process.

28 (6) When the personal interests of victims are affected, the views or
29 concerns of the victim should, when appropriate and consistent with
30 criminal law and procedure, be brought to the attention of the court.

31 (7) Measures may be taken when necessary to provide for the safety
32 of victims and their families and to protect them from intimidation and
33 retaliation.

34 (8) Enhanced training should be made available to sensitize criminal
35 justice personnel to the needs and concerns of victims and guidelines
36 should be developed for this purpose.

37 (9) Victims should be informed of the availability of health and
38 social services and other relevant assistance that they might continue to
39 receive the necessary medical, psychological and social assistance
40 through existing programs and services.

41 (10) Victims should report the crime and cooperate with law
42 enforcement authorities.

43 (b) As used in this act, "victim" means any person who suffers direct

1 or threatened physical, emotional or financial harm as the result of the
2 commission or attempted commission of a crime against such person.

3 (c) As used in this act and as used in article 15 of section 15 of the
4 Kansas constitution, the term "crime" shall not include violations of
5 ordinances of cities except for violations of ordinances of cities which
6 prohibit acts or omissions which are prohibited by articles 33, 34, 35 and
7 36 of chapter 21 of the Kansas Statutes Annotated, *prior to their repeal,*
8 *or sections 33 through 86, 14, 210, 211 and 229 through 231 of chapter*
9 *136 f the 2010 Session Laws of Kansas, and amendments thereto,* and as
10 provided in subsection (d).

11 (d) The governing body of any city which has established a
12 municipal court shall adopt policies which afford the rights granted to
13 victims of crime pursuant to this act and pursuant to article 15 of section
14 15 of the Kansas constitution to victims of ordinance violations specified
15 in such policies.

16 (e) Nothing in this act shall be construed as creating a cause of
17 action on behalf of any person against the state, a county, a municipality
18 or any of their agencies, instrumentalities or employees responsible for
19 the enforcement of rights as provided in this act.

20 (f) This section shall be known and may be cited as the bill of rights
21 for victims of crime act.

22 Sec. 259. K.S.A. 2010 Supp. 74-8702 is hereby amended to read as
23 follows: 74-8702. As used in the Kansas lottery act, unless the context
24 otherwise requires:

25 (a) "Ancillary lottery gaming facility operations" means additional
26 non-lottery game products and services not owned and operated
27 by the state which may be included in the overall development associated
28 with the lottery gaming facility. Such operations may include, but are not
29 limited to, restaurants, hotels, motels, museums or entertainment
30 facilities.

31 (b) "Commission" means the Kansas lottery commission.

32 (c) "Electronic gaming machine" means any electronic,
33 electromechanical, video or computerized device, contrivance or machine
34 authorized by the Kansas lottery which, upon insertion of cash, tokens,
35 electronic cards or any consideration, is available to play, operate or
36 simulate the play of a game authorized by the Kansas lottery pursuant to
37 the Kansas expanded lottery act, including, but not limited to, bingo,
38 poker, blackjack, keno and slot machines, and which may deliver or
39 entitle the player operating the machine to receive cash, tokens,
40 merchandise or credits that may be redeemed for cash. Electronic gaming
41 machines may use bill validators and may be single-position reel-type,
42 single or multi-game video and single-position multi-game video
43 electronic game, including, but not limited to, poker, blackjack and slot

1 machines. Electronic gaming machines shall be directly linked to a
2 central computer at a location determined by the executive director for
3 purposes of security, monitoring and auditing.

4 (d) "Executive director" means the executive director of the Kansas
5 lottery.

6 (e) "Gaming equipment" means any electric, electronic,
7 computerized or electromechanical machine, mechanism, supply or
8 device or any other equipment, which is: (1) Unique to the Kansas lottery
9 and used pursuant to the Kansas lottery act; and (2) integral to the
10 operation of an electronic gaming machine or lottery facility game; and
11 (3) affects the results of an electronic gaming machine or lottery facility
12 game by determining win or loss.

13 (f) "Gaming zone" means: (1) The northeast Kansas gaming zone,
14 which consists of Wyandotte county; (2) the southeast Kansas gaming
15 zone, which consists of Crawford and Cherokee counties; (3) the south
16 central Kansas gaming zone, which consists of Sedgwick and Sumner
17 counties; and (4) the southwest Kansas gaming zone, which consists of
18 Ford county.

19 (g) "Gray machine" means any mechanical, electro-mechanical or
20 electronic device, capable of being used for gambling, that is: (1) Not
21 authorized by the Kansas lottery, (2) not linked to a lottery central
22 computer system, (3) available to the public for play or (4) capable of
23 simulating a game played on an electronic gaming machine or any similar
24 gambling game authorized pursuant to the Kansas expanded lottery act.

25 (h) "Kansas lottery" means the state agency created by this act to
26 operate a lottery or lotteries pursuant to this act.

27 (i) "Lottery" or "state lottery" means the lottery or lotteries operated
28 pursuant to this act.

29 (j) "Lottery facility games" means any electronic gaming machines
30 and any other games which, as of January 1, 2007, are authorized to be
31 conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-
32 9802, and amendments thereto, located within the boundaries of this
33 state.

34 (k) "Lottery gaming enterprise" means an entertainment enterprise
35 which includes a lottery gaming facility authorized pursuant to the
36 Kansas expanded lottery act and ancillary lottery gaming facility
37 operations that have a coordinated business or marketing strategy. A
38 lottery gaming enterprise shall be designed to attract to its lottery gaming
39 facility consumers who reside outside the immediate area of such
40 enterprise.

41 (l) "Lottery gaming facility" means that portion of a building used
42 for the purposes of operating, managing and maintaining lottery facility
43 games.

1 (m) "Lottery gaming facility expenses" means normal business
2 expenses, as defined in the lottery gaming facility management contract,
3 associated with the ownership and operation of a lottery gaming facility.

4 (n) "Lottery gaming facility management contract" means a contract,
5 subcontract or collateral agreement between the state and a lottery
6 gaming facility manager for the management of a lottery gaming facility,
7 the business of which is owned and operated by the Kansas lottery,
8 negotiated and signed by the executive director on behalf of the state.

9 (o) "Lottery gaming facility manager" means a corporation, limited
10 liability company, resident Kansas American Indian tribe or other
11 business entity authorized to construct and manage, or manage alone,
12 pursuant to a lottery gaming facility management contract with the
13 Kansas lottery, and on behalf of the state, a lottery gaming enterprise and
14 lottery gaming facility.

15 (p) "Lottery gaming facility revenues" means the total revenues
16 from lottery facility games at a lottery gaming facility after all related
17 prizes are paid.

18 (q) (1) "Lottery machine" means any machine or device that allows
19 a player to insert cash or other form of consideration and may deliver as
20 the result of an element of chance, regardless of the skill required by the
21 player, a prize or evidence of a prize, including, but not limited to:

22 (A) Any machine or device in which the prize or evidence of a prize
23 is determined by both chance and the player's or players' skill, including,
24 but not limited to, any machine or device on which a lottery game or
25 lottery games, such as poker or blackjack, are played;

26 (B) any machine or device in which the prize or evidence of a prize
27 is determined only by chance, including, but not limited to, any slot
28 machine or bingo machine; or

29 (C) any lottery ticket vending machine, such as a keno ticket
30 vending machine, pull-tab vending machine or an instant-bingo vending
31 machine.

32 (2) "Lottery machine" shall not mean:

33 (A) Any food vending machine defined by K.S.A. 36-501, and
34 amendments thereto;

35 (B) any nonprescription drug machine authorized under K.S.A. 65-
36 650, and amendments thereto;

37 (C) any machine which dispenses only bottled or canned soft drinks,
38 chewing gum, nuts or candies;

39 (D) any machine excluded from the definition of gambling devices
40 under subsection (d) of K.S.A. 21-4302, *prior to its repeal, or section*
41 *214 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
42 thereto; or

43 (E) any electronic gaming machine or lottery facility game operated

1 in accordance with the provisions of the Kansas expanded lottery act.

2 (r) "Lottery retailer" means any person with whom the Kansas
3 lottery has contracted to sell lottery tickets or shares, or both, to the
4 public.

5 (s) (1) "Major procurement" means any gaming product or service,
6 including but not limited to facilities, advertising and promotional
7 services, annuity contracts, prize payment agreements, consulting
8 services, equipment, tickets and other products and services unique to the
9 Kansas lottery, but not including materials, supplies, equipment and
10 services common to the ordinary operations of state agencies.

11 (2) "Major procurement" shall not mean any product, service or
12 other matter covered by or addressed in the Kansas expanded lottery act
13 or a lottery gaming facility management contract or racetrack gaming
14 facility management contract executed pursuant to the Kansas expanded
15 lottery act.

16 (t) "Net electronic gaming machine income" means all cash or other
17 consideration utilized to play an electronic gaming machine operated at a
18 racetrack gaming facility, less all cash or other consideration paid out to
19 winning players as prizes.

20 (u) "Organization licensee" has the meaning provided by K.S.A. 74-
21 8802, and amendments thereto.

22 (v) "Parimutuel licensee" means a facility owner licensee or facility
23 manager licensee under the Kansas parimutuel racing act.

24 (w) "Parimutuel licensee location" means a racetrack facility, as
25 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
26 by the parimutuel licensee. A parimutuel licensee location may include
27 any existing structure at such racetrack facility or any structure that may
28 be constructed on real estate where such racetrack facility is located.

29 (x) "Person" means any natural person, association, limited liability
30 company, corporation or partnership.

31 (y) "Prize" means any prize paid directly by the Kansas lottery
32 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
33 any rules and regulations adopted pursuant to either act.

34 (z) "Progressive electronic game" means a game played on an
35 electronic gaming machine for which the payoff increases uniformly as
36 the game is played and for which the jackpot, determined by application
37 of a formula to the income of independent, local or interlinked electronic
38 gaming machines, may be won.

39 (aa) "Racetrack gaming facility" means that portion of a parimutuel
40 licensee location where electronic gaming machines are operated,
41 managed and maintained.

42 (bb) "Racetrack gaming facility management contract" means an
43 agreement between the Kansas lottery and a racetrack gaming facility

1 manager, negotiated and signed by the executive director on behalf of the
2 state, for placement of electronic gaming machines owned and operated
3 by the state at a racetrack gaming facility.

4 (cc) "Racetrack gaming facility manager" means a parimutuel
5 licensee specifically certified by the Kansas lottery to become a certified
6 racetrack gaming facility manager and offer electronic gaming machines
7 for play at the racetrack gaming facility.

