

HOUSE BILL No. 2485

By Committee on Insurance

1-19

1 AN ACT concerning insurance; relating to antifraud plans; *relating to*
2 *licensing of insurance agents; providing the commissioner of*
3 *insurance access to expungement records for that purpose; relating*
4 *to lines of insurance; relating to fingerprint and criminal record*
5 *history checks for certain insurance agents and public adjusters;*
6 amending K.S.A. 2011 Supp. ~~40-2-118~~ *12-4516, 21-6614, 22-2410, 40-*
7 *2,118, 40-4903, 40-4905, 40-5504 and 40-5505* and repealing the
8 existing ~~section~~ *sections; also repealing K.S.A. 2011 Supp. 21-6614a,*
9 *21-6614b, 21-6614c and 22-2410a.*

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2011 Supp. 40-2,118 is hereby amended to read as
13 follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act"
14 means an act committed by any person who, knowingly and with intent to
15 defraud, presents, causes to be presented or prepares with knowledge or
16 belief that it will be presented to or by an insurer, purported insurer, broker
17 or any agent thereof, any written, *electronic or recorded* statement as part
18 of, or in support of, an application for the issuance of, or the rating of an
19 insurance policy for personal or commercial insurance, or a claim for
20 payment or other benefit pursuant to an insurance policy for commercial or
21 personal insurance which such person knows to contain materially false
22 information concerning any fact material thereto; or conceals, for the
23 purpose of misleading, information concerning any fact material thereto.

24 (b) An insurer that has knowledge or a good faith belief that a
25 fraudulent insurance act is being or has been committed shall provide to
26 the commissioner, on a form prescribed by the commissioner, any and all
27 information and such additional information relating to such fraudulent
28 insurance act as the commissioner may require.

29 (c) Any other person that has knowledge or a good faith belief that a
30 fraudulent insurance act is being or has been committed may provide to
31 the commissioner, on a form prescribed by the commissioner, any and all
32 information and such additional information relating to such fraudulent
33 insurance act as the commissioner may request.

34 (d) (1) Each insurer *admitted to do business in Kansas shall have*

1 ~~antifraud initiatives shall submit an antifraud plan~~ reasonably calculated to
2 detect fraudulent insurance acts. ~~Antifraud initiatives may include: fraud~~
3 ~~investigators, who may be insurer employees or independent contractors;~~
4 ~~or an~~ The antifraud plan shall be submitted to the commissioner no later
5 than ~~July 1, 2007~~ January 1, 2013 ~~2014~~, or six months after admission to
6 Kansas. Each insurer that ~~submits an antifraud plan~~ shall notify the
7 commissioner of any material change in the information contained in the
8 antifraud plan within 30 days after such change occurs. ~~Such insurer shall~~
9 ~~submit to the commissioner in writing the amended antifraud plan.~~

10 The requirement for submitting any antifraud plan, or any amendment
11 thereof, to the commissioner shall expire on the date specified in
12 paragraph (2) of this subsection unless the legislature reviews and reenacts
13 the provisions of paragraph (2) pursuant to K.S.A. 45-229, and
14 amendments thereto.

15 (2) Any antifraud plan, or any amendment thereof, submitted to the
16 commissioner for informational purposes only shall be confidential and
17 not be a public record and shall not be subject to discovery or subpoena in
18 a civil action unless following an in camera review, the court determines
19 that the antifraud plan is relevant and otherwise admissible under the rules
20 of evidence set forth in article 4 of chapter 60 of the Kansas Statutes
21 Annotated, and amendments thereto. The provisions of this paragraph shall
22 expire on July 1, 2016, unless the legislature reviews and reenacts this
23 provision pursuant to K.S.A. 45-229, and amendments thereto, prior to
24 July 1, 2016.

25 ~~(3) (A) On and after January 1, 2013, all applications for insurance~~
26 ~~and all written or electronic claim forms provided and required by an~~
27 ~~insurer or required by law as a condition of payment of a claim, shall~~
28 ~~contain a statement, permanently affixed to the application or claim form,~~
29 ~~that clearly states in substance, the following:~~

30 ~~"Knowingly providing false, incomplete or misleading information to~~
31 ~~an insurance company for the purpose of defrauding the company is a~~
32 ~~felony punishable by fines, imprisonment or both. In addition, the~~
33 ~~company may deny insurance benefits."~~

34 ~~(B) The lack of a statement required in this subsection does not~~
35 ~~constitute a defense in any criminal prosecution or in any civil action.~~

36 ~~(4) The warning required by this subsection shall not be required on~~
37 ~~forms relating to reinsurance.~~

38 (e) Except as otherwise specifically provided in subsection (a) of
39 K.S.A. 2011 Supp. 21-5812, and amendments thereto, and K.S.A. 44-
40 5,125, and amendments thereto, a fraudulent insurance act shall constitute
41 a severity level 6, nonperson felony if the amount involved is \$25,000 or
42 more; a severity level 7, nonperson felony if the amount is at least \$5,000
43 but less than \$25,000; a severity level 8, nonperson felony if the amount is

1 at least \$1,000 but less than \$5,000; and a class C nonperson misdemeanor
2 if the amount is less than \$1,000. Any combination of fraudulent acts as
3 defined in subsection (a) which occur in a period of six consecutive
4 months which involves \$25,000 or more shall have a presumptive sentence
5 of imprisonment regardless of its location on the sentencing grid block.

6 (f) In addition to any other penalty, a person who violates this statute
7 shall be ordered to make restitution to the insurer or any other person or
8 entity for any financial loss sustained as a result of such violation. An
9 insurer shall not be required to provide coverage or pay any claim
10 involving a fraudulent insurance act.

