

SENATE BILL No. 244

By Committee on Ways and Means

4-5

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to abolition of the death penalty; creating the crime of aggravated
3 murder; sentences of imprisonment for life without the possibility of
4 parole; amending K.S.A. 2016 Supp. 21-5419, 21-6614, 21-6618, 21-
5 6620, 21-6622, 21-6628, 21-6629, 21-6806, 22-3717, 22-4902, 22-
6 4906, 38-2255, 38-2271, 38-2312, 38-2365, 39-970, 65-5117, 72-1397
7 and 75-52,148 and repealing the existing sections; also repealing
8 K.S.A. 2016 Supp. 21-5401, 21-6614g, 21-6614h, 21-6617 and 21-
9 6619.

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

12 New Section 1. (a) No person shall be sentenced to death for a crime
13 committed on or after July 1, 2017.

14 (b) Any person who is sentenced to death for a crime committed prior
15 to July 1, 2017, may be put to death pursuant to the provisions of article 40
16 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

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

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

20 (1) Intentional and premeditated killing of any person in the
21 commission of kidnapping, as defined in K.S.A. 2016 Supp. 21-5408, and
22 amendments thereto, or aggravating kidnapping, as defined in K.S.A. 2016
23 Supp. 21-5408(b), and amendments thereto, when the kidnapping or
24 aggravated kidnapping was committed with the intent to hold such person
25 for ransom;

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

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

34 (4) intentional and premeditated killing of the victim of one of the
35 following crimes in the commission of, or subsequent to, such crime:
36 Rape, as defined in K.S.A. 2016 Supp. 21-5503, and amendments thereto,

1 criminal sodomy, as defined in K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4),
2 and amendments thereto, or aggravated criminal sodomy, as defined in
3 K.S.A. 2016 Supp. 21-5504(b), and amendments thereto, or any attempt
4 thereof, as defined in K.S.A. 2016 Supp. 21-5301, and amendments
5 thereto;

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

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

11 (7) intentional and premeditated killing of a child under the age of 14
12 in the commission of kidnapping, as defined in K.S.A. 2016 Supp. 21-
13 5408(a), and amendments thereto, or aggravated kidnapping, as defined in
14 K.S.A. 2016 Supp. 21-5408(b), and amendments thereto, when the
15 kidnapping or aggravated kidnapping was committed with intent to
16 commit a sex offense upon or with the child or with intent that the child
17 commit or submit to a sex offense.

18 (b) For purposes of this section, "sex offense" means rape, as defined
19 in K.S.A. 2016 Supp. 21-5503, and amendments thereto, aggravated
20 indecent liberties with a child, as defined in K.S.A. 2016 Supp. 21-
21 5506(b), and amendments thereto, aggravated criminal sodomy, as defined
22 in K.S.A. 2016 Supp. 21-5504(b), and amendments thereto, prostitution, as
23 defined in K.S.A. 2016 Supp. 21-6419, and amendments thereto,
24 promoting prostitution, as defined in K.S.A. 2016 Supp. 21-6420, and
25 amendments thereto, or sexual exploitation of a child, as defined in K.S.A.
26 2016 Supp. 21-5510, and amendments thereto.

27 (c) Notwithstanding K.S.A. 2016 Supp. 21-5109(b)(1) or (b)(2), and
28 amendments thereto, when the same conduct of a defendant may establish
29 the commission of aggravated murder and the commission of another
30 crime under the laws of this state, the defendant may be prosecuted and
31 sentenced for each of such crimes.

32 (d) Aggravated murder is an off-grid person felony.

33 (e) This section shall be part of and supplemental to the Kansas
34 criminal code.

35 New Sec. 3. (a) When it is provided by law that a person shall be
36 sentenced pursuant to this section, such person shall be sentenced to
37 imprisonment for life without the possibility of parole. A defendant who is
38 sentenced to imprisonment for life without the possibility of parole shall
39 spend the remainder of the defendant's natural life incarcerated and in the
40 custody of the secretary of corrections. A defendant who is sentenced to
41 imprisonment for life without the possibility of parole shall not be eligible
42 for commutation of sentence, parole, probation, assignment to a
43 community correctional services program, conditional release, postrelease

1 supervision, functional incapacitation release pursuant to K.S.A. 22-3728,
2 and amendments thereto, or suspension, modification or reduction of
3 sentence. Upon sentencing a defendant to imprisonment for life without
4 the possibility of parole, the court shall commit the defendant to the
5 custody of the secretary of corrections and the court shall state in the
6 sentencing order of the judgment form or journal entry, whichever is
7 delivered with the defendant to the correctional institution, that the
8 defendant has been sentenced to imprisonment for life without the
9 possibility of parole.

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

12 Sec. 4. K.S.A. 2016 Supp. 21-5419 is hereby amended to read as
13 follows: 21-5419. (a) As used in this section:

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

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

18 (b) This section shall not apply to:

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

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

23 (3) the lawful dispensation or administration of lawfully prescribed
24 medication.

25 (c) As used in K.S.A. 2016 Supp. ~~21-5401~~, 21-5402, 21-5403, 21-
26 5404, 21-5405, 21-5406 ~~and subsections (a) and (b) of~~, 21-5413(a) and (b)
27 and section 2, and amendments thereto, "person" and "human being" also
28 mean an unborn child.

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

30 Sec. 5. K.S.A. 2016 Supp. 21-6614 is hereby amended to read as
31 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
32 and (f), any person convicted in this state of a traffic infraction, cigarette
33 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
34 committed on or after July 1, 1993, any nongrid felony or felony ranked in
35 severity levels 6 through 10 of the nondrug grid, or for crimes committed
36 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
37 severity level 4 of the drug grid, or for crimes committed on or after July
38 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
39 the convicting court for the expungement of such conviction or related
40 arrest records if three or more years have elapsed since the person: (A)
41 Satisfied the sentence imposed; or (B) was discharged from probation, a
42 community correctional services program, parole, postrelease supervision,
43 conditional release or a suspended sentence.