8 (dd) "Returned ticket" means any ticket which was transferred to a
9 lottery retailer, which was not sold by the lottery retailer and which was
10 returned to the Kansas lottery for refund by issuance of a credit or
11 otherwise.

12 (ee) "Share" means any intangible manifestation authorized by the
13 Kansas lottery to prove participation in a lottery game, except as provided
14 by the Kansas expanded lottery act.

15 (ff) "Ticket" means any tangible evidence issued by the Kansas
16 lottery to prove participation in a lottery game other than a lottery facility
17 game.

18 (gg) "Token" means a representative of value, of metal or other
19 material, which is not legal tender, redeemable for cash only by the
20 issuing lottery gaming facility manager or racetrack gaming facility
21 manager and which is issued and sold by a lottery gaming facility
22 manager or racetrack gaming facility manager for the sole purpose of
23 playing an electronic gaming machine or lottery facility game.

24 (hh) "Vendor" means any person who has entered into a major
25 procurement contract with the Kansas lottery.

26 (ii) "Video lottery machine" means any electronic video game
27 machine that, upon insertion of cash, is available to play or simulate the
28 play of a video game authorized by the commission, including, but not
29 limited to, bingo, poker, black jack and keno, and which uses a video
30 display and microprocessors and in which, by chance, the player may
31 receive free games or credits that can be redeemed for cash.

32 Sec. 260. K.S.A. 2010 Supp. 74-9101 is hereby amended to read as
33 follows: 74-9101. (a) There is hereby established the Kansas sentencing
34 commission.

35 (b) The commission shall:

36 (1) Develop a sentencing guideline model or grid based on fairness
37 and equity and shall provide a mechanism for linking justice and
38 corrections policies. The sentencing guideline model or grid shall
39 establish rational and consistent sentencing standards which reduce
40 sentence disparity, to include, but not be limited to, racial and regional
41 biases which may exist under current sentencing practices. The guidelines
42 shall specify the circumstances under which imprisonment of an offender
43 is appropriate and a presumed sentence for offenders for whom

1 imprisonment is appropriate, based on each appropriate combination of
2 reasonable offense and offender characteristics. In developing its
3 recommended sentencing guidelines, the commission shall take into
4 substantial consideration current sentencing and release practices and
5 correctional resources, including but not limited to the capacities of local
6 and state correctional facilities. In its report, the commission shall make
7 recommendations regarding whether there is a continued need for and
8 what is the projected role of, if any, the Kansas parole board and whether
9 the policy of allocating good time credits for the purpose of determining
10 an inmate's eligibility for parole or conditional release should be
11 continued;

12 (2) consult with and advise the legislature with reference to the
13 implementation, management, monitoring, maintenance and operations of
14 the sentencing guidelines system;

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

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

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

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

37 (7) make recommendations relating to modification to the
38 sentencing guidelines as provided in ~~K.S.A. 21-4725~~ *section 303 of*
39 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
40 thereto;

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

43 (9) make recommendations to those responsible for developing a

1 working philosophy of sentencing guideline consistency and rationality;

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

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

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

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

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

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

1 juvenile justice oversight no later than November 1;

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

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

9 (18) determine the effect the mandatory sentencing established in
10 K.S.A. 21-4642 and 21-4643, *prior to their repeal, or sections 266 and*
11 *267 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto, would have on the number of offenders civilly committed to a
13 treatment facility as a sexually violent predator as provided pursuant to
14 K.S.A. 59-29a01 et seq., and amendments thereto;

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

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

27 Sec. 261. K.S.A. 2010 Supp. 75-452 is hereby amended to read as
28 follows: 75-452. The following words and phrases when used in K.S.A.
29 2010 Supp. 75-451 to 75-458, inclusive, and amendments thereto, shall
30 have the meanings respectively ascribed to them herein, unless the
31 context clearly requires otherwise:

32 (a) "Abuse" means:

33 (1) Causing or attempting to cause physical harm;

34 (2) placing another person in fear of imminent physical harm;

35 (3) causing another person to engage involuntarily in sexual
36 relations by force, threats or duress, or threatening to do so;

37 (4) engaging in mental abuse, which includes threats, intimidation
38 and acts designed to induce terror;

39 (5) depriving another person of necessary health care, housing or
40 food; or

41 (6) unreasonably and forcibly restraining the physical movement of
42 another.

43 (b) "Confidential address" means a residential street address, school

1 street address or work street address of an individual, as specified on the
2 individual's application to be a program participant under K.S.A. 2010
3 Supp. 75-451 to 75-458, inclusive, and amendments thereto.

4 (c) "Confidential mailing address" means an address that is
5 recognized for delivery by the United States postal service.

6 (d) "Domestic violence" means abuse committed against a victim or
7 the victim's spouse or dependent child by:

8 (1) A current or former spouse of the victim;

9 (2) a person with whom the victim shares parentage of a child in
10 common;

11 (3) a person who is cohabitating with, or has cohabitated with, the
12 victim;

13 (4) a person who is related by blood or marriage; or

14 (5) a person with whom the victim has or had a dating or
15 engagement relationship.

16 (e) "Program participant" means a person certified as a program
17 participant under K.S.A. 2010 Supp. 75-453, and amendments thereto.

18 (f) "Enrolling agent" means state and local agencies, law
19 enforcement offices, nonprofit agencies and any others designated by the
20 secretary of state that provide counseling and shelter services to victims
21 of domestic violence, sexual assault, human trafficking or stalking.

22 (g) "Sexual assault" means an act which if committed in this state
23 would constitute any crime defined in article 35 of chapter 21 of the
24 Kansas Statutes Annotated, *prior to their repeal, or sections 65 through*
25 *77 or 229 through 231 of chapter 136 of the 2010 Session Laws of*
26 *Kansas, and amendments thereto.*

27 (h) "Stalking" means an act which if committed in this state would
28 constitute "stalking" as defined by K.S.A. 60-31a01, and amendments
29 thereto.

30 (i) "Human trafficking" means an act which if committed in this
31 state would constitute the crime of human trafficking as defined by
32 K.S.A. 21-3446, *prior to its repeal, or subsection (a) of section 61 of*
33 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
34 *thereto.*

35 Sec. 262. K.S.A. 2010 Supp. 75-453 is hereby amended to read as
36 follows: 75-453. (a) An adult person, an adult family member residing
37 with the victim, a parent or guardian acting on behalf of a minor, or a
38 guardian acting on behalf of an incapacitated person, may apply by and
39 through an enrolling agent to have an address designated by the secretary
40 of state serve as the person's address or the address of the minor or
41 incapacitated person. Program participants shall not apply directly to the
42 secretary of state. The secretary of state shall approve an application if it
43 is filed in the manner and on the form prescribed by the secretary of state

1 signed by the applicant and enrolling agent under penalty of perjury and
2 providing:

3 (1) A statement by the applicant that the applicant has good reason
4 to believe that the applicant, or the minor or incapacitated person on
5 whose behalf the application is made, is a victim of domestic violence,
6 sexual assault, human trafficking or stalking and:

7 (i) That the applicant fears for the applicant's safety or the
8 applicant's children's safety or the safety of the minor or incapacitated
9 person on whose behalf the application is made; or

10 (ii) that by virtue of living with an enrolled program participant, the
11 applicant fears that the knowledge or publication of the applicants'
12 whereabouts will put the enrolled participant in danger.

13 (2) A designation of the secretary of state as agent for purposes of
14 service of process and for the purpose of receipt of mail.

15 (3) The confidential mailing address where the applicant can be
16 contacted by the secretary of state, and the phone number or numbers
17 where the applicant can be called by the secretary of state.

18 (4) The confidential address or addresses that the applicant requests
19 not be disclosed for the reason that disclosure will increase the risk of
20 domestic violence, sexual assault, human trafficking or stalking.

21 (5) Evidence that the applicant or the minor or incapacitated person
22 on whose behalf the application is made, is a victim of domestic violence,
23 sexual assault, human trafficking or stalking, or is an adult family
24 member residing with the victim. This evidence may include any of the
25 following:

26 (A) Law enforcement, court or other federal, state or local
27 government records or files.

28 (B) Documentation from a public or private entity that provides
29 assistance to victims of domestic violence, sexual assault, human
30 trafficking or stalking.

31 (C) Documentation from a religious, medical or other professional
32 from whom the applicant has sought assistance in dealing with the
33 alleged domestic violence, sexual assault, human trafficking or stalking.

34 (D) Other forms of evidence as determined by the secretary of state.

35 (6) A statement of whether there are any existing court orders
36 involving the applicant for child support, child custody or child visitation
37 and whether there are any active court actions involving the applicant for
38 child support, child custody or child visitation, the name and address of
39 legal counsel of record and the last known address of the other parent or
40 parents involved in those court orders or court actions.

41 (7) The signature of the applicant and of any individual or
42 representative of any enrolling agent who assisted in the preparation of
43 the application, and the date on which the applicant signed the

1 application.

2 (b) Applications shall be filed in accordance with procedures
3 prescribed by the secretary of state.

4 (c) Upon filing a properly completed application, the secretary of
5 state shall certify the applicant as a program participant. Applicants shall
6 be certified for four years following the date of filing unless the
7 certification is withdrawn or invalidated before that date. The secretary of
8 state shall by rule and regulation establish a renewal procedure.

9 (d) Upon certification in the program, in any case where there are
10 court orders or court actions identified in subsection (a)(6), the secretary
11 of state shall, within 10 days, notify the other parent or parents of the
12 address designated by the secretary of state for the program participant
13 and the designation of the secretary of state as agent for purpose of
14 service of process. The notice shall be given by mail, return receipt
15 requested, postage prepaid, to the last known address of the other parent
16 to be notified. A copy shall also be sent to that parent's counsel of record.

17 (e) A person who falsely attests in an application that disclosure of
18 the applicant's address would endanger the applicant's safety or the safety
19 of the applicant's children or the minor or incapacitated person on whose
20 behalf the application is made, or who knowingly provides false or
21 incorrect information upon making an application, shall be punishable
22 under ~~K.S.A. 21-3711~~ *section 110 of chapter 136 of the 2010 Session*
23 *Laws of Kansas*, and amendments thereto, or other applicable statutes.

24 Sec. 263. K.S.A. 2010 Supp. 75-755 is hereby amended to read as
25 follows: 75-755. The attorney general shall promulgate rules and
26 regulations necessary to carry out the provisions of subsection (p) of
27 ~~K.S.A. 21-4603d~~ *section 244 of chapter 136 of the 2010 Session Laws of*
28 *Kansas*, and amendments thereto, on or before July 1, 2011.