11 (g) This act shall apply to all insurance applications, ratings, claims
12 and other benefits made pursuant to any insurance policy.

13 ***Sec. 2. K.S.A. 2011 Supp. 12-4516 is hereby amended to read as***
14 ***follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and***
15 ***(d), any person who has been convicted of a violation of a city ordinance***
16 ***of this state may petition the convicting court for the expungement of***
17 ***such conviction and related arrest records if three or more years have***
18 ***elapsed since the person:***

19 ***(A) Satisfied the sentence imposed; or***

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

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

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

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

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

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

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

43 ***(5) any crime punishable as a felony wherein a motor vehicle was***

1 *used in the perpetration of such crime;*

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

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

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

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

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

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

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

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

24 *(4) the crime for which the defendant was arrested, convicted or*
25 *diverted;*

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

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

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

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

41 *(2) the circumstances and behavior of the petitioner warrant the*
42 *expungement; and*

43 *(3) the expungement is consistent with the public welfare.*

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

11 (1) *Upon conviction for any subsequent crime, the conviction that*
12 *was expunged may be considered as a prior conviction in determining*
13 *the sentence to be imposed;*

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

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

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

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

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

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

40 (F) *upon application for a commercial driver's license under K.S.A.*
41 *8-2,125 through 8-2,142, and amendments thereto;*

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

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

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

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

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

13 ***(L) in any application for a license to engage in the business of***
14 ***insurance;***

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

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

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

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

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

39 ***(1) The person whose record was expunged;***

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

1 (3) *a court, upon a showing of a subsequent conviction of the*
2 *person whose record has been expunged;*

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

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

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

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

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

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

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

41 (11) *the state gaming agency, and the request is accompanied by a*
42 *statement that the request is being made to aid in determining*
43 *qualifications: (A) To be an employee of the state gaming agency; or (B)*

1 *to be an employee of a tribal gaming commission or to hold a license*
2 *issued pursuant to a tribal-state gaming compact;*

3 *(12) the Kansas securities commissioner, or a designee of the*
4 *commissioner, and the request is accompanied by a statement that the*
5 *request is being made in conjunction with an application for registration*
6 *as a broker-dealer, agent, investment adviser or investment adviser*
7 *representative by such agency and the application was submitted by the*
8 *person whose record has been expunged;*

9 *(13) the attorney general, and the request is accompanied by a*
10 *statement that the request is being made to aid in determining*
11 *qualifications for a license to carry a concealed weapon pursuant to the*
12 *personal and family protection act;*

13 *(14) the Kansas sentencing commission;*

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

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

23 *(17) the Kansas insurance commissioner or a designee of the*
24 *commissioner; and the request is accompanied by a statement that the*
25 *request is being made in conjunction with an application for a license to*
26 *engage in the business of insurance by such agent and the application was*
27 *submitted by the person whose record has been expunged.*

28 **Sec. 3. K.S.A. 2011 Supp. 21-6614 is hereby amended to read as**
29 **follows: 21-6614. (a) (1) Except as provided in subsections (b), (c) and,**
30 **(d) and (e), any person convicted in this state of a traffic infraction,**
31 **cigarette or tobacco infraction, misdemeanor or a class D or E felony, or**
32 **for crimes committed on or after July 1, 1993, nondrug crimes ranked in**
33 **severity levels 6 through 10 or any felony ranked in severity level 4 of the**
34 **drug grid, may petition the convicting court for the expungement of such**
35 **conviction or related arrest records if three or more years have elapsed**
36 **since the person: (A) Satisfied the sentence imposed; or (B) was**
37 **discharged from probation, a community correctional services program,**
38 **parole, postrelease supervision, conditional release or a suspended**
39 **sentence.**

40 **(2) Except as provided in subsections (b), (c) and, (d) and (e), any**
41 **person who has fulfilled the terms of a diversion agreement may petition**
42 **the district court for the expungement of such diversion agreement and**
43 **related arrest records if three or more years have elapsed since the terms**

1 *of the diversion agreement were fulfilled.*

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

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

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

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

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

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

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

34 *(7) violating the provisions of K.S.A. 40-3104, and amendments*
35 *thereto, relating to motor vehicle liability insurance coverage; or*

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

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

1 (d) *There shall be no expungement of convictions for the following*
2 *offenses or of convictions for an attempt to commit any of the following*
3 *offenses:*

4 (1) *Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.*
5 *2011 Supp. 21-5503, and amendments thereto;*

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

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

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

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

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

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

21 (8) *endangering a child or aggravated endangering a child as*
22 *defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A.*
23 *2011 Supp. 21-5601, and amendments thereto;*

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

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

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

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

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

35 (14) *involuntary manslaughter as defined in K.S.A. 21-3404, prior*
36 *to its repeal, or K.S.A. 2011 Supp. 21-5405, and amendments thereto;*

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

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

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

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

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

10 ***(f) (1) When a petition for expungement is filed, the court shall set***
11 ***a date for a hearing of such petition and shall cause notice of such***
12 ***hearing to be given to the prosecutor and the arresting law enforcement***
13 ***agency. The petition shall state the:***

14 ***(A) Defendant's full name;***

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

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

18 ***(D) crime for which the defendant was arrested, convicted or***
19 ***diverted;***

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

21 ***(F) identity of the convicting court, arresting law enforcement***
22 ***authority or diverting authority.***