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

6 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
7 3512, prior to its repeal, convicted of a violation of K.S.A. 2016 Supp. 21-
8 6419, and amendments thereto, or who entered into a diversion agreement
9 in lieu of further criminal proceedings for such violation, may petition the
10 convicting court for the expungement of such conviction or diversion
11 agreement and related arrest records if:

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

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

22 (c) Except as provided in subsections (e) and (f), no person may
23 petition for expungement until five or more years have elapsed since the
24 person satisfied the sentence imposed or the terms of a diversion
25 agreement or was discharged from probation, a community correctional
26 services program, parole, postrelease supervision, conditional release or a
27 suspended sentence, if such person was convicted of a class A, B or C
28 felony, or for crimes committed on or after July 1, 1993, if convicted of an
29 off-grid felony or any felony ranked in severity levels 1 through 5 of the
30 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to
31 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug
32 grid, or for crimes committed on or after July 1, 2012, any felony ranked
33 in severity levels 1 through 4 of the drug grid, or:

34 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
35 repeal, or K.S.A. 2016 Supp. 21-5406, and amendments thereto, or as
36 prohibited by any law of another state which is in substantial conformity
37 with that statute;

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

43 (3) perjury resulting from a violation of K.S.A. 8-261a, and

1 amendments thereto, or resulting from the violation of a law of another
2 state which is in substantial conformity with that statute;

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

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

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

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

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

15 (d) (1) No person may petition for expungement until five or more
16 years have elapsed since the person satisfied the sentence imposed or the
17 terms of a diversion agreement or was discharged from probation, a
18 community correctional services program, parole, postrelease supervision,
19 conditional release or a suspended sentence, if such person was convicted
20 of a first violation of K.S.A. 8-1567 or K.S.A. 2016 Supp. 8-1025, and
21 amendments thereto, including any diversion for such violation.

22 (2) No person may petition for expungement until 10 or more years
23 have elapsed since the person satisfied the sentence imposed or was
24 discharged from probation, a community correctional services program,
25 parole, postrelease supervision, conditional release or a suspended
26 sentence, if such person was convicted of a second or subsequent violation
27 of K.S.A. 8-1567 or K.S.A. 2016 Supp. 8-1025, and amendments thereto.

28 (e) There shall be no expungement of convictions for the following
29 offenses or of convictions for an attempt to commit any of the following
30 offenses:

31 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
32 2016 Supp. 21-5503, and amendments thereto;

33 (2) indecent liberties with a child or aggravated indecent liberties
34 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
35 or K.S.A. 2016 Supp. 21-5506, and amendments thereto;

36 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
37 prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and
38 amendments thereto;

39 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
40 to its repeal, or K.S.A. 2016 Supp. 21-5504, and amendments thereto;

41 (5) indecent solicitation of a child or aggravated indecent solicitation
42 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
43 or K.S.A. 2016 Supp. 21-5508, and amendments thereto;

1 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
2 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

3 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
4 repeal, or K.S.A. 2016 Supp. 21-5604, and amendments thereto;

5 (8) endangering a child or aggravated endangering a child, as defined
6 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2016 Supp.
7 21-5601, and amendments thereto;

8 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
9 or K.S.A. 2016 Supp. 21-5602, and amendments thereto;

10 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
11 or K.S.A. 2016 Supp. 21-5401, *prior to its repeal*;

12 ~~(11)~~ *aggravated murder as defined in section 2*, and amendments
13 thereto;

14 ~~(H)~~ ~~(12)~~ murder in the first degree, as defined in K.S.A. 21-3401,
15 prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments
16 thereto;

17 ~~(+2)~~ ~~(13)~~ murder in the second degree, as defined in K.S.A. 21-3402,
18 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
19 thereto;

20 ~~(+3)~~ ~~(14)~~ voluntary manslaughter, as defined in K.S.A. 21-3403, prior
21 to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

22 ~~(+4)~~ ~~(15)~~ involuntary manslaughter, as defined in K.S.A. 21-3404,
23 prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments
24 thereto;

25 ~~(+5)~~ ~~(16)~~ sexual battery, as defined in K.S.A. 21-3517, prior to its
26 repeal, or K.S.A. 2016 Supp. 21-5505, and amendments thereto, when the
27 victim was less than 18 years of age at the time the crime was committed;

28 ~~(+6)~~ ~~(17)~~ aggravated sexual battery, as defined in K.S.A. 21-3518,
29 prior to its repeal, or K.S.A. 2016 Supp. 21-5505, and amendments
30 thereto;

31 ~~(+7)~~ ~~(18)~~ a violation of K.S.A. 8-2,144, and amendments thereto,
32 including any diversion for such violation; or

33 ~~(+8)~~ ~~(19)~~ any conviction for any offense in effect at any time prior to
34 July 1, 2011, that is comparable to any offense as provided in this
35 subsection.

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

42 (g) (1) When a petition for expungement is filed, the court shall set a
43 date for a hearing of such petition and shall cause notice of such hearing to

1 be given to the prosecutor and the arresting law enforcement agency. The
2 petition shall state the:

- 3 (A) Defendant's full name;
- 4 (B) full name of the defendant at the time of arrest, conviction or
5 diversion, if different than the defendant's current name;
- 6 (C) defendant's sex, race and date of birth;
- 7 (D) crime for which the defendant was arrested, convicted or
8 diverted;
- 9 (E) date of the defendant's arrest, conviction or diversion; and
- 10 (F) identity of the convicting court, arresting law enforcement
11 authority or diverting authority.

12 (2) Except as otherwise provided by law, a petition for expungement
13 shall be accompanied by a docket fee in the amount of \$176. On and after
14 July 1, 2015, through June 30, 2017, the supreme court may impose a
15 charge, not to exceed \$19 per case, to fund the costs of non-judicial
16 personnel. The charge established in this section shall be the only fee
17 collected or moneys in the nature of a fee collected for the case. Such
18 charge shall only be established by an act of the legislature and no other
19 authority is established by law or otherwise to collect a fee.