29 Sec. 264. K.S.A. 2010 Supp. 75-7b01 is hereby amended to read as
30 follows: 75-7b01. As used in this act:

31 (a) "Detective business" means the furnishing of, making of or
32 agreeing to make any investigation for the purpose of obtaining
33 information with reference to:

34 (1) Crime or wrongs done or threatened against the United States or
35 any state or territory of the United States, or any political subdivision
36 thereof when furnished or made by persons other than law enforcement
37 officers;

38 (2) the identity, habits, conduct, business, occupation, honesty,
39 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
40 activity, movement, whereabouts, affiliations, associations, transactions,
41 acts, reputation or character of any person;

42 (3) the location, disposition or recovery of lost or stolen property;

43 (4) the cause or responsibility for fires, libels, losses, frauds,

- 1 accidents or damage or injury to persons or to property; or
2 (5) securing evidence to be used before any court, board, officer or
3 investigating committee.
- 4 (b) "Private detective" means any person who, for any consideration
5 whatsoever, engages in detective business.
- 6 (c) "Private detective agency" means a person who regularly
7 employs any other person, other than an organization, to engage in
8 detective business.
- 9 (d) "Private patrol operator" means a person who, for any
10 consideration whatsoever, agrees to furnish or furnishes a watchman,
11 guard, patrolman or other person to protect persons or property or to
12 prevent the theft, unlawful taking, loss, embezzlement, misappropriation
13 or concealment of any goods, wares, merchandise, money, bonds, stocks,
14 notes, documents, papers or property of any kind, or performs the service
15 of such watchman, guard, patrolman or other person for any such
16 purposes.
- 17 (e) "Law enforcement officer" means a law enforcement officer as
18 defined by ~~K.S.A. 21-3110~~ *in section 11 of chapter 136 of the 2010*
19 *Session Laws of Kansas*, and amendments thereto.
- 20 (f) "Organization" means a corporation, trust, estate, partnership,
21 cooperative or association.
- 22 (g) "Person" means an individual or organization.
- 23 (h) "Firearm permit" means a permit for the limited authority to
24 carry a firearm concealed on or about the person by one licensed as a
25 private detective.
- 26 (i) "Firearm" means:
27 (1) A pistol or revolver which is designed to be fired by the use of a
28 single hand and which is designed to fire or capable of firing fixed
29 cartridge ammunition; or
30 (2) any other weapon which will or is designed to expel a projectile
31 by the action of an explosive and which is designed to be fired by the use
32 of a single hand.
- 33 (j) "Client" means any person who engages the services of a private
34 detective.
- 35 (k) "Dishonesty or fraud" means, in addition to other acts not
36 specifically enumerated herein:
37 (1) Knowingly making a false statement relating to evidence or
38 information obtained in the course of employment, or knowingly
39 publishing a slander or a libel in the course of business;
40 (2) using illegal means in the collection or attempted collection of a
41 debt or obligation;
42 (3) manufacturing or producing any false evidence; and
43 (4) acceptance of employment adverse to a client or former client

1 relating to a matter with respect to which the licensee has obtained
2 confidential information by reason of or in the course of the licensee's
3 employment by such client or former client.

4 Sec. 265. K.S.A. 2010 Supp. 75-7b13 is hereby amended to read as
5 follows: 75-7b13. (a) The attorney general may censure, limit, condition,
6 suspend or revoke a license issued under this act if, after notice and
7 opportunity for hearing in accordance with the provisions of the Kansas
8 administrative procedure act, the attorney general determines that the
9 licensee or, if the licensee is an organization, any of its officers, directors,
10 partners or associates has:

11 (1) Made any false statement or given any false information in
12 connection with an application for a license or a renewal or reinstatement
13 thereof;

14 (2) violated any provisions of this act;

15 (3) violated any rules and regulations of the attorney general adopted
16 pursuant to the authority contained in this act;

17 (4) been convicted of a felony, vehicular homicide, assault, battery,
18 assault of a law enforcement officer, misdemeanor battery against a law
19 enforcement officer, criminal restraint, sexual battery, endangering a
20 child, intimidation of a witness or victim or any crime involving moral
21 turpitude or illegally using, carrying, or possessing a dangerous weapon
22 subsequent to the issuance of the license;

23 (5) impersonated, or permitted or aided and abetted an employee to
24 impersonate, a law enforcement officer or employee of the United States
25 of America, or of any state or political subdivision thereof;

26 (6) committed or permitted any employee to commit any act, while
27 the license was expired, which would be cause for the suspension or
28 revocation of a license, or grounds for the denial of an application for a
29 license;

30 (7) willfully failed or refused to render to a client services or a report
31 as agreed between the parties, and for which compensation has been paid
32 or tendered in accordance with the agreement of the parties;

33 (8) committed assault, battery or kidnapping or used force or
34 violence on any person without proper justification;

35 (9) knowingly violated or advised, encouraged or assisted the
36 violation of, any court order or injunction in the course of business as a
37 licensee;

38 (10) acted as a runner or capper for any attorney;

39 (11) used any letterhead, advertisement or other printed matter, or in
40 any manner whatever represented that such person is an instrumentality
41 of the federal government, a state or any political subdivision thereof;

42 (12) used false, misleading or deceptive information in any
43 advertisement, solicitation or contract for business;

1 (13) has committed any act in the course of the licensee's business
2 constituting dishonesty or fraud;

3 (14) failed to obtain continuing education as required by this act;

4 (15) misused a firearm permit badge; or

5 (16) committed any act which is a ground for denial of an
6 application for a license under this act.

7 (b) The record of conviction, or a certified copy thereof, shall be
8 conclusive evidence of such conviction as that term is used in this section
9 or in K.S.A. 75-7b04, and amendments thereto, and a plea or verdict of
10 guilty or a conviction following a plea of *nolo contendere* is deemed to be
11 a conviction within the meaning thereof.

12 (c) Upon final disposition of the proceedings for a violation relating
13 to the misuse of a firearm permit badge, the attorney general may bring
14 an action for violation of ~~K.S.A. 21-3824 or 21-3825~~ *section 142 of*
15 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
16 thereto.

17 Sec. 266. K.S.A. 2010 Supp. 75-7c03 is hereby amended to read as
18 follows: 75-7c03. (a) The attorney general shall issue licenses to carry
19 concealed handguns to persons who comply with the application and
20 training requirements of this act and who are not disqualified under
21 K.S.A. 2010 Supp. 75-7c04, and amendments thereto. Such licenses shall
22 be valid throughout the state for a period of four years from the date of
23 issuance.

24 (b) The license shall be a separate card, in a form prescribed by the
25 attorney general, that is approximately the size of a Kansas driver's
26 license and shall bear the licensee's signature, name, address, date of birth
27 and driver's license number or nondriver's identification card number
28 except that the attorney general shall assign a unique number for military
29 applicants or their dependents described in subsection (a)(1)(B) of K.S.A.
30 2010 Supp. 75-7c05, and amendments thereto. At all times when the
31 licensee is in actual possession of a concealed handgun, the licensee shall
32 carry the valid license to carry concealed handguns. On demand of a law
33 enforcement officer, the licensee shall display the license to carry
34 concealed handguns and proper identification. Verification by a law
35 enforcement officer that a person holds a valid license to carry a
36 concealed handgun may be accomplished by record check using the
37 person's driver's license information or the person's concealed carry
38 license number.

39 The license of any person who violates the provisions of this
40 subsection shall be suspended for not less than 30 days upon the first
41 violation and shall be revoked for not less than five years upon a second
42 or subsequent violation. However, a violation of this subsection shall not
43 constitute a violation of subsection (a)(4) of K.S.A. 21-4201, *prior to its*

1 *repeal, or subsection (a)(4) of section 187 of chapter 136 of the 2010*
2 *Session Laws of Kansas, and amendments thereto, if the licensee's license*
3 *is valid.*

4 (c) A valid license, issued by any other state or the District of
5 Columbia, to carry a firearm shall be recognized as valid in this state, but
6 only while the holder is not a resident of Kansas, if the attorney general
7 determines that standards for issuance of such license or permit by such
8 state or district are reasonably similar to or greater than the standards
9 imposed by this act. The attorney general shall maintain and publish a list
10 of such other jurisdictions which the attorney general determines have
11 standards reasonably similar to or greater than the standards imposed by
12 this act.

13 (d) A person who establishes residency in this state may carry
14 concealed handguns under the terms of this act until the person's
15 application for a license under this act is approved or denied, provided
16 that the person has been issued and possesses a valid license or permit to
17 carry a firearm from a jurisdiction recognized by the attorney general
18 under subsection (c) and carries with that license or permit a receipt
19 issued by the attorney general, which states the person's application for
20 licensure under this act has been received. For purposes of such
21 application, possession of the valid nonresident license or permit to carry
22 a firearm shall satisfy the requirements of subsection (b)(2) of K.S.A.
23 2010 Supp. 75-7c04, and amendments thereto.

24 Sec. 267. K.S.A. 2010 Supp. 75-7c04 is hereby amended to read as
25 follows: 75-7c04. (a) The attorney general shall not issue a license
26 pursuant to this act if the applicant:

27 (1) Is not a resident of the county where application for licensure is
28 made or is not a resident of the state;

29 (2) is prohibited from shipping, transporting, possessing or receiving
30 a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and
31 amendments thereto, or K.S.A. 21-4204, *prior to its repeal, or subsection*
32 *(a)(10) through (a)(13) of section 186 or subsection (a)(1) through (a)(3)*
33 *of section 189 of chapter 136 of the 2010 Session Laws of Kansas, and*
34 *amendments thereto; or*

35 (3) is less than 21 years of age.

36 (b) (1) The attorney general shall adopt rules and regulations
37 establishing procedures and standards as authorized by this act for an
38 eight-hour handgun safety and training course required by this section.
39 Such standards shall include: (A) A requirement that trainees receive
40 training in the safe storage of handguns, actual firing of weapons and
41 instruction in the laws of this state governing the carrying of concealed
42 handguns and the use of deadly force; (B) general guidelines for courses
43 which are compatible with the industry standard for basic firearms

1 training for civilians; (C) qualifications of instructors; and (D) a
2 requirement that the course be: (i) A handgun course certified or
3 sponsored by the attorney general; or (ii) a handgun course certified or
4 sponsored by the national rifle association or by a law enforcement
5 agency, college, private or public institution or organization or handgun
6 training school, if the attorney general determines that such course meets
7 or exceeds the standards required by rules and regulations adopted by the
8 attorney general and is taught by instructors certified by the attorney
9 general or by the national rifle association, if the attorney general
10 determines that the requirements for certification of instructors by such
11 association meet or exceed the standards required by rules and
12 regulations adopted by the attorney general. Any person wanting to be
13 certified by the attorney general as an instructor shall submit to the
14 attorney general an application in the form required by the attorney
15 general and a fee not to exceed \$150.