23 ***(2) Except as otherwise provided by law, a petition for expungement***
24 ***shall be accompanied by a docket fee in the amount of \$100. On and***
25 ***after April 15, 2010 through June 30, 2011 May 19, 2011 through June 30,***
26 ***2012, the supreme court may impose a charge, not to exceed \$15 \$19 per***
27 ***case, to fund the costs of non-judicial personnel. The charge established***
28 ***in this section shall be the only fee collected or moneys in the nature of a***
29 ***fee collected for the case. Such charge shall only be established by an***
30 ***act of the legislature and no other authority is established by law or***
31 ***otherwise to collect a fee.***

32 ***(3) All petitions for expungement shall be docketed in the original***
33 ***criminal action. Any person who may have relevant information about***
34 ***the petitioner may testify at the hearing. The court may inquire into the***
35 ***background of the petitioner and shall have access to any reports or***
36 ***records relating to the petitioner that are on file with the secretary of***
37 ***corrections or the Kansas parole board.***

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

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

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

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

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

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

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

20 (A) *In any application for licensure as a private detective, private*
21 *detective agency, certification as a firearms trainer pursuant to K.S.A.*
22 *2011 Supp. 75-7b21, and amendments thereto, or employment as a*
23 *detective with a private detective agency, as defined by K.S.A. 75-7b01,*
24 *and amendments thereto; as security personnel with a private patrol*
25 *operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with*
26 *an institution, as defined in K.S.A. 76-12a01, and amendments thereto,*
27 *of the department of social and rehabilitation services;*

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

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

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

40 (E) *to aid in determining the petitioner's qualifications for the*
41 *following under the Kansas expanded lottery act: (i) Lottery gaming*
42 *facility manager or prospective manager, racetrack gaming facility*
43 *manager or prospective manager, licensee or certificate holder; or (ii) an*

1 *officer, director, employee, owner, agent or contractor thereof;*

2 *(F) upon application for a commercial driver's license under K.S.A.*
3 *8-2,125 through 8-2,142, and amendments thereto;*

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

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

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

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

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

18 *(L) in any application for a license to engage in the business of*
19 *insurance;*

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

22 *(4) the conviction may be disclosed in a subsequent prosecution for*
23 *an offense which requires as an element of such offense a prior*
24 *conviction of the type expunged; and*

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

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

36 ~~(j)~~ *(j) Subject to the disclosures required pursuant to subsection ~~(g)~~*
37 *(g), in any application for employment, license or other civil right or*
38 *privilege, or any appearance as a witness, a person whose arrest records,*
39 *conviction or diversion of a crime has been expunged under this statute*
40 *may state that such person has never been arrested, convicted or diverted*
41 *of such crime, but the expungement of a felony conviction does not*
42 *relieve an individual of complying with any state or federal law relating*
43 *to the use or possession of firearms by persons convicted of a felony.*

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

7 (1) *The person whose record was expunged;*

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

12 (3) *a court, upon a showing of a subsequent conviction of the*
13 *person whose record has been expunged;*

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

19 (5) *a person entitled to such information pursuant to the terms of*
20 *the expungement order;*

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

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

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

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

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

9 ***(11) the Kansas sentencing commission;***

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

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

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

26 ***(15) a law enforcement agency and the request is accompanied by a***
27 ***statement that the request is being made to aid in determining eligibility***
28 ***for employment as a law enforcement officer as defined by K.S.A. 22-***
29 ***2202, and amendments thereto; ☞***

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

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

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

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

42 ***(18) the Kansas insurance commissioner or a designee of the***
43 ***commissioner, and the request is accompanied by a statement that the***

1 request is being made in conjunction with an application for a license to
2 engage in the business of insurance by such agent and the application was
3 submitted by the person whose record has been expunged.

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

6 **Sec. 4. K.S.A. 2011 Supp. 22-2410 is hereby amended to read as**
7 **follows: 22-2410. (a) Any person who has been arrested in this state may**
8 **petition the district court for the expungement of such arrest record.**

9 (b) **When a petition for expungement is filed, the court shall set a**
10 **date for hearing on such petition and shall cause notice of such hearing**
11 **to be given to the prosecuting attorney and the arresting law**
12 **enforcement agency. When a petition for expungement is filed, the**
13 **official court file shall be separated from the other records of the court,**
14 **and shall be disclosed only to a judge of the court and members of the**
15 **staff of the court designated by a judge of the district court, the**
16 **prosecuting attorney, the arresting law enforcement agency, or any other**
17 **person when authorized by a court order, subject to any conditions**
18 **imposed by the order. Except as otherwise provided by law, a petition for**
19 **expungement shall be accompanied by a docket fee in the amount of**
20 **\$100. Except as provided further, the docket fee established in this**
21 **section shall be the only fee collected or moneys in the nature of a fee**
22 **collected for the docket fee. Such fee shall only be established by an act**
23 **of the legislature and no other authority is established by law or**
24 **otherwise to collect a fee. On and after the effective date of this act May**
25 **19, 2011 through June 30, 2012, the supreme court may impose an**
26 **additional charge, not to exceed \$19 per docket fee, to fund the costs of**
27 **non-judicial personnel. The petition shall state:**

28 (1) **The petitioner's full name;**

29 (2) **the full name of the petitioner at the time of arrest, if different**
30 **than the petitioner's current name;**

31 (3) **the petitioner's sex, race and date of birth;**

32 (4) **the crime for which the petitioner was arrested;**

33 (5) **the date of the petitioner's arrest; and**

34 (6) **the identity of the arresting law enforcement agency.**

35 **No surcharge or fee shall be imposed to any person filing a petition**
36 **pursuant to this section, who was arrested as a result of being a victim of**
37 **identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a)**
38 **of K.S.A. 2011 Supp. 21-6107, and amendments thereto, or who has had**
39 **criminal charges dismissed because a court has found that there was no**
40 **probable cause for the arrest, the petitioner was found not guilty in court**
41 **proceedings or the charges have been dismissed. Any person who may**
42 **have relevant information about the petitioner may testify at the hearing.**
43 **The court may inquire into the background of the petitioner.**