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

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

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

31 (2) the circumstances and behavior of the petitioner warrant the
32 expungement; and

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

34 (i) When the court has ordered an arrest record, conviction or
35 diversion expunged, the order of expungement shall state the information
36 required to be contained in the petition. The clerk of the court shall send a
37 certified copy of the order of expungement to the Kansas bureau of
38 investigation which shall notify the federal bureau of investigation, the
39 secretary of corrections and any other criminal justice agency which may
40 have a record of the arrest, conviction or diversion. *If the case was*
41 *appealed from municipal court, the clerk of the district court shall send a*
42 *certified copy of the order of expungement to the municipal court. The*
43 *municipal court shall order the case expunged once the certified copy of*

1 *the order of expungement is received.* After the order of expungement is
2 entered, the petitioner shall be treated as not having been arrested,
3 convicted or diverted of the crime, except that:

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

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

9 (A) In any application for licensure as a private detective, private
10 detective agency, certification as a firearms trainer pursuant to K.S.A.
11 2016 Supp. 75-7b21, and amendments thereto, or employment as a
12 detective with a private detective agency, as defined by K.S.A. 75-7b01,
13 and amendments thereto; as security personnel with a private patrol
14 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
15 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
16 the Kansas department for aging and disability services;

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

19 (C) to aid in determining the petitioner's qualifications for
20 employment with the Kansas lottery or for work in sensitive areas within
21 the Kansas lottery as deemed appropriate by the executive director of the
22 Kansas lottery;

23 (D) to aid in determining the petitioner's qualifications for executive
24 director of the Kansas racing and gaming commission, for employment
25 with the commission or for work in sensitive areas in parimutuel racing as
26 deemed appropriate by the executive director of the commission, or to aid
27 in determining qualifications for licensure or renewal of licensure by the
28 commission;

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

34 (F) upon application for a commercial driver's license under K.S.A.
35 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

3 (K) for applications received on and after July 1, 2006, to aid in
4 determining the petitioner's qualifications for a license to carry a concealed
5 weapon pursuant to the personal and family protection act, K.S.A. 2016
6 Supp. 75-7c01 et seq., and amendments thereto; *or*

7 (L) *for applications received on and after July 1, 2016, to aid in*
8 *determining the petitioner's qualifications for a license to act as a bail*
9 *enforcement agent pursuant to K.S.A. 2016 Supp. 75-7e01 through 75-*
10 *7e09 and K.S.A. 2016 Supp. 50-6,141, and amendments thereto;*

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

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 conviction
15 of the type expunged; and

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

20 (j) Whenever a person is convicted of a crime, pleads guilty and pays
21 a fine for a crime, is placed on parole, postrelease supervision or
22 probation, is assigned to a community correctional services program, is
23 granted a suspended sentence or is released on conditional release, 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 (k) (1) Subject to the disclosures required pursuant to subsection (i),
28 in any application for employment, license or other civil right or privilege,
29 or any appearance as a witness, a person whose arrest records, conviction
30 or diversion of a crime has been expunged under this statute may state that
31 such person has never been arrested, convicted or diverted of such crime.

32 (2) Notwithstanding the provisions of subsection (k)(1), and except as
33 provided in K.S.A. 2016 Supp. 21-6304(a)(3)(A), and amendments
34 thereto, the expungement of a prior felony conviction does not relieve the
35 individual of complying with any state or federal law relating to the use,
36 shipment, transportation, receipt or possession of firearms by persons
37 previously convicted of a felony.

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

43 (1) The person whose record was expunged;

- 1 (2) a private detective agency or a private patrol operator, and the
2 request is accompanied by a statement that the request is being made in
3 conjunction with an application for employment with such agency or
4 operator by the person whose record has been expunged;
- 5 (3) a court, upon a showing of a subsequent conviction of the person
6 whose record has been expunged;
- 7 (4) the secretary for aging and disability services, or a designee of the
8 secretary, for the purpose of obtaining information relating to employment
9 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,
10 of the Kansas department for aging and disability services of any person
11 whose record has been expunged;
- 12 (5) a person entitled to such information pursuant to the terms of the
13 expungement order;
- 14 (6) a prosecutor, and such request is accompanied by a statement that
15 the request is being made in conjunction with a prosecution of an offense
16 that requires a prior conviction as one of the elements of such offense;
- 17 (7) the supreme court, the clerk or disciplinary administrator thereof,
18 the state board for admission of attorneys or the state board for discipline
19 of attorneys, and the request is accompanied by a statement that the
20 request is being made in conjunction with an application for admission, or
21 for an order of reinstatement, to the practice of law in this state by the
22 person whose record has been expunged;
- 23 (8) the Kansas lottery, and the request is accompanied by a statement
24 that the request is being made to aid in determining qualifications for
25 employment with the Kansas lottery or for work in sensitive areas within
26 the Kansas lottery as deemed appropriate by the executive director of the
27 Kansas lottery;
- 28 (9) the governor or the Kansas racing and gaming commission, or a
29 designee of the commission, and the request is accompanied by a
30 statement that the request is being made to aid in determining
31 qualifications for executive director of the commission, for employment
32 with the commission, for work in sensitive areas in parimutuel racing as
33 deemed appropriate by the executive director of the commission or for
34 licensure, renewal of licensure or continued licensure by the commission;
- 35 (10) the Kansas racing and gaming commission, or a designee of the
36 commission, and the request is accompanied by a statement that the
37 request is being made to aid in determining qualifications of the following
38 under the Kansas expanded lottery act: (A) Lottery gaming facility
39 managers and prospective managers, racetrack gaming facility managers
40 and prospective managers, licensees and certificate holders; and (B) their
41 officers, directors, employees, owners, agents and contractors;
- 42 (11) the Kansas sentencing commission;
- 43 (12) the state gaming agency, and the request is accompanied by a

1 statement that the request is being made to aid in determining
 2 qualifications: (A) To be an employee of the state gaming agency; or (B)
 3 to be an employee of a tribal gaming commission or to hold a license
 4 issued pursuant to a tribal-gaming compact;

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

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

15 (15) a law enforcement agency and the request is accompanied by a
 16 statement that the request is being made to aid in determining eligibility
 17 for employment as a law enforcement officer as defined by K.S.A. 22-
 18 2202, and amendments thereto;

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

22 (A) Carry a concealed weapon pursuant to the personal and family
 23 protection act; *or*

24 (B) *act as a bail enforcement agent pursuant to K.S.A. 2016 Supp.*
 25 *75-7e01 through 75-7e09 and K.S.A. 2016 Supp. 50-6,141, and*
 26 *amendments thereto; or*

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

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

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

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

36 Sec. 6. K.S.A. 2016 Supp. 21-6618 is hereby amended to read as
 37 follows: 21-6618. Upon conviction of a defendant of ~~capital~~ *aggravated*
 38 murder and a finding that the defendant was less than 18 years of age at
 39 the time of the commission thereof, the court shall sentence the defendant
 40 as otherwise provided by law, and no sentence of ~~death or life without the~~
 41 possibility of parole shall be imposed ~~hereunder~~.