16 (2) The cost of the handgun safety and training course required by
17 this section shall be paid by the applicant. The following shall constitute
18 satisfactory evidence of satisfactory completion of an approved handgun
19 safety and training course: (A) Evidence of completion of the course, in
20 the form provided by rules and regulations adopted by the attorney
21 general; (B) an affidavit from the instructor, school, club, organization or
22 group that conducted or taught such course attesting to the completion of
23 the course by the applicant; or (C) for the purposes of subsection (d) of
24 K.S.A. 2010 Supp. 75-7c03, and amendments thereto, a copy of a valid
25 license to carry a firearm issued by another jurisdiction, as described in
26 that subsection.

27 Sec. 268. K.S.A. 2010 Supp. 75-7c05 is hereby amended to read as
28 follows: 75-7c05. (a) The application for a license pursuant to this act
29 shall be completed, under oath, on a form prescribed by the attorney
30 general and shall only include:

31 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,
32 address, social security number, Kansas driver's license number or
33 Kansas nondriver's license identification number, place and date of birth,
34 a photocopy of the applicant's driver's license or nondriver's identification
35 card and a photocopy of the applicant's certificate of training course
36 completion; (B) in the case of an applicant who presents proof that such
37 person is on active duty with any branch of the armed forces of the
38 United States, or is the dependent of such a person, and who does not
39 possess a Kansas driver's license or Kansas nondriver's license
40 identification, the number of such license or identification shall not be
41 required;

42 (2) a statement that the applicant is in compliance with criteria
43 contained within K.S.A. 2010 Supp. 75-7c04, and amendments thereto;

1 (3) a statement that the applicant has been furnished a copy of this
2 act and is knowledgeable of its provisions;

3 (4) a conspicuous warning that the application is executed under
4 oath and that a false answer to any question, or the submission of any
5 false document by the applicant, subjects the applicant to criminal
6 prosecution under ~~K.S.A. 21-3805~~ *section 128 of chapter 136 of the 2010*
7 *Session Laws of Kansas*, and amendments thereto; and

8 (5) a statement that the applicant desires a concealed handgun
9 license as a means of lawful self-defense.

10 (b) The applicant shall submit to the sheriff of the county where the
11 applicant resides, during any normal business hours:

12 (1) A completed application described in subsection (a);

13 (2) except as provided by subsection (g), a nonrefundable license fee
14 of \$132.50, if the applicant has not previously been issued a statewide
15 license or if the applicant's license has permanently expired, which fee
16 shall be in the form of two cashier's checks, personal checks or money
17 orders of \$32.50 payable to the sheriff of the county where the applicant
18 resides and \$100 payable to the attorney general;

19 (3) a photocopy of a certificate or an affidavit or document as
20 described in subsection (b) of K.S.A. 2010 Supp. 75-7c04, and
21 amendments thereto, or if applicable, of a license to carry a firearm as
22 described in subsection (d) of K.S.A. 2010 Supp. 75-7c03, and
23 amendments thereto; and

24 (4) a full frontal view photograph of the applicant taken within the
25 preceding 30 days.

26 (c) (1) The sheriff, upon receipt of the items listed in subsection (b)
27 of this section, shall provide for the full set of fingerprints of the
28 applicant to be taken and forwarded to the attorney general for purposes
29 of a criminal history records check as provided by subsection (d). In
30 addition, the sheriff shall forward to the attorney general a copy of the
31 application and the portion of the original license fee which is payable to
32 the attorney general. The cost of taking such fingerprints shall be
33 included in the portion of the fee retained by the sheriff. Notwithstanding
34 anything in this section to the contrary, an applicant shall not be required
35 to submit fingerprints for a renewal application under K.S.A. 2010 Supp.
36 75-7c08, and amendments thereto.

37 (2) The sheriff of the applicant's county of residence or the chief law
38 enforcement officer of any law enforcement agency, at the sheriff's or
39 chief law enforcement officer's discretion, may participate in the process
40 by submitting a voluntary report to the attorney general containing readily
41 discoverable information, corroborated through public records, which,
42 when combined with another enumerated factor, establishes that the
43 applicant poses a significantly greater threat to law enforcement or the

1 public at large than the average citizen. Any such voluntary reporting
2 shall be made within 45 days after the date the sheriff receives the
3 application. Any sheriff or chief law enforcement officer submitting a
4 voluntary report shall not incur any civil or criminal liability as the result
5 of the good faith submission of such report.

6 (3) All funds retained by the sheriff pursuant to the provisions of this
7 section shall be credited to a special fund of the sheriff's office which
8 shall be used solely for the purpose of administering this act.

9 (d) Each applicant shall be subject to a state and national criminal
10 history records check which conforms to applicable federal standards,
11 including an inquiry of the national instant criminal background check
12 system for the purpose of verifying the identity of the applicant and
13 whether the applicant has been convicted of any crime or has been the
14 subject of any restraining order or any mental health related finding that
15 would disqualify the applicant from holding a license under this act. The
16 attorney general is authorized to use the information obtained from the
17 state or national criminal history record check to determine the applicant's
18 eligibility for such license.

19 (e) Within 90 days after the date of receipt of the items listed in
20 subsection (b), the attorney general shall:

21 (1) Issue the license and certify the issuance to the department of
22 revenue; or

23 (2) deny the application based solely on: (A) The report submitted
24 by the sheriff or other chief law enforcement officer under subsection (c)
25 (2) for good cause shown therein; or (B) the ground that the applicant is
26 disqualified under the criteria listed in K.S.A. 2010 Supp. 75-7c04, and
27 amendments thereto. If the attorney general denies the application, the
28 attorney general shall notify the applicant in writing, stating the ground
29 for denial and informing the applicant the opportunity for a hearing
30 pursuant to the Kansas administrative procedure act.

31 (f) Each person issued a license shall pay to the department of
32 revenue a fee for the cost of the license which shall be in amounts equal
33 to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments
34 thereto, for replacement of a driver's license.

35 (g) (1) A person who is a retired law enforcement officer, as defined
36 in ~~K.S.A. 21-3110~~ *section 11 of chapter 136 of the 2010 Session Laws of*
37 *Kansas*, and amendments thereto, shall be: (A) Required to pay an
38 original license fee of \$75, which fee shall be in the form of two cashier
39 checks or money orders, \$25 payable to the sheriff of the county where
40 the applicant resides and \$50 payable to the attorney general, to be
41 forwarded by the sheriff to the attorney general; (B) exempt from the
42 required completion of a weapons safety and training course if such
43 person was certified by the Kansas commission on peace officer's

1 standards and training, or similar body from another jurisdiction, not
2 more than eight years prior to submission of the application; (C) required
3 to pay the license renewal fee; (D) required to pay to the department of
4 revenue the fees required by subsection (f); and (E) required to comply
5 with the criminal history records check requirement of this section.

6 (2) Proof of retirement as a law enforcement officer shall be required
7 and provided to the attorney general in the form of a letter from the
8 agency head, or their designee, of the officer's retiring agency that attests
9 to the officer having retired in good standing from that agency as a law
10 enforcement officer for reasons other than mental instability and that the
11 officer has a nonforfeitable right to benefits under a retirement plan of the
12 agency.

13 Sec. 269. K.S.A. 2010 Supp. 75-7c09 is hereby amended to read as
14 follows: 75-7c09. The application form for an original license and for a
15 renewal license shall include, in a conspicuous place, the following:
16 "WARNING: A false statement on this application may subject the
17 applicant to prosecution for the crime of perjury (~~K.S.A. 21-3805~~*section*
18 *128 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
19 thereto)."

20 Sec. 270. K.S.A. 2010 Supp. 75-7c17 is hereby amended to read as
21 follows: 75-7c17. (a) The legislature finds as a matter of public policy
22 and fact that it is necessary to provide statewide uniform standards for
23 issuing licenses to carry concealed handguns for self-defense and finds it
24 necessary to occupy the field of regulation of the bearing of concealed
25 handguns for self-defense to ensure that no honest, law-abiding person
26 who qualifies under the provisions of this act is subjectively or arbitrarily
27 denied the person's rights. No city, county or other political subdivision of
28 this state shall regulate, restrict or prohibit the carrying of concealed
29 handguns by persons licensed under this act except as provided in
30 subsection (b) of K.S.A. 2010 Supp. 75-7c10, and amendments thereto,
31 and subsection (f) of K.S.A. 21-4218, *prior to its repeal, or subsection*
32 *(e) of section 194 of chapter 136 of the 2010 Session Laws of Kansas*, and
33 amendments thereto. Any existing or future law, ordinance, rule,
34 regulation or resolution enacted by any city, county or other political
35 subdivision of this state that regulates, restricts or prohibits the carrying
36 of concealed handguns by persons licensed under this act except as
37 provided in subsection (b) of K.S.A. 2010 Supp. 75-7c10, and
38 amendments thereto, and subsection (f) of K.S.A. 21-4218, *prior to its*
39 *repeal, or subsection (e) of section 194 of chapter 136 of the 2010*
40 *Session Laws of Kansas*, and amendments thereto, shall be null and void.

41 (b) Prosecution of any person licensed under the personal and family
42 protection act, and amendments thereto, for violating any restrictions on
43 licensees will be done through the district court.

1 (c) The legislature does not delegate to the attorney general the
2 authority to regulate or restrict the issuing of licenses provided for in this
3 act, beyond those provisions of this act pertaining to licensing and
4 training. Subjective or arbitrary actions or rules and regulations which
5 encumber the issuing process by placing burdens on the applicant beyond
6 those sworn statements and specified documents detailed in this act or
7 which create restrictions beyond those specified in this act are in conflict
8 with the intent of this act and are prohibited.

9 (d) This act shall be liberally construed. This act is supplemental and
10 additional to existing constitutional rights to bear arms and nothing in this
11 act shall impair or diminish such rights.

12 Sec. 271. K.S.A. 2010 Supp. 75-7c19 is hereby amended to read as
13 follows: 75-7c19. Any person not subject to the provisions of subsection
14 (a) of K.S.A. 21-4201, *prior to its repeal, or subsections (a)(1) through*
15 *(a)(6) of section 186 or subsections (a)(1) through (a)(5) of section 187*
16 *of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
17 thereto, under the authority of paragraph (7) of subsection (c) of K.S.A.
18 21-4201, *prior to its repeal, or subsection (d)(7) of section 187 of chapter*
19 *136 of the 2010 Session Laws of Kansas*, and amendments thereto, shall
20 obtain at their own expense, and maintain a license to carry concealed
21 handguns as authorized by K.S.A. 2010 Supp. 75-7c01 et seq., and
22 amendments thereto. In addition, such person shall complete a handgun
23 training course as determined by the director of police training of the law
24 enforcement training center.