1 (c) *At the hearing on a petition for expungement, the court shall*
2 *order the arrest record and subsequent court proceedings, if any,*
3 *expunged upon finding: (1) The arrest occurred because of mistaken*
4 *identity;*

5 (2) *a court has found that there was no probable cause for the*
6 *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:*
9 *(A) Charges have been dismissed; or (B) no charges have been or are*
10 *likely to be filed.*

11 (d) *When the court has ordered expungement of an arrest record*
12 *and subsequent court proceedings, if any, the order shall state the*
13 *information required to be stated in the petition and shall state the*
14 *grounds for expungement under subsection (c). The clerk of the court*
15 *shall send a certified copy of the order to the Kansas bureau of*
16 *investigation which shall notify the federal bureau of investigation, the*
17 *secretary of corrections and any other criminal justice agency which*
18 *may have a record of the arrest. If an order of expungement is entered,*
19 *the petitioner 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 interests 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 in K.S.A. 75-7b01, and amendments thereto; as*
25 *security personnel with a private patrol operator, as defined by K.S.A.*
26 *75-7b01, and amendments thereto; or with an institution, as defined in*
27 *K.S.A. 76-12a01, and amendments thereto, of the department of social*
28 *and rehabilitation services;*

29 (2) *in any application for admission, or for an order of*
30 *reinstatement, 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*
38 *deemed appropriate by the executive director of the commission, or to*
39 *aid in determining qualifications for licensure or renewal of licensure by*
40 *the commission;*

41 (5) *in any application for a commercial driver's license under*
42 *K.S.A. 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) to aid in determining the petitioner's qualifications for a license*
6 *to engage in the business of insurance; or*

7 *(9) in any other circumstances which the court deems appropriate.*

8 *(f) The court shall make all expunged records and related*
9 *information in such court's possession, created prior to, on and after July*
10 *1, 2011, available to the Kansas bureau of investigation for the purposes*
11 *of:*

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

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

18 *(g) Subject to any disclosures required under subsection (e), in any*
19 *application for employment, license or other civil right or privilege, or*
20 *any appearance as a witness, a person whose arrest records have been*
21 *expunged as provided in this section may state that such person has*
22 *never been arrested.*

23 ~~(h)~~ *(h) Whenever a petitioner's arrest records have been expunged*
24 *as provided in this section, the custodian of the records of arrest,*
25 *incarceration due to arrest or court proceedings related to the arrest,*
26 *shall not disclose the arrest or any information related to the arrest,*
27 *except as directed by the order of expungement or when requested by the*
28 *person whose arrest record was expunged.*

29 ~~(i)~~ *(i) The docket fee collected at the time the petition for*
30 *expungement is filed shall be disbursed in accordance with K.S.A. 20-*
31 *362, and amendments thereto.*

32 *Sec. 5. K.S.A. 2011 Supp. 40-4903 is hereby amended to read as*
33 *follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A. 2011*
34 *Supp. 40-4909, and amendments thereto, any person who meets the*
35 *requirements of K.S.A. 2011 Supp. 40-4905, and amendments thereto,*
36 *shall be issued an insurance agent license. An insurance agent may*
37 *receive qualifications for a license in one or more of the following lines*
38 *of authority:*

39 *(1) Life—insurance coverage on human lives including benefits of*
40 *endowment and annuities, and may include benefits in the event of*
41 *death or dismemberment by accident and benefits for disability income.*

42 *(2) Accident and health or sickness—insurance coverage for*
43 *sickness, bodily injury or accidental death and may include benefits for*

1 *disability income.*

2 (3) *Property—insurance coverage for the direct or consequential*
3 *loss or damage to property of every kind.*

4 (4) *Casualty—insurance coverage against legal liability, including*
5 *that for death, injury or disability or damage to real or personal*
6 *property.*

7 (5) *Variable life and variable annuity products—insurance*
8 *coverage provided under variable life insurance contracts, variable*
9 *annuities or any other life insurance or annuity product that reflects the*
10 *investment experience of a separate account.*

11 (6) *Personal lines—property and casualty insurance coverage sold*
12 *primarily to an individual or family for noncommercial purposes.*

13 (7) *Credit—limited line credit insurance.*

14 (8) *Crop insurance—limited line insurance for damage to crops from*
15 *unfavorable weather conditions, fire, lightning, flood, hail, insect*
16 *infestation, disease or other yield-reducing conditions or any other peril*
17 *subsidized by the federal crop insurance corporation, including multi-peril*
18 *crop insurance.*

19 (9) *Title insurance—limited line insurance that insures titles to*
20 *property against loss by reason of defective titles or encumbrances.*

21 (10) *Travel insurance—limited line insurance for personal risks*
22 *incidental to planned travel, including, but not limited to:*

23 (A) *Interruption or cancellation of trip or event;*

24 (B) *loss of baggage or personal effects;*

25 (C) *damages to accommodations or rental vehicles; or*

26 (D) *sickness, accident, disability or death occurring during travel.*

27 *Travel insurance does not include major medical plans, which provide*
28 *comprehensive medical protection for travelers with trips lasting six*
29 *months or longer; for example, persons working overseas including*
30 *military personnel deployed overseas.*

31 (11) *Pre-need funeral insurance—limited line insurance that allows*
32 *for the purchase of a life insurance or annuity contract by or on behalf of*
33 *the insured solely to fund a pre-need contract or arrangement with a*
34 *funeral home for specific services.*