42 Sec. 7. K.S.A. 2016 Supp. 21-6620 is hereby amended to read as
 43 follows: 21-6620. (a) (1) Except as provided in subsection (a)(2) and

1 K.S.A. 2016 Supp. 21-6618 and 21-6622, and amendments thereto, if a
2 defendant is convicted of the crime of ~~capital murder and a sentence of~~
3 ~~death is not imposed pursuant to subsection (c) of K.S.A. 2016 Supp. 21-~~
4 ~~6617, and amendments thereto, or requested pursuant to subsection (a) or~~
5 ~~(b) of K.S.A. 2016 Supp. 21-6617, and amendments thereto~~ *aggravated*
6 *murder*, the defendant shall be sentenced to life without the possibility of
7 parole *pursuant to section 3, and amendments thereto*.

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

16 (B) The provisions of subsection (a)(2)(A) requiring the court to
17 impose a mandatory minimum term of imprisonment of 25 years shall not
18 apply if the court finds the defendant, because of the defendant's criminal
19 history classification, is subject to presumptive imprisonment pursuant to
20 the sentencing guidelines grid for nondrug crimes and the sentencing range
21 exceeds 300 months. In such case, the defendant is required to serve a
22 mandatory minimum term equal to the sentence established pursuant to the
23 sentencing range.

24 (b) The provisions of this subsection shall apply only to the crime of
25 murder in the first degree as described in ~~subsection (a)(2) of K.S.A. 2016~~
26 ~~Supp. 21-5402(a)(2), and amendments thereto, committed on or after July~~
27 ~~1, 2014.~~

28 (1) Except as provided in subsection (b)(2), a defendant convicted of
29 murder in the first degree as described in ~~subsection (a)(2) of K.S.A. 2016~~
30 ~~Supp. 21-5402(a)(2), and amendments thereto, shall be sentenced to~~
31 ~~imprisonment for life and shall not be eligible for probation or suspension,~~
32 ~~modification or reduction of sentence. In addition, the defendant shall not~~
33 ~~be eligible for parole prior to serving 25 years' imprisonment, and such 25~~
34 ~~years' imprisonment shall not be reduced by the application of good time~~
35 ~~credits. No other sentence shall be permitted.~~

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

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

4 (1) (A) Except as provided in subsection (c)(1)(B), a defendant
5 convicted of murder in the first degree based upon the finding of
6 premeditated murder shall be sentenced pursuant to K.S.A. 2016 Supp. 21-
7 6623, and amendments thereto, unless the sentencing judge finds
8 substantial and compelling reasons, following a review of mitigating
9 circumstances, to impose the sentence specified in subsection (c)(2).

10 (B) The provisions of subsection (c)(1)(A) requiring the court to
11 impose the mandatory minimum term of imprisonment required by K.S.A.
12 2016 Supp. 21-6623, and amendments thereto, shall not apply if the court
13 finds the defendant, because of the defendant's criminal history
14 classification, is subject to presumptive imprisonment pursuant to the
15 sentencing guidelines grid for nondrug crimes and the sentencing range
16 exceeds 600 months. In such case, the defendant is required to serve a
17 mandatory minimum term equal to the sentence established pursuant to the
18 sentencing range.

19 (2) (A) If the sentencing judge does not impose the mandatory
20 minimum term of imprisonment required by K.S.A. 2016 Supp. 21-6623,
21 and amendments thereto, the judge shall state on the record at the time of
22 sentencing the substantial and compelling reasons therefor, and, except as
23 provided in subsection (c)(2)(B), the defendant shall be sentenced to
24 imprisonment for life and shall not be eligible for probation or suspension,
25 modification or reduction of sentence. In addition, the defendant shall not
26 be eligible for parole prior to serving 25 years' imprisonment, and such 25
27 years' imprisonment shall not be reduced by the application of good time
28 credits. No other sentence shall be permitted.

29 (B) The provisions of subsection (c)(2)(A) requiring the court to
30 impose a mandatory minimum term of imprisonment of 25 years shall not
31 apply if the court finds the defendant, because of the defendant's criminal
32 history classification, is subject to presumptive imprisonment pursuant to
33 the sentencing guidelines grid for nondrug crimes and the sentencing range
34 exceeds 300 months. In such case, the defendant is required to serve a
35 mandatory minimum term equal to the sentence established pursuant to the
36 sentencing range.

37 (d) The provisions of this subsection shall apply only to the crime of
38 murder in the first degree based upon the finding of premeditated murder
39 committed on or after September 6, 2013.

40 (1) If a defendant is convicted of murder in the first degree based
41 upon the finding of premeditated murder, upon reasonable notice by the
42 prosecuting attorney, the court shall determine, in accordance with this
43 subsection, whether the defendant shall be required to serve a mandatory

1 minimum term of imprisonment of 50 years or sentenced as otherwise
2 provided by law.

3 (2) The court shall conduct a separate proceeding following the
4 determination of the defendant's guilt for the jury to determine whether
5 one or more aggravating circumstances exist. Such proceeding shall be
6 conducted by the court before a jury as soon as practicable. If any person
7 who served on the trial jury is unable to serve on the jury for the
8 proceeding, the court shall substitute an alternate juror who has been
9 impaneled for the trial jury. If there are insufficient alternate jurors to
10 replace trial jurors who are unable to serve at the proceeding, the court
11 may conduct such proceeding before a jury which may have 12 or less
12 jurors, but at no time less than six jurors. If the jury has been discharged
13 prior to the proceeding, a new jury shall be impaneled. Any decision of the
14 jury regarding the existence of an aggravating circumstance shall be
15 beyond a reasonable doubt. Jury selection procedures, qualifications of
16 jurors and grounds for exemption or challenge of prospective jurors in
17 criminal trials shall be applicable to the selection of such jury. The jury at
18 the proceeding may be waived in the manner provided by K.S.A. 22-3403,
19 and amendments thereto, for waiver of a trial jury. If the jury at the
20 proceeding has been waived, such proceeding shall be conducted by the
21 court.