25 Sec. 272. K.S.A. 2010 Supp. 75-7c26 is hereby amended to read as
26 follows: 75-7c26. On and after July 1, 2007, (a) a person who has been
27 discharged pursuant to K.S.A. 59-2973 or 59-29b73, and amendments
28 thereto, may file a petition in the court where treatment was ordered
29 pursuant to K.S.A. 59-2966 or 59-29b66, and amendments thereto, for the
30 restoration of the ability to legally possess a firearm.

31 (b) Notice of the filing of such petition shall be served on the
32 petitioner who originally filed the action pursuant to K.S.A. 59-2952, 59-
33 2957, 59-29b52 or 59-29b57, and amendments thereto, or the petitioner's
34 attorney and the county or district attorney as appropriate.

35 (c) If the court finds the person is no longer likely to cause harm to
36 such person's self or others, the court shall issue a certificate of
37 restoration to the person. Such restoration shall have the effect of
38 restoring the person's ability to legally possess a firearm, and the
39 certification of restoration shall so state.

40 (d) The certificate of registration issued pursuant to this section shall
41 only apply to the possession of a firearm for the purposes of an alleged
42 violation of subsection (a)(7) of K.S.A. 21-4204, *prior to its repeal, or*
43 *subsection (a)(13) of chapter 186 of chapter 136 of the 2010 Session*

1 *Laws of Kansas*, and amendments thereto.

2 Sec. 273. K.S.A. 2010 Supp. 75-1508 is hereby amended to read as
3 follows: 75-1508. (a) For the purpose of maintaining the department of
4 the state fire marshal and the payment of the expenses incident thereto,
5 each fire insurance company doing business in this state shall pay to the
6 commissioner of insurance, on or before March 15 each year, in addition
7 to the taxes, fees and charges now required by law to be paid by it, such
8 levy as may be made by the state fire marshal. The levy shall not be more
9 than .80% for calendar year 2004, and each calendar year thereafter, of a
10 sum equal to the gross cash receipts as premiums of such company on all
11 fire business transacted by it in the state of Kansas during the calendar
12 year next preceding, as shown by its annual statement under oath to the
13 state insurance department.

14 (b) For the purposes of maintaining the emergency medical services
15 board and the payment of the expenses incident thereto, each fire
16 insurance company doing business in this state shall pay to the
17 commissioner of insurance, on or before March 15 each year, beginning
18 with calendar year 2002 and each calendar year thereafter, in addition to
19 the taxes, fees and charges now required by law to be paid by it, such
20 levy as may be made by the emergency medical services board. The levy
21 shall not be more than .25% of a sum equal to the gross cash receipts as
22 premiums of such company on all fire business transacted by it in the
23 state of Kansas during the calendar year next preceding, as shown by its
24 annual statement to the state insurance department generated by or at the
25 direction of its president and secretary or other chief officers under
26 penalty of ~~K.S.A. 21-37H~~*section 110 of chapter 136 of the 2010 Session*
27 *Laws of Kansas*, and amendments thereto.

28 (c) For the purposes of maintaining the fire service training program
29 of the university of Kansas and the payment of the expenses incident
30 thereto, each fire insurance company doing business in this state shall pay
31 to the commissioner of insurance, on or before March 15 each year,
32 beginning with calendar year 2004, and each calendar year thereafter, in
33 addition to the taxes, fees and charges now required by law to be paid by
34 it, such levy as may be made by the Kansas fire service training
35 commission. The levy shall not be more than .20% of a sum equal to the
36 gross cash receipts as premiums of such company on all fire business
37 transacted by it in the state of Kansas during the calendar year next
38 preceding, as shown by its annual statement under oath to the state
39 insurance department.

40 (d) The director of the fire service training program of the university
41 of Kansas shall submit a report concerning expenditures and activities of
42 the fire service training program of the university of Kansas to the house
43 committee on appropriations on or before February 1, 2005, and each

1 ensuing year thereafter.

2 Sec. 274. K.S.A. 75-4004 is hereby amended to read as follows: 75-
3 4004. Any person who with intent to defraud uses on a public security or
4 an instrument of payment:

5 (a) A facsimile signature, or any reproduction of it, of any
6 authorized officer shall on conviction be adjudged guilty of forgery ~~in the~~
7 ~~first degree and punished as provided in K.S.A. 21-631, as defined in~~
8 ~~section 109 of chapter 136 of the 2010 Session Laws of Kansas, and~~
9 ~~amendments thereto;~~ or

10 (b) Any facsimile seal, or any reproduction of it, of this state or any
11 of its departments, agencies, boards, officers, or other instrumentalities or
12 of any of its political or taxing subdivisions shall on conviction be
13 adjudged guilty of forgery ~~in the second degree and punished as provided~~
14 ~~in K.S.A. 21-631 as defined in section 109 of chapter 136 of the 2010~~
15 ~~Session Laws of Kansas, and amendments thereto.~~

16 Sec. 275. K.S.A. 2010 Supp. 75-4362 is hereby amended to read as
17 follows: 75-4362. (a) The director of the division of personnel services of
18 the department of administration shall have the authority to establish and
19 implement a drug screening program for persons taking office as
20 governor, lieutenant governor or attorney general and for applicants for
21 safety sensitive positions in state government, but no applicant for a
22 safety sensitive position shall be required to submit to a test as a part of
23 this program unless the applicant is first given a conditional offer of
24 employment.

25 (b) The director also shall have the authority to establish and
26 implement a drug screening program based upon a reasonable suspicion
27 of illegal drug use by any person currently holding one of the following
28 positions or offices:

29 (1) The office of governor, lieutenant governor or attorney general;

30 (2) any safety sensitive position;

31 (3) any position in an institution of mental health, as defined in
32 K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive
33 position;

34 (4) any position in the Kansas state school for the blind, as
35 established under K.S.A. 76-1101 et seq., and amendments thereto;

36 (5) any position in the Kansas state school for the deaf, as
37 established under K.S.A. 76-1001 et seq., and amendments thereto; or

38 (6) any employee of a state veteran's home operated by the Kansas
39 commission on veteran's affairs as described in K.S.A. 76-1901 et seq.
40 and K.S.A. 76-1951 et seq., and amendments thereto.

41 (c) Any public announcement or advertisement soliciting
42 applications for employment in a safety sensitive position in state
43 government shall include a statement of the requirements of the drug

1 screening program established under this section for applicants for and
2 employees holding a safety sensitive position.

3 (d) No person shall be terminated solely due to positive results of a
4 test administered as a part of a program authorized by this section if:

5 (1) The employee has not previously had a valid positive test result;
6 and

7 (2) the employee undergoes a drug evaluation and successfully
8 completes any education or treatment program recommended as a result
9 of the evaluation. Nothing herein shall be construed as prohibiting
10 demotions, suspensions or terminations pursuant to K.S.A. 75-2949e or
11 75-2949f, and amendments thereto.

12 (e) Except in hearings before the state civil service board regarding
13 disciplinary action taken against the employee, the results of any test
14 administered as a part of a program authorized by this section shall be
15 confidential and shall not be disclosed publicly.

16 (f) The secretary of administration may adopt such rules and
17 regulations as necessary to carry out the provisions of this section.

18 (g) "Safety sensitive positions" means the following:

19 (1) All state law enforcement officers who are authorized to carry
20 firearms;

21 (2) all state corrections officers;

22 (3) all state parole officers;

23 (4) heads of state agencies who are appointed by the governor and
24 employees on the governor's staff;

25 (5) all employees with access to secure facilities of a correctional
26 institution, as defined in ~~K.S.A. 21-3826~~ *section 139 of chapter 136 of the*
27 *2010 Session Laws of Kansas*, and amendments thereto;

28 (6) all employees of a juvenile correctional facility, as defined in
29 K.S.A. 2010 Supp. 38-2302, and amendments thereto; and

30 (7) all employees within an institution of mental health, as defined in
31 K.S.A. 76-12a01, and amendments thereto, who provide clinical,
32 therapeutic or habilitative services to the clients and patients of those
33 institutions.

34 Sec. 276. K.S.A. 2010 Supp. 75-5133 is hereby amended to read as
35 follows: 75-5133. (a) Except as otherwise more specifically provided by
36 law, all information received by the secretary of revenue, the director of
37 taxation or the director of alcoholic beverage control from returns,
38 reports, license applications or registration documents made or filed
39 under the provisions of any law imposing any sales, use or other excise
40 tax administered by the secretary of revenue, the director of taxation, or
41 the director of alcoholic beverage control, or from any investigation
42 conducted under such provisions, shall be confidential, and it shall be
43 unlawful for any officer or employee of the department of revenue to

1 divulge any such information except in accordance with other provisions
2 of law respecting the enforcement and collection of such tax, in
3 accordance with proper judicial order or as provided in K.S.A. 74-2424,
4 and amendments thereto.