35 (12) *Bail bond insurance—limited line insurance that provides surety*
36 *for a monetary guarantee that an individual released from jail will be*
37 *present in court at an appointed time.*

38 ~~(8)~~(13) *Any other line of insurance permitted under the provisions*
39 *of chapter 40 of the Kansas Statutes Annotated, and amendments*
40 *thereto, and any rules and regulations promulgated thereunder.*

41 (b) *Unless suspended, revoked or refused renewal pursuant to*
42 *K.S.A. 2011 Supp. 40-4909, and amendments thereto, an insurance*
43 *agent license shall remain in effect as long as education requirements*

1 *for resident individual agents are met by such insurance agent's biennial*
2 *due date.*

3 *(c) On and after the effective date of this act: (1) Each licensed*
4 *insurance agent who is an individual and holds a property or casualty*
5 *qualification, or both, or a personal lines qualification shall biennially*
6 *obtain a minimum of 12 C.E.C.'s in courses certified as property and*
7 *casualty which shall include at least one hour of instruction in*
8 *insurance ethics which also may include regulatory compliance. No more*
9 *than three of the required C.E.C.'s shall be in insurance agency*
10 *management.*

11 *(2) Each licensed insurance agent who is an individual and holds a*
12 *life, accident and health, or variable contracts qualification, or any*
13 *combination thereof, shall biennially complete 12 C.E.C.'s in courses*
14 *certified as life, accident and health, or variable contracts which shall*
15 *include at least one hour of instruction in insurance ethics which also*
16 *may include regulatory compliance. No more than three of the required*
17 *C.E.C.'s shall be in insurance agency management.*

18 *(3) Each licensed insurance agent who is an individual and holds*
19 *only a crop ~~only~~ qualification shall biennially obtain a minimum of two*
20 *C.E.C.'s in courses certified as crop C.E.C.'s under the property and*
21 *casualty category.*

22 *(4) Each licensed insurance agent who is an individual and is*
23 *licensed only for title insurance shall biennially obtain a minimum of*
24 *four C.E.C.'s in courses certified by the board of abstract examiners as*
25 *title under the property and casualty category.*

26 *(5) Each licensed insurance agent who is an individual and holds a*
27 *life insurance license solely for the purpose of selling ~~life pre-need~~*
28 *funeral insurance or annuity products used to fund a prearranged funeral*
29 *program and whose report of compliance required by subsection (g) is*
30 *accompanied by a certification from an officer of each insurance company*
31 *represented by such agent certifying that such agent transacted no other*
32 *insurance business during the period covered by the report shall biennially*
33 *obtain a minimum of two C.E.C.'s in courses certified as life or variable*
34 *contracts under the life, accident and health or variable contracts category*
35 *shall file a report on or before such agent's biennial due date affirming*
36 *that such agent transacted no other insurance business during the period*
37 *covered by the report. Upon request of the commissioner, an agent shall*
38 *provide certification from an officer of each insurance company which has*
39 *appointed such agent that the agent transacted no other insurance*
40 *business during the period covered by the report. Agents who have offered*
41 *to sell or sold only pre-need funeral insurance are exempt from the*
42 *requirement to obtain C.E.C.'s.*

43 *(6) Each licensed insurance agent who is an individual and holds*

1 *only a bail bond qualification is exempt from the requirement to obtain*
2 *C.E.C.'s.*

3 *(d) On and after the effective date of this act, each individual*
4 *insurance agent who holds a license with both a property or casualty*
5 *qualification, or both, and a life, accident and health or variable*
6 *contracts qualification, or any combination thereof, and who ~~earns~~ earns*
7 *C.E.C.'s from courses certified by the commissioner as qualifying for*
8 *credit in any class, may apply, at such insurance agent's option, such*
9 *C.E.C.'s toward either the property or casualty continuing education*
10 *requirement or to the life, accident and health or variable contracts*
11 *continuing education requirement. However, no C.E.C. shall be applied*
12 *to satisfy both the biennial property or casualty requirement, or both,*
13 *and the biennial requirement for life, accident and health or variable*
14 *contracts, or any combination thereof.*

15 *(e) An instructor of an approved subject shall be entitled to the*
16 *same C.E.C. as a student completing the study.*

17 *(f) (1) An individual insurance agent who has been licensed for*
18 *more than one year, on or before such insurance agent's biennial due*
19 *date, shall file a report with the commissioner certifying that such*
20 *insurance agent has met the continuing education requirements for the*
21 *previous biennium ending on such insurance agent's biennial due date.*
22 *Each individual insurance agent shall maintain a record of all courses*
23 *attended together with a certificate of attendance for the remainder of*
24 *the biennium in which the courses were attended and the entire next*
25 *succeeding biennium.*

26 *(2) If the required report showing proof of continuing education*
27 *completion is not received by the commissioner by the individual*
28 *insurance agent's biennial due date, such individual insurance agent's*
29 *qualification and each and every corresponding license shall be*
30 *suspended automatically for a period of 90 calendar days or until such*
31 *time as the producer satisfactorily demonstrates completion of the*
32 *continuing education requirement whichever is sooner. In addition the*
33 *commissioner shall assess a penalty of \$100 for each license suspended.*
34 *If such insurance agent fails to furnish to the commissioner the required*
35 *proof of continuing education completion and the monetary penalty*
36 *within 90 calendar days of such insurance agent's biennial due date,*
37 *such individual insurance agent's qualification and each and every*
38 *corresponding license shall expire on such insurance agent's biennial*
39 *due date. If after more than three but less than 12 months from the date*
40 *the license expired, the insurance agent wants to reinstate such*
41 *insurance agent's license, such individual shall provide the required*
42 *proof of continuing education completion and pay a reinstatement fee in*
43 *the amount of \$100 for each license suspended. If after more than 12*