22 (3) In the proceeding, evidence may be presented concerning any
23 matter relating to any of the aggravating circumstances enumerated in
24 K.S.A. 2016 Supp. 21-6624, and amendments thereto. Only such evidence
25 of aggravating circumstances as the prosecuting attorney has made known
26 to the defendant prior to the proceeding shall be admissible and no
27 evidence secured in violation of the constitution of the United States or of
28 the state of Kansas shall be admissible. No testimony by the defendant at
29 the time of the proceeding shall be admissible against the defendant at any
30 subsequent criminal proceeding. At the conclusion of the evidentiary
31 presentation, the court shall allow the parties a reasonable period of time in
32 which to present oral argument.

33 (4) At the conclusion of the evidentiary portion of the proceeding, the
34 court shall provide oral and written instructions to the jury to guide its
35 deliberations. If the prosecuting attorney relies on ~~subsection (a)~~ of K.S.A.
36 2016 Supp. 21-6624(a), and amendments thereto, as an aggravating
37 circumstance, and the court finds that one or more of the defendant's prior
38 convictions satisfy such subsection, the jury shall be instructed that a
39 certified journal entry of a prior conviction is presumed to prove the
40 existence of such prior conviction or convictions beyond a reasonable
41 doubt.

42 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
43 that one or more of the aggravating circumstances enumerated in K.S.A.

1 2016 Supp. 21-6624, and amendments thereto, exist, the jury shall
2 designate, in writing, signed by the foreman of the jury, the statutory
3 aggravating circumstances which it found. If, after a reasonable time for
4 deliberation, the jury is unable to reach a unanimous sentencing decision,
5 the court shall dismiss the jury and the defendant shall be sentenced as
6 provided by law. In nonjury cases, the court shall designate, in writing, the
7 specific circumstance or circumstances which the court found beyond a
8 reasonable doubt.

9 (6) If one or more of the aggravating circumstances enumerated in
10 K.S.A. 2016 Supp. 21-6624, and amendments thereto, are found to exist
11 beyond a reasonable doubt pursuant to this subsection, the defendant shall
12 be sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments
13 thereto, unless the sentencing judge finds substantial and compelling
14 reasons, following a review of mitigating circumstances, to impose the
15 sentence specified in this paragraph. If the sentencing judge does not
16 impose the mandatory minimum term of imprisonment required by K.S.A.
17 2016 Supp. 21-6623, and amendments thereto, the judge shall state on the
18 record at the time of sentencing the substantial and compelling reasons
19 therefor, and the defendant shall be sentenced to imprisonment for life and
20 shall not be eligible for probation or suspension, modification or reduction
21 of sentence. In addition, the defendant shall not be eligible for parole prior
22 to serving 25 years' imprisonment, and such 25 years' imprisonment shall
23 not be reduced by the application of good time credits. No other sentence
24 shall be permitted.

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

28 (1) If a defendant is convicted of murder in the first degree based
29 upon the finding of premeditated murder, upon reasonable notice by the
30 prosecuting attorney, the court shall conduct a separate sentencing
31 proceeding in accordance with this subsection to determine whether the
32 defendant shall be required to serve a mandatory minimum term of
33 imprisonment of 40 years or for crimes committed on and after July 1,
34 1999, a mandatory minimum term of imprisonment of 50 years or
35 sentenced as otherwise provided by law.

36 (2) The sentencing proceeding shall be conducted by the court before
37 a jury as soon as practicable. If the trial jury has been discharged prior to
38 sentencing, a new jury shall be impaneled. Any decision to impose a
39 mandatory minimum term of imprisonment of 40 or 50 years shall be by a
40 unanimous jury. Jury selection procedures, qualifications of jurors and
41 grounds for exemption or challenge of prospective jurors in criminal trials
42 shall be applicable to the selection of such jury. The jury at the sentencing
43 proceeding may be waived in the manner provided by K.S.A. 22-3403, and

1 amendments thereto, for waiver of a trial jury. If the jury at the sentencing
2 proceeding has been waived, such proceeding shall be conducted by the
3 court.

4 (3) In the sentencing proceeding, evidence may be presented
5 concerning any matter that the court deems relevant to the question of
6 sentence and shall include matters relating to any of the aggravating
7 circumstances enumerated in K.S.A. 2016 Supp. 21-6624, and
8 amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A.
9 21-4636, prior to its repeal, and any mitigating circumstances. Any such
10 evidence which the court deems to have probative value may be received
11 regardless of its admissibility under the rules of evidence, provided that
12 the defendant is accorded a fair opportunity to rebut any hearsay
13 statements. Only such evidence of aggravating circumstances as the
14 prosecuting attorney has made known to the defendant prior to the
15 sentencing proceeding shall be admissible and no evidence secured in
16 violation of the constitution of the United States or of the state of Kansas
17 shall be admissible. Only such evidence of mitigating circumstances
18 subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto,
19 that the defendant has made known to the prosecuting attorney prior to the
20 sentencing proceeding shall be admissible. No testimony by the defendant
21 at the time of sentencing shall be admissible against the defendant at any
22 subsequent criminal proceeding. At the conclusion of the evidentiary
23 presentation, the court shall allow the parties a reasonable period of time in
24 which to present oral argument.

25 (4) At the conclusion of the evidentiary portion of the sentencing
26 proceeding, the court shall provide oral and written instructions to the jury
27 to guide its deliberations. If the prosecuting attorney relies on ~~subsection~~
28 ~~(a)~~ of K.S.A. 2016 Supp. 21-6624(a), and amendments thereto, or for
29 crimes committed prior to July 1, 2011, ~~subsection (a)~~ of K.S.A. 21-
30 4636(a), prior to its repeal, as an aggravating circumstance, and the court
31 finds that one or more of the defendant's prior convictions satisfy such
32 subsection, the jury shall be instructed that a certified journal entry of a
33 prior conviction is presumed to prove the existence of such prior
34 conviction or convictions beyond a reasonable doubt.