5 (b) The secretary of revenue or the secretary's designee may:

6 (1) Publish statistics, so classified as to prevent identification of
7 particular reports or returns and the items thereof;

8 (2) allow the inspection of returns by the attorney general or the
9 attorney general's designee;

10 (3) provide the post auditor access to all such excise tax reports or
11 returns in accordance with and subject to the provisions of subsection (g)
12 of K.S.A. 46-1106, and amendments thereto;

13 (4) disclose taxpayer information from excise tax returns to persons
14 or entities contracting with the secretary of revenue where the secretary
15 has determined disclosure of such information is essential for completion
16 of the contract and has taken appropriate steps to preserve confidentiality;

17 (5) provide information from returns and reports filed under article
18 42 of chapter 79 of the Kansas Statutes Annotated, *and amendments*
19 *thereto*, to county appraisers as is necessary to insure proper valuations of
20 property. Information from such returns and reports may also be
21 exchanged with any other state agency administering and collecting
22 conservation or other taxes and fees imposed on or measured by mineral
23 production;

24 (6) provide, upon request by a city or county clerk or treasurer or
25 finance officer of any city or county receiving distributions from a local
26 excise tax, monthly reports identifying each retailer doing business in
27 such city or county or making taxable sales sourced to such city or
28 county, setting forth the tax liability and the amount of such tax remitted
29 by each retailer during the preceding month, and identifying each
30 business location maintained by the retailer and such retailer's sales or use
31 tax registration or account number;

32 (7) provide information from returns and applications for
33 registration filed pursuant to K.S.A. 12-187, and amendments thereto,
34 and K.S.A. 79-3601, and amendments thereto, to a city or county
35 treasurer or clerk or finance officer to explain the basis of statistics
36 contained in reports provided by subsection (b)(6);

37 (8) disclose the following oil and gas production statistics received
38 by the department of revenue in accordance with K.S.A. 79-4216 et seq.
39 and amendments thereto: Volumes of production by well name, well
40 number, operator's name and identification number assigned by the state
41 corporation commission, lease name, leasehold property description,
42 county of production or zone of production, name of purchaser and
43 purchaser's tax identification number assigned by the department of

1 revenue, name of transporter, field code number or lease code, tax period,
2 exempt production volumes by well name or lease, or any combination of
3 this information;

4 (9) release or publish liquor brand registration information provided
5 by suppliers, farm wineries and microbreweries in accordance with the
6 liquor control act. The information to be released is limited to: Item
7 number, universal numeric code, type status, product description, alcohol
8 percentage, selling units, unit size, unit of measurement, supplier number,
9 supplier name, distributor number and distributor name;

10 (10) release or publish liquor license information provided by liquor
11 licensees, distributors, suppliers, farm wineries and microbreweries in
12 accordance with the liquor control act. The information to be released is
13 limited to: County name, owner, business name, address, license type,
14 license number, license expiration date and the process agent contact
15 information;

16 (11) release or publish cigarette and tobacco license information
17 obtained from cigarette and tobacco licensees in accordance with the
18 Kansas cigarette and tobacco products act. The information to be released
19 is limited to: County name, owner, business name, address, license type
20 and license number;

21 (12) provide environmental surcharge or solvent fee, or both,
22 information from returns and applications for registration filed pursuant
23 to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the
24 secretary of health and environment or the secretary's designee for the
25 sole purpose of ensuring that retailers collect the environmental surcharge
26 tax or solvent fee, or both;

27 (13) provide water protection fee information from returns and
28 applications for registration filed pursuant to K.S.A. 82a-954, and
29 amendments thereto, to the secretary of the state board of agriculture or
30 the secretary's designee and the secretary of the Kansas water office or
31 the secretary's designee for the sole purpose of verifying revenues
32 deposited to the state water plan fund;

33 (14) provide to the secretary of commerce copies of applications for
34 project exemption certificates sought by any taxpayer under the enterprise
35 zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,
36 and amendments thereto;

37 (15) disclose information received pursuant to the Kansas cigarette
38 and tobacco act and subject to the confidentiality provisions of this act to
39 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
40 4701, and amendments thereto, or to any law enforcement officer, as
41 defined in ~~subsection (e)(10) of K.S.A. 21-3110~~ *section 11 of chapter 136*
42 *of the 2010 Session Laws of Kansas*, and amendments thereto, on behalf
43 of a criminal justice agency, when requested in writing in conjunction

1 with a pending investigation; and

2 (16) provide to retailers tax exemption information for the sole
3 purpose of verifying the authenticity of tax exemption numbers issued by
4 the department.

5 (c) Any person receiving any information under the provisions of
6 subsection (b) shall be subject to the confidentiality provisions of
7 subsection (a) and to the penalty provisions of subsection (d).

8 (d) Any violation of this section shall be a class A, nonperson
9 misdemeanor, and if the offender is an officer or employee of this state,
10 such officer or employee shall be dismissed from office. Reports of
11 violations of this paragraph shall be investigated by the attorney general.
12 The district attorney or county attorney and the attorney general shall
13 have authority to prosecute any violation of this section if the offender is
14 a city or county clerk or treasurer or finance officer of a city or county.

15 Sec. 277. K.S.A. 2010 Supp. 75-5218 is hereby amended to read as
16 follows: 75-5218. (a) When any person is sentenced to the custody of the
17 secretary of corrections, the clerk of the court which imposed such
18 sentence shall deliver to the officer having the offender in charge the
19 judgment form or journal entry as required by *section 280 of chapter 136*
20 *of the 2010 Session Laws of Kansas*, or K.S.A. ~~21-4620~~ or 22-3426, and
21 amendments thereto, together with the order of commitment to the
22 custody of the secretary of corrections as required by ~~K.S.A. 21-~~
23 ~~4621~~*section 281 of chapter 136 of the 2010 Session Laws of Kansas*, and
24 amendments thereto. Within three business days of receipt of the order of
25 commitment and the judgment form or journal entry, the officer having
26 the offender in charge shall forward certified copies to the secretary of
27 corrections. Copies of these materials shall also be delivered to the
28 officers conveying the offender to the Topeka correctional facility,
29 department of corrections reception and diagnostic unit or such other
30 correctional institution prescribed by K.S.A. 75-5220, and amendments
31 thereto, or by the secretary of corrections in accordance with such statute.

32 (b) When an offender's sentence has been modified in accordance
33 with the provisions of ~~K.S.A. 21-4609~~*section 245 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto, the clerk of the
35 court which imposed such modified sentence shall within three business
36 days notify the secretary of corrections by sending a certified copy of the
37 court's order modifying the offender's sentence to the secretary or the
38 secretary's designee.

39 Sec. 278. K.S.A. 75-5233 is hereby amended to read as follows: 75-
40 5233. (a) Except when another cost effective method of transportation is
41 available, the secretary of corrections may contract with qualified
42 individuals, partnerships or corporations for the purpose of transporting
43 individuals in the secretary's custody, including the exchange of inmates

1 with other states and the return of individuals who have violated the
2 conditions of their parole or conditional release.

3 (b) The secretary of corrections shall require that any party desiring
4 to enter into such a contract have adequate levels of liability insurance.

5 (c) The secretary of corrections shall require the contracting party to
6 present evidence of training for its employees prior to transporting any
7 individual.

8 (d) An individual engaged in transportation pursuant to a contract
9 with the secretary of corrections shall have the authority of a person
10 assisting a law enforcement officer as provided in ~~K.S.A. 21-3215~~*section*
11 *25 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
12 thereto.

13 (e) The secretary of corrections shall adopt such rules and
14 regulations as necessary to implement the provisions of this section.

15 Sec. 279. K.S.A. 75-5269 is hereby amended to read as follows: 75-
16 5269. The willful failure of an inmate to remain within the extended
17 limits of ~~his or hersuch~~*inmate's* confinement or to return within the time
18 prescribed to an institution or facility designated by the secretary shall be
19 deemed an aggravated escape from custody as provided for in ~~K.S.A. 21-~~
20 ~~3810~~*subsection (b) of section 136 of chapter 136 of the 2010 Session*
21 *Laws of Kansas, and amendments thereto.*

22 Sec. 280. K.S.A. 2010 Supp. 75-5291 is hereby amended to read as
23 follows: 75-5291. (a) (1) The secretary of corrections may make grants to
24 counties for the development, implementation, operation and
25 improvement of community correctional services that address the
26 criminogenic needs of felony offenders including, but not limited to, adult
27 intensive supervision, substance abuse and mental health services,
28 employment and residential services, and facilities for the detention or
29 confinement, care or treatment of offenders as provided in this section
30 except that no community corrections funds shall be expended by the
31 secretary for the purpose of establishing or operating a conservation camp
32 as provided by K.S.A. 75-52,127, and amendments thereto.

33 (2) Except as otherwise provided, placement of offenders in
34 community correctional services programs by the court shall be limited to
35 placement of adult offenders, convicted of a felony offense:

36 (A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the
37 sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F,
38 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In
39 addition, the court may place in a community correctional services
40 program adult offenders, convicted of a felony offense, whose offense is
41 classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of
42 the sentencing guidelines grid for nondrug crimes;

43 (B) whose severity level and criminal history score designate a

1 presumptive prison sentence on either sentencing guidelines grid but
2 receive a nonprison sentence as a result of departure;

3 (C) all offenders convicted of an offense which satisfies the
4 definition of offender pursuant to K.S.A. 22-4902, and amendments
5 thereto, and which is classified as a severity level 7 or higher offense and
6 who receive a nonprison sentence, regardless of the manner in which the
7 sentence is imposed;

8 (D) any offender for whom a violation of conditions of release or
9 assignment or a nonprison sanction has been established as provided in
10 K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in
11 the offender being required to serve any time for the sentence imposed or
12 which might originally have been imposed in a state facility in the
13 custody of the secretary of corrections;

14 (E) on and after January 1, 2011, for offenders who are expected to
15 be subject to supervision in Kansas, who are determined to be "high risk
16 or needs, or both" by the use of a statewide, mandatory, standardized risk
17 assessment tool or instrument which shall be specified by the Kansas
18 sentencing commission;

19 (F) placed in community correctional services programs as a
20 condition of supervision following the successful completion of a
21 conservation camp program; or

22 (G) who has been sentenced to community corrections supervision
23 pursuant to K.S.A. 21-4729, *prior to its repeal, or section 305 of chapter*
24 *136 of the 2010 Session Laws of Kansas*, and amendments thereto.

25 (3) Notwithstanding any law to the contrary and subject to the
26 availability of funding therefor, adult offenders sentenced to community
27 supervision in Johnson county for felony crimes that occurred on or after
28 July 1, 2002, but before January 1, 2011, shall be placed under court
29 services or community corrections supervision based upon court rules
30 issued by the chief judge of the 10th judicial district. The provisions
31 contained in this subsection shall not apply to offenders transferred by the
32 assigned agency to an agency located outside of Johnson county. The
33 provisions of this paragraph shall expire on January 1, 2011.

34 (4) Nothing in this act shall prohibit a community correctional
35 services program from providing services to juvenile offenders upon
36 approval by the local community corrections advisory board. Grants from
37 community corrections funds administered by the secretary of corrections
38 shall not be expended for such services.

39 (5) The court may require an offender for whom a violation of
40 conditions of release or assignment or a nonprison sanction has been
41 established, as provided in K.S.A. 22-3716, and amendments thereto, to
42 serve any time for the sentence imposed or which might originally have
43 been imposed in a state facility in the custody of the secretary of

1 corrections without a prior assignment to a community correctional
2 services program if the court finds and sets forth with particularity the
3 reasons for finding that the safety of the members of the public will be
4 jeopardized or that the welfare of the inmate will not be served by such
5 assignment to a community correctional services program.

6 (b) (1) In order to establish a mechanism for community correctional
7 services to participate in the department of corrections annual budget
8 planning process, the secretary of corrections shall establish a community
9 corrections advisory committee to identify new or enhanced correctional
10 or treatment interventions designed to divert offenders from prison.