1 *months from the date an insurance agent's license has expired, such*
2 *insurance agent wants to reinstate such insurance agent's license, such*
3 *individual shall apply for an insurance agent's license, provide the*
4 *required proof of continuing education completion and pay a*
5 *reinstatement fee in the amount of \$100 for each license suspended.*
6 *Upon receipt of a written application from such insurance agent*
7 *claiming extreme hardship, the commissioner may waive any penalty*
8 *imposed under this subsection.*

9 (3) *On and after the effective date of this act, any applicant for an*
10 *individual insurance agent's license who previously held a license which*
11 *expires on or after June 30, 2001, because of failure to meet continuing*
12 *education requirements and who seeks to be relicensed shall provide*
13 *evidence that appropriate C.E.C.'s have been completed for the prior*
14 *biennium.*

15 (4) *Upon receipt of a written application from an individual*
16 *insurance agent, the commissioner, in cases involving medical hardship*
17 *or military service, may extend the time within which to fulfill the*
18 *minimum continuing educational requirements for a period of not to*
19 *exceed 180 days.*

20 (5) *This section shall not apply to any inactive insurance agent*
21 *during the period of such inactivity. For the purposes of this paragraph,*
22 *"inactive period" or "period of inactivity" shall mean a continuous*
23 *period of time of not less than two years and not more than four years*
24 *starting from the date inactive status is granted by the commissioner.*
25 *Before returning to active status, such inactive insurance agent shall:*

26 (A) *File a report with the commissioner certifying that such agent*
27 *has met the continuing education requirement; and*

28 (B) *pay the renewal fee. If the required proof of continuing*
29 *education completion and the renewal fee is not furnished at the end of*
30 *the inactive period, such individual insurance agent's qualification and*
31 *each and every corresponding license shall expire at the end of the*
32 *period of inactivity. For issuance of a new license, the individual shall*
33 *apply for a license and pass the required examination.*

34 (6) *Any individual who allows such individual's insurance agent*
35 *license in this state and all other states in which such individual is*
36 *licensed as an insurance agent to expire for a period of four or more*
37 *consecutive years, shall apply for a new insurance agent license and*
38 *pass the required examination.*

39 (g) (1) *Each course, program of study, or subject shall be submitted*
40 *to and certified by the commissioner in order to qualify for purposes of*
41 *continuing education.*

42 (2) *Each request for certification of any course, program of study*
43 *or subject shall contain the following information:*

- 1 **(A) The name of provider or provider organization;**
- 2 **(B) the title of such course, program of study or subject;**
- 3 **(C) the date the course, program of study or subject will be offered;**
- 4 **(D) the location where the course, program of study or subject will**
- 5 **be offered;**
- 6 **(E) an outline of each course, program of study or subject**
- 7 **including a schedule of times when such material will be presented;**
- 8 **(F) the names and qualifications of instructors;**
- 9 **(G) the number of C.E.C.'s requested; and**
- 10 **(H) a nonrefundable C.E.C. qualification fee in the amount of \$50**
- 11 **per course, program of study or subject or \$250 per year for all courses,**
- 12 **programs of study or subjects submitted by a specific provider or**
- 13 **provider organization; and**
- 14 **(I) a nonrefundable annual provider fee of \$100.**
- 15 **(3) Upon receipt of such information, the commissioner shall grant**
- 16 **or deny certification of any submitted course, program of study or**
- 17 **subject as an approved subject, program of study or course and indicate**
- 18 **the number of C.E.C.'s that will be recognized for each approved course,**
- 19 **program of study or subject. Each approved course, program of study or**
- 20 **subject shall be assigned by the commissioner to one or both of the**
- 21 **following classes:**
- 22 **(A) Property and casualty; or**
- 23 **(B) life insurance (, including annuity and variable contracts), and**
- 24 **accident and health insurance.**
- 25 **(4) Each course, program of study or subject shall have a value of**
- 26 **at least one C.E.C.**
- 27 **(5) Each provider seeking approval of a course, program of study**
- 28 **or subject for continuing education credit shall issue or cause to be**
- 29 **issued to each person who attends a course, program of study or subject**
- 30 **offered by such provider a certificate of attendance. The certificate shall**
- 31 **be signed by either the instructor who presents the course, program of**
- 32 **study or course or such provider's authorized representative. Each**
- 33 **provider shall maintain a list of all individuals who attend courses**
- 34 **offered by such provider for continuing education credit for the**
- 35 **remainder of the biennium in which the courses are offered and the**
- 36 **entire next succeeding biennium.**
- 37 **The commissioner shall accept, without substantive review, any**
- 38 **course, program of study or subject submitted by a provider which has**
- 39 **been approved by the insurance supervisory authority of any other state**
- 40 **or territory accredited by the NAIC. The commissioner may disapprove**
- 41 **any individual instructor or provider who has been the subject of**
- 42 **disciplinary proceedings or who has otherwise failed to comply with any**
- 43 **other state's or territory's laws or regulations.**

1 (6) *The commissioner may grant or approve any specific course,*
2 *program of study or course that has appropriate merit, such as any*
3 *course, programs of study or course with broad national or regional*
4 *recognition, without receiving any request for certification. The fee*
5 *prescribed by paragraph (2) of subsection (g) shall not apply to any*
6 *approval granted pursuant to this provision.*