35 (5) If, by unanimous vote, the jury finds beyond a reasonable doubt
36 that one or more of the aggravating circumstances enumerated in K.S.A.
37 2016 Supp. 21-6624, and amendments thereto, or for crimes committed
38 prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further,
39 that the existence of such aggravating circumstances is not outweighed by
40 any mitigating circumstances which are found to exist, the defendant shall
41 be sentenced pursuant to K.S.A. 2016 Supp. 21-6623, and amendments
42 thereto; otherwise, the defendant shall be sentenced as provided by law.
43 The sentencing jury shall designate, in writing, signed by the foreman of

1 the jury, the statutory aggravating circumstances which it found. ~~The trier~~
2 ~~of fact may make the findings required by this subsection for the purpose~~
3 ~~of determining whether to sentence a defendant pursuant to K.S.A. 2016~~
4 ~~Supp. 21-6623, and amendments thereto, notwithstanding contrary~~
5 ~~findings made by the jury or court pursuant to subsection (c) of K.S.A.~~
6 ~~2016 Supp. 21-6617, and amendments thereto, for the purpose of~~
7 ~~determining whether to sentence such defendant to death. If, after a~~
8 ~~reasonable time for deliberation, the jury is unable to reach a unanimous~~
9 ~~sentencing decision, the court shall dismiss the jury and the defendant~~
10 ~~shall be sentenced as provided by law. In nonjury cases, the court shall~~
11 ~~designate in writing the specific circumstance or circumstances which the~~
12 ~~court found beyond a reasonable doubt.~~

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

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

23 (g) Notwithstanding the provisions of subsection (h), for all cases on
24 appeal on or after September 6, 2013, if a sentence imposed under this
25 section, prior to amendment by chapter 1 of the 2013 Session Laws of
26 Kansas (Special Session), or under K.S.A. 21-4635, prior to its repeal, is
27 vacated for any reason other than sufficiency of the evidence as to all
28 aggravating circumstances, resentencing shall be required under this
29 section, as amended by chapter 1 of the 2013 Session Laws of Kansas
30 (Special Session), unless the prosecuting attorney chooses not to pursue
31 such a sentence.

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

37 (i) If any provision or provisions of this section or the application
38 thereof to any person or circumstance is held invalid, the invalidity shall
39 not affect other provisions or applications of this section which can be
40 given effect without the invalid provision or provisions or application, and
41 to this end the provisions of this section are severable.

42 Sec. 8. K.S.A. 2016 Supp. 21-6622 is hereby amended to read as
43 follows: 21-6622. (a) ~~If, under K.S.A. 2016 Supp. 21-6617, and~~

1 ~~amendments thereto, the county or district attorney has filed a notice of~~
2 ~~intent to request a separate sentencing proceeding to determine whether~~
3 ~~the defendant should be sentenced to death and the defendant is convicted~~
4 ~~of the crime of capital murder, the defendant's counsel or the warden of the~~
5 ~~correctional institution or sheriff having custody of the defendant may~~
6 ~~request a determination by the court of whether the defendant is a person~~
7 ~~with intellectual disability. If the court determines that there is not~~
8 ~~sufficient reason to believe that the defendant is a person with intellectual~~
9 ~~disability, the court shall so find and the defendant shall be sentenced in~~
10 ~~accordance with K.S.A. 2016 Supp. 21-6617, 21-6619, 21-6624, 21-6625,~~
11 ~~21-6628 and 21-6629, and amendments thereto. If the court determines~~
12 ~~that there is sufficient reason to believe that the defendant is a person with~~
13 ~~intellectual disability, the court shall conduct a hearing to determine~~
14 ~~whether the defendant is a person with intellectual disability.~~

15 ~~(b) If a defendant is convicted of the crime of capital murder and a~~
16 ~~sentence of death is not imposed *aggravated murder*, or if a defendant is~~
17 ~~convicted of the crime of murder in the first degree based upon the finding~~
18 ~~of premeditated murder, the defendant's counsel or the warden of the~~
19 ~~correctional institution or sheriff having custody of the defendant may~~
20 ~~request a determination by the court of whether the defendant is a person~~
21 ~~with intellectual disability. If the court determines that there is not~~
22 ~~sufficient reason to believe that the defendant is a person with intellectual~~
23 ~~disability, the court shall so find and the defendant shall be sentenced in~~
24 ~~accordance with K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-~~
25 ~~6625, and amendments thereto. If the court determines that there is~~
26 ~~sufficient reason to believe that the defendant is a person with intellectual~~
27 ~~disability, the court shall conduct a hearing to determine whether the~~
28 ~~defendant is a person with intellectual disability.~~

29 ~~(c) (b) At the hearing, the court shall determine whether the defendant~~
30 ~~is a person with intellectual disability. The court shall order a psychiatric~~
31 ~~or psychological examination of the defendant. For that purpose, the court~~
32 ~~shall appoint two licensed physicians or licensed psychologists, or one of~~
33 ~~each, qualified by training and practice to make such examination, to~~
34 ~~examine the defendant and report their findings in writing to the judge~~
35 ~~within 14 days after the order of examination is issued. The defendant~~
36 ~~shall have the right to present evidence and cross-examine any witnesses at~~
37 ~~the hearing. No statement made by the defendant in the course of any~~
38 ~~examination provided for by this section, whether or not the defendant~~
39 ~~consents to the examination, shall be admitted in evidence against the~~
40 ~~defendant in any criminal proceeding.~~

41 ~~(d) If, at the conclusion of a hearing pursuant to subsection (a), the~~
42 ~~court determines that the defendant is not a person with intellectual~~
43 ~~disability, the defendant shall be sentenced in accordance with K.S.A.~~

1 2016 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629,
2 and amendments thereto.

3 (e) (c) If, at the conclusion of a hearing pursuant to ~~subsection (b)~~
4 *this section*, the court determines that the defendant is not a person with
5 intellectual disability, the defendant shall be sentenced in accordance with
6 K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and
7 amendments thereto.