11 (2) The secretary shall appoint one member from the southeast
12 community corrections region, one member from the northeast
13 community corrections region, one member from the central community
14 corrections region and one member from the western community
15 corrections region. The deputy secretary of community and field services
16 shall designate two members from the state at large. The secretary shall
17 have final appointment approval of the members designated by the deputy
18 secretary. The committee shall reflect the diversity of community
19 correctional services with respect to geographical location and average
20 daily population of offenders under supervision.

21 (3) Each member shall be appointed for a term of three years and
22 such terms shall be staggered as determined by the secretary. Members
23 shall be eligible for reappointment.

24 (4) The committee, in collaboration with the deputy secretary of
25 community and field services or the deputy secretary's designee, shall
26 routinely examine and report to the secretary on the following issues:

27 (A) Efficiencies in the delivery of field supervision services;

28 (B) effectiveness and enhancement of existing interventions;

29 (C) identification of new interventions; and

30 (D) statewide performance indicators.

31 (5) The committee's report concerning enhanced or new
32 interventions shall address:

33 (A) Goals and measurable objectives;

34 (B) projected costs;

35 (C) the impact on public safety; and

36 (D) the evaluation process.

37 (6) The committee shall submit its report to the secretary annually
38 on or before July 15 in order for the enhanced or new interventions to be
39 considered for inclusion within the department of corrections budget
40 request for community correctional services or in the department's
41 enhanced services budget request for the subsequent fiscal year.

42 Sec. 281. K.S.A. 2010 Supp. 75-52,127 is hereby amended to read
43 as follows: 75-52,127. On or after the effective date of this act, the

1 secretary of corrections may establish conservation camps to provide
2 inmates with a highly structured residential work program. Such
3 conservation camps shall be a state correctional institution or facility for
4 confinement under the supervision of the secretary. A conservation camp
5 may accept defendants assigned to such camp as provided in K.S.A. 21-
6 4603 or K.S.A. 21-4603d, *prior to its repeal, or section 244 or 271 of*
7 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
8 thereto. Defendants assigned pursuant to K.S.A. 21-4603 or K.S.A. 21-
9 4603d, *prior to its repeal, or section 244 or 271 of chapter 136 of the*
10 *2010 Session Laws of Kansas*, and amendments thereto, to a conservation
11 camp may be transferred by the secretary to any other correctional
12 institution or facility. Any inmate sentenced to the custody of the
13 secretary may be confined in a conservation camp, however, only those
14 inmates assigned to the conservation camp pursuant to subsection (a)(5)
15 or (e) of K.S.A. 21-4603d, *prior to its repeal, or subsection (a)(15) of*
16 *section 244 of chapter 136 of the 2010 Session Laws of Kansas*, or
17 subsection (b)(6) of K.S.A. 21-4603, *prior or its repeal, or subsection (b)*
18 *(6) of section 271 of chapter 136 of the 2010 Session Laws of Kansas*, and
19 amendments thereto, shall be eligible for release upon successful
20 completion of the conservation camp program.

21 Sec. 282. K.S.A. 2010 Supp. 75-52,144 is hereby amended to read
22 as follows: 75-52,144. (a) Drug abuse treatment programs certified in
23 accordance with subsection (b) shall provide:

24 (1) Presentence drug abuse assessments of any person who is
25 convicted of a felony violation of K.S.A. 65-4160 or 65-4162, prior to
26 such sections repeal or K.S.A. 2010 Supp. 21-36a06, and amendments
27 thereto, and meets the requirements of K.S.A. 21-4729, *prior to its*
28 *repeal, or section 305 of chapter 136 of the 2010 Session Laws of*
29 *Kansas*, and amendments thereto;

30 (2) treatment of all persons who are convicted of a felony violation
31 of K.S.A. 65-4160 or 65-4162, prior to such sections repeal or K.S.A.
32 2010 Supp. 21-36a06, and amendments thereto, meet the requirements of
33 K.S.A. 21-4729, *prior to its repeal, or section 305 of chapter 136 of the*
34 *2010 Session Laws of Kansas*, and amendments thereto, and whose
35 sentence requires completion of a certified drug abuse treatment program,
36 as provided in this section;

37 (3) one or more treatment options in the continuum of services
38 needed to reach recovery: Detoxification, rehabilitation, continuing care
39 and aftercare, and relapse prevention;

40 (4) treatment options to incorporate family and auxiliary support
41 services; and

42 (5) treatment options for alcohol abuse when indicated by the
43 assessment of the offender or required by the court.

1 (b) The presentence criminal risk-need assessment shall be
2 conducted by a court services officer or a community corrections officer.
3 The presentence drug abuse treatment program placement assessment
4 shall be conducted by a drug abuse treatment program certified in
5 accordance with the provisions of this subsection to provide assessment
6 and treatment services. A drug abuse treatment program shall be certified
7 by the secretary of corrections. The secretary may establish qualifications
8 for the certification of programs, which may include requirements for
9 supervision and monitoring of clients; fee reimbursement procedures;
10 handling of conflicts of interest; delivery of services to clients unable to
11 pay; and other matters relating to quality and delivery of services by the
12 program. Drug abuse treatment may include community based and faith
13 based programs. The certification shall be for a four-year period.
14 Recertification of a program shall be by the secretary. To be eligible for
15 certification under this subsection, the secretary shall determine that a
16 drug abuse treatment program: (1) Meets the qualifications established by
17 the secretary; (2) is capable of providing the assessments, supervision and
18 monitoring required under subsection (a); (3) has employed or contracted
19 with certified treatment providers; and (4) meets any other functions and
20 duties specified by law.

21 (c) Any treatment provider who is employed or has contracted with
22 a certified drug abuse treatment program who provides services to
23 offenders shall be certified by the secretary of corrections. The secretary
24 shall require education and training which shall include, but not be
25 limited to, case management and cognitive behavior training. The duties
26 of providers who prepare the presentence drug abuse assessment may
27 also include appearing at sentencing and probation hearings in
28 accordance with the orders of the court, monitoring offenders in the
29 treatment programs, notifying the probation department and the court of
30 any offender failing to meet the conditions of probation or referrals to
31 treatment, appearing at revocation hearings as may be required and
32 providing assistance and data reporting and program evaluation.

33 (d) The cost for all drug abuse assessments and certified drug abuse
34 treatment programs for any person shall be paid by the Kansas sentencing
35 commission from funds appropriated for such purpose. The Kansas
36 sentencing commission shall contract for payment for such services with
37 the supervising agency. The sentencing court shall determine the extent, if
38 any, that such person is able to pay for such assessment and treatment.
39 Such payments shall be used by the supervising agency to offset costs to
40 the state. If such financial obligations are not met or cannot be met, the
41 sentencing court shall be notified for the purpose of collection or review
42 and further action on the offender's sentence.

43 (e) The community corrections staff shall work with the substance

1 abuse treatment staff to ensure effective supervision and monitoring of
2 the offender.

3 (f) The secretary of corrections is hereby authorized to adopt rules
4 and regulations to carry out the provisions of this section.

5 Sec. 283. K.S.A. 2010 Supp. 75-52,148 is hereby amended to read
6 as follows: 75-52,148. (a) The department of corrections shall be required
7 to review and report on the following serious offenses committed by sex
8 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
9 such offenders are in the custody of the secretary of corrections:

10 (1) Murder in the first degree, as ~~provided in K.S.A. 21-3401~~ *defined*
11 *in section 37 of chapter 136 of the 2010 Session Laws of Kansas*, and
12 amendments thereto;

13 (2) murder in the second degree, as ~~provided in K.S.A. 21-~~
14 ~~3402~~ *defined in section 38 of chapter 136 of the 2010 Session Laws of*
15 *Kansas*, and amendments thereto;

16 (3) capital murder, as ~~provided in K.S.A. 21-3439~~ *defined in section*
17 *36 of chapter 136 of the 2010 Session Laws of Kansas*, and amendments
18 thereto;

19 (4) rape, as ~~provided in K.S.A. 21-3502~~ *defined in section 67 of*
20 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
21 thereto;

22 (5) aggravated criminal sodomy, as ~~provided in K.S.A. 21-~~
23 ~~3506~~ *defined in subsection (b) of section 68 of chapter 136 of the 2010*
24 *Session Laws of Kansas*, and amendments thereto;

25 (6) sexual exploitation of a child, as ~~provided in K.S.A. 21-~~
26 ~~3516~~ *defined in section 74 of chapter 136 of the 2010 Session Laws of*
27 *Kansas*, and amendments thereto;

28 (7) kidnapping as ~~provided in K.S.A. 21-3420~~ *defined in subsection*
29 *(a) of section 43 of chapter 136 of the 2010 Session Laws of Kansas*, and
30 amendments thereto;

31 (8) aggravated kidnapping, as ~~provided in K.S.A. 21-3421~~ *defined in*
32 *subsection (b) of section 43 of chapter 136 of the 2010 Session Laws of*
33 *Kansas*, and amendments thereto;

34 (9) criminal restraint, as ~~provided in K.S.A. 21-3424~~ *defined in*
35 *section 46 of chapter 136 of the 2010 Session Laws of Kansas*, and
36 amendments thereto;

37 (10) indecent solicitation of a child, as ~~provided in K.S.A. 21-~~
38 ~~3510~~ *defined in subsection (a) of section 72 of chapter 136 of the 2010*
39 *Session Laws of Kansas*, and amendments thereto;

40 (11) aggravated indecent solicitation of a child, as ~~provided in~~
41 ~~K.S.A. 21-3511~~ *defined in subsection (b) of section 72 of chapter 136 of*
42 *the 2010 Session Laws of Kansas*, and amendments thereto;

43 (12) indecent liberties with a child, as ~~provided in K.S.A. 21-~~

1 ~~3503~~ defined in subsection (a) of section 70 of chapter 136 of the 2010
2 Session Laws of Kansas, and amendments thereto;

3 (13) aggravated indecent liberties with a child, as ~~provided in K.S.A.~~
4 ~~21-3504~~ defined in subsection (b) of section 70 of chapter 136 of the 2010
5 Session Laws of Kansas, and amendments thereto;

6 (14) criminal sodomy, as ~~provided in K.S.A. 21-3505~~ defined in
7 subsection (a) of section 68 of chapter 136 of the 2010 Session Laws of
8 Kansas, and amendments thereto;

9 (15) ~~aggravated~~ child abuse, as ~~provided in K.S.A. 21-3609~~ defined
10 in section 79 of chapter 136 of the 2010 Session Laws of Kansas, and
11 amendments thereto;

12 (16) aggravated robbery, as ~~provided in K.S.A. 21-3427~~ defined in
13 subsection (b) of section 55 of chapter 136 of the 2010 Session Laws of
14 Kansas, and amendments thereto;

15 (17) burglary, as ~~provided in K.S.A. 21-3715~~ defined in subsection
16 (a) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and
17 amendments thereto;

18 (18) aggravated burglary, as ~~provided in K.S.A. 21-3716~~ defined in
19 subsection (b) of section 93 of chapter 136 of the 2010 Session Laws of
20 Kansas, and amendments thereto;

21 (19) theft, as ~~provided in K.S.A. 21-3701~~ defined in section 87 of
22 chapter 136 of the 2010 Session Laws of Kansas, and amendments
23 thereto;

24 (20) vehicular homicide, as ~~provided in K.S.A. 21-3405~~ defined in
25 section 41 of chapter 136 of the 2010 Session Laws of Kansas, and
26 amendments thereto;

27 (21) involuntary manslaughter while driving under the influence, as
28 ~~provided in K.S.A. 21-3442~~ defined in subsection (a)(3) of section 40 of
29 chapter 136 of the 2010 Session Laws of Kansas, and amendments
30 thereto; or

31 (22) stalking, as ~~provided in K.S.A. 21-3438~~ defined in section 62 of
32 chapter 136 of the 2010 Session Laws of Kansas, and amendments
33 thereto.