7 (7) *The C.E.C. value assigned to any course, program of study or*
8 *subject, other than a correspondence course, computer based training,*
9 *interactive internet study training or other course pursued by*
10 *independent study, shall in no way be contingent upon passage or*
11 *satisfactory completion of any examination given in connection with*
12 *such course, program of study or subject. The commissioner shall*
13 *establish, by rules and regulations criteria for determining acceptability*
14 *of any method used for verification of the completion of each stage of*
15 *any computer based or interactive internet study training. Completion of*
16 *any computer based training or interactive internet study training shall*
17 *be verified in accordance with a method approved by the commissioner.*

18 (h) *Upon request, the commissioner shall provide a list of all*
19 *approved continuing education courses currently available to the public.*

20 (i) *An individual insurance agent who independently studies an*
21 *insurance course, program of study or subject which is not an agent's*
22 *examination approved by the commissioner and who passes an*
23 *independently monitored examination, shall receive credit for the*
24 *C.E.C.'s assigned by the commissioner as recognition for the approved*
25 *subject. No other credit shall be given for independent study.*

26 (j) *Any licensed individual insurance agent who is unable to comply*
27 *with license renewal procedures due to military service or some other*
28 *extenuating circumstances may request a waiver of those procedures*
29 *from the commissioner. Such agent may also request from the*
30 *commissioner a waiver of any examination requirement or any other*
31 *fine or sanction imposed for failure to comply with renewal procedures.*

32 Sec. 6. *K.S.A. 2011 Supp. 40-4905 is hereby amended to read as*
33 *follows: 40-4905. (a) Subject to the provisions of K.S.A. 2011 Supp. 40-*
34 *4904, and amendments thereto, it shall be unlawful for any person to*
35 *sell, solicit or negotiate any insurance within this state unless such*
36 *person has been issued a license as an insurance agent in accordance*
37 *with this act.*

38 (b) *Any person applying for a resident insurance agent license shall*
39 *make application on a form prescribed by the commissioner. The*
40 *applicant shall declare under penalty of perjury that the statements*
41 *made in the application are true, correct and complete to the best of the*
42 *applicant's knowledge and belief.*

43 (c) *On and after January 1, 2013, as part of an application for a*

1 resident insurance agent license, the commissioner shall require the
2 applicant to be fingerprinted and to submit to a state and national
3 criminal history record check. This section shall not apply to a person
4 applying for renewal, continuation or adding additional lines of authority
5 to an existing home state insurance agent or a nonresident insurance
6 agent license. The commissioner is authorized to submit the fingerprints to
7 the Kansas bureau of investigation and the federal bureau of investigation
8 for a state and national criminal history record check. The commissioner
9 may use the information obtained from fingerprinting and the criminal
10 history for purposes of verifying the identification of the person and
11 making the official determination of the qualifications and fitness of the
12 person to be issued a license.

13 (d) The procedure for collecting fingerprints shall be established by
14 the commissioner and shall comply with the requirements of the federal
15 bureau of investigation.

16 (e) The commissioner, and any contractor or other designee of the
17 commissioner, shall treat and maintain an applicant's fingerprints and any
18 criminal history record information obtained under this act as confidential
19 and shall apply security measures consistent with the criminal justice
20 information services division of the federal bureau of investigation
21 standards for the electronic storage of fingerprints and necessary
22 identifying information and limit the use of records solely to the purposes
23 authorized in this act.

24 (f) The commissioner may fix a nonrefundable fee in an amount equal
25 to the costs of fingerprinting and the criminal history record check and
26 establish procedures for payment of fees.

27 (g) **Before approving the application, the commissioner shall**
28 **determine that the applicant:**

29 (1) **Is at least 18 years of age;**

30 (2) **has not committed any act that is grounds for denial pursuant to**
31 **this section or suspension or revocation pursuant to K.S.A. 2011 Supp.**
32 **40-4909, and amendments thereto;**

33 (3) **has paid a nonrefundable fee in the amount of \$30 and has paid**
34 **any additional fee required for fingerprinting and a criminal history**
35 **record check; and**

36 (4) **has successfully passed the examination for each line of**
37 **authority for which the applicant has applied.**

38 ~~(e)~~(h) **If the applicant is a business entity, then the commissioner**
39 **shall make the following additional determinations in addition to those**
40 **required by subsection (a):**

41 (1) **The name and address of a licensed agent who shall be**
42 **responsible for the business entity's compliance with the insurance laws**
43 **of this state and the rules and regulations promulgated thereunder;**

1 (2) *that each officer, director, partner and employee of the business*
 2 *entity who acts as an insurance agent is licensed as an insurance agent;*

3 (3) *that the business entity has disclosed to the department all of its*
 4 *officers, directors and partners whether or not such officers, directors,*
 5 *partners and employees are licensed as insurance agents; and*

6 (4) *that the business entity has disclosed to the department each*
 7 *officer, director, partner and employee who is licensed as an insurance*
 8 *agent.*

9 ~~(d)~~(i) *Any business entity which acts as an insurance agent and*
 10 *holds a direct agency appointment from an insurance company shall be*
 11 *required to obtain an insurance agent license.*

12 ~~(e)~~(j) *The commissioner may require the applicant to furnish any*
 13 *document or other material reasonably necessary to verify the*
 14 *information contained in an application.*

15 ~~(f)~~(k) *Each insurer that sells, solicits or negotiates any form of*
 16 *limited line credit insurance shall provide a program of instruction that*
 17 *may be approved by the commissioner to each individual employed by or*
 18 *acting on behalf of such insurer to sell, solicit or negotiate limited line*
 19 *credit insurance.*