8 (f) (d) If, at the conclusion of a hearing pursuant to this section, the
9 court determines that the defendant is a person with intellectual disability,
10 the court shall sentence the defendant as otherwise provided by law, and
11 no sentence of ~~death~~, life without the possibility of parole; or mandatory
12 term of imprisonment shall be imposed hereunder.

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

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

22 Sec. 9. K.S.A. 2016 Supp. 21-6628 is hereby amended to read as
23 follows: 21-6628. (a) In the event the term of imprisonment for life
24 without the possibility of parole or any provision of K.S.A. 2016 Supp. 21-
25 6626 or 21-6627, and amendments thereto, authorizing such term is held to
26 be unconstitutional by the supreme court of Kansas or the United States
27 supreme court, the court having jurisdiction over a person previously
28 sentenced shall cause such person to be brought before the court and shall
29 modify the sentence to require no term of imprisonment for life without
30 the possibility of parole and shall sentence the defendant to the maximum
31 term of imprisonment otherwise provided by law.

32 (b) ~~In the event a sentence of death or any provision of chapter 252 of~~
33 ~~the 1994 Session Laws of Kansas authorizing such sentence is held to be~~
34 ~~unconstitutional by the supreme court of Kansas or the United States~~
35 ~~supreme court, the court having jurisdiction over a person previously~~
36 ~~sentenced shall cause such person to be brought before the court and shall~~
37 ~~modify the sentence and resentence the defendant as otherwise provided~~
38 ~~by law.~~

39 (e) ~~In the event the mandatory term of imprisonment or any provision~~
40 ~~of chapter 341 of the 1994 Session Laws of Kansas authorizing such~~
41 ~~mandatory term is held to be unconstitutional by the supreme court of~~
42 ~~Kansas or the United States supreme court, the court having jurisdiction~~
43 ~~over a person previously sentenced shall cause such person to be brought~~

1 before the court and shall modify the sentence to require no mandatory
2 term of imprisonment and shall sentence the defendant as otherwise
3 provided by law.

4 Sec. 10. K.S.A. 2016 Supp. 21-6629 is hereby amended to read as
5 follows: 21-6629. (a) The provisions of K.S.A. 21-4622 through 21-4630,
6 as they existed immediately prior to July 1, 1994, shall be applicable only
7 to persons convicted of crimes committed on or after July 1, 1990, and
8 before July 1, 1994.

9 (b) The provisions of K.S.A. 21-4622 through 21-4627 and 21-4629
10 and 21-4630, as amended on July 1, 1994 and prior to their repeal, and
11 K.S.A. 2016 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-
12 6625 and ~~subsection (b) of 21-6628(b), and amendments thereto~~ as they
13 existed immediately prior to July 1, 2017, shall be applicable only to
14 persons convicted of crimes committed on or after July 1, 1994, and
15 before July 1, 2017.

16 (c) K.S.A. 21-4633 through 21-4640, prior to their repeal, and K.S.A.
17 2016 Supp. 21-6620 through 21-6625 and ~~subsection (c) of 21-6628(c),~~
18 ~~and amendments thereto~~ as they existed immediately prior to July 1, 2017,
19 shall be applicable only to persons convicted of crimes committed on or
20 after July 1, 1994, and before July 1, 2017.

21 (d) *The provisions of K.S.A. 2016 Supp. 21-6681, 21-6620, 21-6622*
22 *and 21-6628, as amended on July 1, 2017, and K.S.A. 2016 Supp 21-6621,*
23 *21-6623, 21-6624 and 21-6625, and amendments thereto, shall be*
24 *applicable only to persons convicted of crimes committed on or after July*
25 *1, 2017.*

26 Sec. 11. K.S.A. 2016 Supp. 21-6806 is hereby amended to read as
27 follows: 21-6806. (a) Sentences of imprisonment shall represent the time a
28 person shall actually serve, subject to a reduction of the primary sentence
29 for good time as authorized by K.S.A. 2016 Supp. 21-6821, and
30 amendments thereto.

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

32 (c) Violations of K.S.A. 2016 Supp. ~~21-5401~~, 21-5402, 21-5421, 21-
33 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
34 purpose of sentencing. Except as otherwise provided by K.S.A. 2016
35 Supp. ~~21-6617~~, 21-6618, ~~21-6619~~, 21-6622, 21-6624, 21-6625, 21-6628
36 and 21-6629, and amendments thereto, the sentence shall be imprisonment
37 for life and shall not be subject to statutory provisions for suspended
38 sentence, community service or probation.

39 (d) As identified in K.S.A. 2016 Supp. 21-5426, 21-5503, 21-5504,
40 21-5506, 21-5510 and 21-6422, and amendments thereto, if the offender is
41 18 years of age or older and the victim is under 14 years of age, such
42 violations are off-grid crimes for the purposes of sentencing. Except as
43 provided in K.S.A. 2016 Supp. 21-6626, and amendments thereto, the

1 sentence shall be imprisonment for life pursuant to K.S.A. 2016 Supp. 21-
2 6627, and amendments thereto.

3 *(e) A violation of section 2, and amendments thereto, is an off-grid*
4 *crime for the purposes of sentencing. Except as provided in K.S.A. 2016*
5 *Supp 21-6618 and 21-6622, and amendments thereto, the sentence shall*
6 *be imprisonment for life without the possibility of parole pursuant to*
7 *section 3, and amendments thereto.*

8 Sec. 12. K.S.A. 2016 Supp. 22-3717 is hereby amended to read as
9 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
10 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through
11 21-4638 and 21-4642, prior to their repeal; K.S.A. 2016 Supp. 21-6617,
12 *prior to its repeal*, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and
13 amendments thereto; *section 3, and amendments thereto*; and K.S.A. 8-
14 1567, and amendments thereto; an inmate, including an inmate sentenced
15 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2016 Supp. 21-
16 6707, and amendments thereto, shall be eligible for parole after serving the
17 entire minimum sentence imposed by the court, less good time credits.

18 (b) (1) An inmate sentenced to imprisonment for life without the
19 possibility of parole pursuant to K.S.A. 2016 Supp. 21-6617, and
20 amendments thereto, shall not be eligible for parole.