34 (b) The secretary of corrections shall submit such report to the
35 speaker of the house of representatives and the president of the senate
36 annually, beginning January 1, 2007.

37 Sec. 284. K.S.A. 2010 Supp. 76-11a13 is hereby amended to read as
38 follows: 76-11a13. (a) (1) Subject to the provisions of subsection (b), the
39 provisions of K.S.A. 76-11a06 through 76-11a11, and amendments
40 thereto, apply only to: (A) Teachers who have completed not less than
41 three consecutive years of employment, and been offered a contract for a
42 fourth year of employment, at the state school in which the teacher is
43 currently employed; and (B) teachers who have completed not less than

1 two consecutive years of employment, and been offered a contract for a
2 third year of employment, at the state school in which the teacher is
3 currently employed if at any time prior to the current employment the
4 teacher has completed the years of employment requirement of subpart
5 (A) at the other state school.

6 (2) The state board may waive, at any time, the years of employment
7 requirements of provision (1) for any teachers employed at a state school.

8 (3) The provisions of this subsection are subject to the provisions of
9 K.S.A. 76-11a14, and amendments thereto.

10 (b) The provisions of K.S.A. 76-11a06 through 76-11a11, and
11 amendments thereto, do not apply to any teacher whose certificate has
12 been nonrenewed or revoked by the state board for the reason that the
13 teacher: (1) Has been convicted of a felony under K.S.A. 2010 Supp. 21-
14 36a01 through 21-36a17, and amendments thereto, or any felony
15 violation of any provision of the uniform controlled substances act prior
16 to July 1, 2009; (2) has been convicted of a felony described in any
17 section of article 34 of chapter 21 of the Kansas Statutes Annotated, *prior*
18 *to their repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136*
19 *of the 2010 Session Laws of Kansas, and amendments thereto, or an act*
20 *described in K.S.A. 21-3412, prior to its repeal, or subsection (a) of*
21 *section 48 of chapter 136 of the 2010 Session Laws of Kansas, and*
22 *amendments thereto, if the victim is a minor or student; (3) has been*
23 *convicted of a felony described in any section of article 35 of chapter 21*
24 *of the Kansas Statutes Annotated, prior to their repeal, or sections 65*
25 *through 77 or 229 through 231 of chapter 136 of the 2010 Session Laws*
26 *of Kansas, and amendments thereto, or has been convicted of an act*
27 *described in K.S.A. 21-3517, prior to its repeal, or subsection (a) of*
28 *section 69 of chapter 136 of the 2010 Session Laws of Kansas, and*
29 *amendments thereto, if the victim is a minor or student; (4) has been*
30 *convicted of any act described in any section of article 36 of chapter 21 of*
31 *the Kansas Statutes Annotated, prior to their repeal, or sections 78*
32 *through 86 of chapter 136 of the 2010 Session Laws of Kansas, and*
33 *amendments thereto, (5) has been convicted of a felony described in*
34 *article 37 of chapter 21 of the Kansas Statutes Annotated; prior to their*
35 *repeal, or sections 87 through 125 or subsection (a)(6) of section 223 of*
36 *chapter 136 of the 2010 Session Laws of Kansas, and amendments*
37 *thereto; (6) has been convicted of an attempt under K.S.A. 21-3301,*
38 *prior to its repeal, or section 33 of chapter 136 of the 2010 Session Laws*
39 *of Kansas, and amendments thereto, to commit any act specified in this*
40 *subsection; (7) has been convicted of any act which is described in*
41 *K.S.A. 21-4301, 21-4301a or 21-4301c, prior to their repeal, or section*
42 *212 or 213 of chapter 136 of the 2010 Session Laws of Kansas, and*
43 *amendments thereto; (8) has been convicted in another state or by the*

1 federal government of an act similar to any act described in this
2 subsection; or (9) has entered into a criminal diversion agreement after
3 having been charged with any offense described in this subsection.

4 Sec. 285. Sec. 285. K.S.A. 8-254, 8-285, 8-1450, 9-2004, 19-
5 101d, 19-27,139, 19-4808, 20-369, 22-2411, 22-2615, 22-2307, 22-2908,
6 22-3008, 22-3102, 22-3220, 22-3414, 22-3415, 22-3427, as amended by
7 section 306 of chapter 136 of the 2010 Session Laws of Kansas, 22-3429,
8 22-3436, 22-3439, 22-3602, 22-3701, 22-3725, 22-4807a, 34-228, 34-
9 249a, 36-602, 38-1132, 39-720, 39-785, 41-206, 44-1039, 46-920, 47-
10 653c, 47-1715, 50-618, 50-648, 50-651, 50-653, 57-227, 58-2573, 60-
11 523, 60-1620, 60-2610, 60-4111, 60-4402, 60-4404, 60-4405, 65-444,
12 65-1120, 65-2006, 65-2859, 65-28,108, 65-28a05, 65-4209, 65-6703, 65-
13 6721, 68-422a, 74-7325, 74-7333, 75-4004, 75-5233 and 75-5269;
14 K.S.A. 2010 Supp. 8-116a, 8-255, 8-262, 8-287, 8-2,144, 8-1013, 8-1102,
15 8-1567, 8-2106, 8-2117, 8-2410, 12-16,119, 12-4104, 12-4516, 12-4516a,
16 12-4517, 17-12a508, 20-2207, 20-2208, 20-3207, 21-3105, 21-3211, 21-
17 3212, 21-3212a, 21-3213, 21-3214, 21-3215, 21-3216, 21-3217, 21-3218,
18 21-3220, 21-3221, 21-3301, 21-3302, 21-3303, 21-3437, 21-3446, 21-
19 3447, 21-3449, 21-3450, 21-3502, 21-3504, 21-3506, 21-3513, 21-3516,
20 21-3520, 21-3608a, 21-3826, 21-4018, 21-4201, 21-4203, 21-4204, 21-
21 4218, 21-4226, 21-4311, 21-4316, 21-4603d, 21-4610a, 21-4619, 21-
22 4623, 21-4624, 21-4632, 21-4634, 21-4642, 21-4643, 21-4704, 21-4710,
23 21-4718, 22-2310, 22-3410, 22-2512, 22-2802, 22-2901, 22-2909, 22-
24 3212, 22-3212a, 22-3303, 22-3426, 22-3716, 22-3717, 22-3717c, 22-
25 3727, 22-3727a, 22-4614, 22-4616, 22-4617, 22-4902, 22-4906, 28-177,
26 32-1013, 32-1047, 32-1063, 36-604, 38-2202, 38-2255, 38-2255a, 38-
27 2271, 38-2302, 38-2303, 38-2309, 38-2310, 38-2312, 38-2313, 38-2326,
28 38-2331, 38-2355, 38-2356, 38-2361, 38-2364, 38-2365, 38-2371, 38-
29 2377, 39-970, 40-252, 40-2,118, 40-1702, 40-3213, 41-346, 41-2611, 41-
30 2708, 41-2905, 41-2906, 44-5,125, 44-706, 44-719, 44-1131, 45-217, 45-
31 221, 45-230, 47-1706, 47-1707, 58-3043, 58-3068, 58-4505, 59-2132,
32 59-2948, 59-29a02, 59-29a07, 59-29a14, 59-29b48, 60-312, 60-455, 60-
33 1610, 60-1629, 60-3107, 60-31a06, 60-4104, 60-4105, 60-4113, 60-4119,
34 60-4403, 60-5001, 65-448, 65-516, 65-516b, 65-1436, 65-1627, 65-2434,
35 65-2836, 65-5117, 66-2304, 72-1397, 72-5445, 74-4924, 74-5602, 74-
36 7301, 74-7305, 74-8702, 74-9101, 75-452, 75-453, 75-755, 75-7b01, 75-
37 7b13, 75-7c03, 75-7c04, 75-7c05, 75-7c09, 75-7c17, 75-7c19, 75-7c26,
38 75-1508, 75-4362, 75-5133, 75-5218, 75-5291, 75-52,129, 75-52,144,
39 75-52,148 and 76-11a13; K.S.A. 2009 Supp. 21-3110, as amended by
40 section 5 of chapter 101 of the 2010 Session Laws of Kansas, 21-3412a,
41 as amended by section 6 of chapter 101 of the 2010 Session Laws of
42 Kansas, 21-4603d, as amended by section 7 of chapter 101 of the 2010
43 Session Laws of Kansas, and 21-4704 as amended by section 6 of chapter

1 147 of the 2010 Session Laws of Kansas; and Sections 2, 11, 21, 22, 23,
2 24, 25, 26, 28, 33, 34, 35, 39, 47, 48, 49, 52, 53, 56, 57, 60, 61, 62, 64,
3 67, 68, 70, 74, 76, 78, 88, 96, 98, 105, 136, 139, 141, 147, 158, 159, 164,
4 177, 183, 186, 187, 188, 189, 190, 192, 194, 198, 209, 212, 223, 225,
5 230, 232, 242, 243, 244, 247, 248, 254, 257, 259, 260, 262, 266, 267,
6 268, 269, 271, 285, 291, 292, 294, 298, 299 and 302 of chapter 136 of the
7 2010 Session Laws of Kansas are hereby repealed.

8 Sec. 286. This act shall take effect and be in force from and
9 after its publication in the statute book.

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11