20 ~~(g)~~(l) (1) *Each licensed insurance agent shall notify the*
 21 *commissioner of any officer, director, partner or employee of such*
 22 *insurance agent who:*

23 (A) *Is licensed as an individual insurance agent; and*

24 (B) *was not disclosed in such insurance agent's application for a*
 25 *license or any renewal thereof.*

26 (2) *Each licensed insurance agent shall notify the commissioner of*
 27 *any of its officers, directors, partners or employees who:*

28 (A) *Have terminated such relationship as an officer, director,*
 29 *partner or employee of such insurance agent; and*

30 (B) ~~has~~ *have been previously disclosed in such insurance agent's*
 31 *application for a license or any renewal thereof.*

32 (3) *Each licensed insurance agent shall notify the commissioner*
 33 *within 30 working days of occurrence of any event required to be*
 34 *reported under paragraphs (1) or (2) of this subsection. Failure to*
 35 *provide the commissioner with the information required by this*
 36 *subsection shall subject the licensee to a monetary penalty of \$10 per*
 37 *day for each working day the required information is late subject to a*
 38 *maximum of \$50 per person per licensing year.*

39 ~~(h)~~(m) *Any applicant whose application for a license, is denied shall*
 40 *be given an opportunity for a hearing in accordance with the provisions*
 41 *of the Kansas administrative procedure act.*

42 Sec. 7. *K.S.A. 2011 Supp. 40-5504 is hereby amended to read as*
 43 *follows: 40-5504. (a) An individual applying for a public adjuster license*

1 *shall make application to the commissioner on the appropriate uniform*
2 *application or other application prescribed by the commissioner.*

3 *(b) The applicant shall declare under penalty of perjury and under*
4 *penalty of refusal, suspension or revocation of the license, that the*
5 *statements made in the application are true, correct and complete to the*
6 *best of the applicant's knowledge and belief.*

7 *(c) In order to make a determination of license eligibility, the*
8 *commissioner shall require a criminal history record check on each*
9 *applicant who is not exempt from pre-licensing examination pursuant to*
10 *K.S.A. 2011 Supp. 40-5507, and amendments thereto. On and after*
11 *January 1, 2013, as part of an application for a resident public adjuster*
12 *license, the commissioner shall require the applicant to be fingerprinted*
13 *and to submit to a state and national criminal history record check. This*
14 *section shall not apply to a person applying for renewal or continuation to*
15 *an existing resident public adjuster or nonresident public adjuster license.*
16 *The commissioner is authorized to submit the fingerprints to the Kansas*
17 *bureau of investigation and the federal bureau of investigation for a state*
18 *and national criminal history record check. The commissioner may use the*
19 *information obtained from fingerprinting and the criminal history for*
20 *purposes of verifying the identification of the person and making the*
21 *official determination of the qualifications and fitness of the person to be*
22 *issued a license.*

23 *(d) The procedure for collecting fingerprints shall be established by*
24 *the commissioner and shall comply with the requirements of the federal*
25 *bureau of investigation.*

26 *(e) The commissioner, and any contractor or other designee of the*
27 *commissioner, shall treat and maintain an applicant's fingerprints and any*
28 *criminal history record information obtained under this act as confidential*
29 *and shall apply security measures consistent with the criminal justice*
30 *information services division of the federal bureau of investigation*
31 *standards for the electronic storage of fingerprints and necessary*
32 *identifying information and limit the use of records solely to the purposes*
33 *authorized in this act.*

34 *(f) The commissioner may fix a nonrefundable fee in an amount equal*
35 *to the costs of fingerprinting and the criminal history record check and*
36 *establish procedures for payment of fees.*

37 **Sec. 8. K.S.A. 2011 Supp. 40-5505 is hereby amended to read as**
38 **follows: 40-5505. (a) Before issuing a public adjuster license to an**
39 **applicant under this act, the commissioner shall find that the applicant:**

40 **(1) Is eligible to designate this state as the applicant's home state or**
41 **is a nonresident who is not eligible for a license under K.S.A. 2011 Supp.**
42 **40-5508, and amendments thereto;**

43 **(2) has not committed any act that is a ground for denial,**

1 *suspension or revocation of a license as set forth in K.S.A. 2011 Supp.*
2 *40-5510, and amendments thereto;*

3 *(3) is trustworthy, reliable and of good reputation, evidence of*
4 *which may be determined by the commissioner;*

5 *(4) is financially responsible to exercise the rights and privileges*
6 *under the license and has provided proof of financial responsibility as*
7 *required in K.S.A. 2011 Supp. 40-5511, and amendments thereto;*

8 *(5) has paid ~~an~~ a nonrefundable application fee of \$100 and any*
9 *additional fee for fingerprinting and a criminal history record check; and*

10 *(6) maintains an office in the home state with public access during*
11 *regular business hours or by reasonable appointment.*

12 *(b) In addition to satisfying the requirements of subsection (a), an*
13 *applicant shall:*

14 *(1) Be at least 18 years of age; and*

15 *(2) have successfully passed the public adjuster examination.*

16 *(c) The commissioner may require any documents reasonably*
17 *necessary to verify the information contained in the application.*

18 *Sec. ~~2~~ 9. K.S.A. 2011 Supp. ~~40-2,118 is 12-4516, 21-6614, 21-~~*
19 *6614a, 21-6614b, 21-6614c, 22-2410, 22-2410a, 40-2,118, 40-4903, 40-*
20 *4905, 40-5504 and 40-5505 are hereby repealed.*

21 *Sec. ~~3~~ 10. This act shall take effect and be in force from and after its*
22 *publication in the statute book.*

23