21 (2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to
22 their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623, 21-6624 and 21-
23 6625, and amendments thereto, an inmate sentenced to imprisonment for
24 the crime of: (A) Capital murder committed on or after July 1, 1994, shall
25 be eligible for parole after serving 25 years of confinement, without
26 deduction of any good time credits; (B) murder in the first degree based
27 upon a finding of premeditated murder committed on or after July 1, 1994,
28 but prior to July 1, 2014, shall be eligible for parole after serving 25 years
29 of confinement, without deduction of any good time credits; and (C)
30 murder in the first degree as described in K.S.A. 2016 Supp. 21-5402(a)
31 (2), and amendments thereto, committed on or after July 1, 2014, shall be
32 eligible for parole after serving 25 years of confinement, without
33 deduction of any good time credits.

34 (3) Except as provided by subsections (b)(1), (b)(2) and (b)(5),
35 K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through
36 21-4638, prior to their repeal, and K.S.A. 2016 Supp. 21-6620, 21-6623,
37 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to
38 imprisonment for an off-grid offense committed on or after July 1, 1993,
39 but prior to July 1, 1999, shall be eligible for parole after serving 15 years
40 of confinement, without deduction of any good time credits and an inmate
41 sentenced to imprisonment for an off-grid offense committed on or after
42 July 1, 1999, shall be eligible for parole after serving 20 years of
43 confinement without deduction of any good time credits.

1 (4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
2 repeal, an inmate sentenced for a class A felony committed before July 1,
3 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
4 its repeal, or K.S.A. 2016 Supp. 21-6707, and amendments thereto, shall
5 be eligible for parole after serving 15 years of confinement, without
6 deduction of any good time credits.

7 (5) An inmate sentenced to imprisonment for a violation of K.S.A.
8 21-3402(a), prior to its repeal, committed on or after July 1, 1996, but
9 prior to July 1, 1999, shall be eligible for parole after serving 10 years of
10 confinement without deduction of any good time credits.

11 (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
12 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
13 thereto, committed on or after July 1, 2006, shall be eligible for parole
14 after serving the mandatory term of imprisonment without deduction of
15 any good time credits.

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

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

23 (A) The aggregate minimum sentences, as determined pursuant to
24 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2016 Supp. 21-6606, and
25 amendments thereto, less good time credits for those crimes which are not
26 class A felonies; and

27 (B) an additional 15 years, without deduction of good time credits,
28 for each crime which is a class A felony.

29 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
30 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
31 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
32 eligible for parole after serving the mandatory term of imprisonment.

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

38 (A) Except as provided in subparagraphs (D) and (E), persons
39 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
40 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
41 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
42 July 1, 2012, must serve 36 months on postrelease supervision.

43 (B) Except as provided in subparagraphs (D) and (E), persons

1 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
3 drug severity level 4 crimes committed on or after July 1, 2012, must serve
4 24 months on postrelease supervision.

5 (C) Except as provided in subparagraphs (D) and (E), persons
6 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
7 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
8 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
9 must serve 12 months on postrelease supervision.

10 (D) Persons sentenced to a term of imprisonment that includes a
11 sentence for a sexually violent crime as defined in K.S.A. 22-3717, and
12 amendments thereto, a sexually motivated crime in which the offender has
13 been ordered to register pursuant to K.S.A. 22-3717(d)(1)(D)(vii), and
14 amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its
15 repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto, or
16 unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A.
17 2016 Supp. 21-5512, and amendments thereto, shall serve the period of
18 postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or
19 (d)(1)(C) plus the amount of good time and program credit earned and
20 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2016
21 Supp. 21-6821, and amendments thereto, on postrelease supervision.

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

26 (ii) If the sentencing judge departs from the presumptive postrelease
27 supervision period, the judge shall state on the record at the time of
28 sentencing the substantial and compelling reasons for the departure.
29 Departures in this section are subject to appeal pursuant to K.S.A. 21-
30 4721, prior to its repeal, or K.S.A. 2016 Supp. 21-6820, and amendments
31 thereto.

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

34 (a) Written briefs or oral arguments submitted by either the defendant
35 or the state;

36 (b) any evidence received during the proceeding;

37 (c) the presentence report, the victim's impact statement and any
38 psychological evaluation as ordered by the court pursuant to K.S.A. 21-
39 4714(e), prior to its repeal, or K.S.A. 2016 Supp. 21-6813(e), and
40 amendments thereto; and

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

42 (iv) The sentencing judge may order that a psychological evaluation
43 be prepared and the recommended programming be completed by the

1 offender. The department of corrections or the prisoner review board shall
2 ensure that court ordered sex offender treatment be carried out.

3 (v) In carrying out the provisions of subsection (d)(1)(D), the court
4 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2016 Supp. 21-
5 6817, and amendments thereto.

6 (vi) Upon petition and payment of any restitution ordered pursuant to
7 K.S.A. 2016 Supp. 21-6604, and amendments thereto, the prisoner review
8 board may provide for early discharge from the postrelease supervision
9 period imposed pursuant to subsection (d)(1)(D)(i) upon completion of
10 court ordered programs and completion of the presumptive postrelease
11 supervision period, as determined by the crime of conviction, pursuant to
12 subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
13 postrelease supervision is at the discretion of the board.

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

17 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
18 repeal, or K.S.A. 2016 Supp. 21-5508, and amendments thereto, shall be
19 required to participate in a treatment program for sex offenders during the
20 postrelease supervision period.

21 (E) The period of postrelease supervision provided in subparagraphs
22 (A) and (B) may be reduced by up to 12 months and the period of
23 postrelease supervision provided in subparagraph (C) may be reduced by
24 up to six months based on the offender's compliance with conditions of
25 supervision and overall performance while on postrelease supervision. The
26 reduction in the supervision period shall be on an earned basis pursuant to
27 rules and regulations adopted by the secretary of corrections.

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

33 (G) Except as provided in subsection (u), persons convicted of a
34 sexually violent crime committed on or after July 1, 2006, and who are
35 released from prison, shall be released to a mandatory period of
36 postrelease supervision for the duration of the person's natural life.

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

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

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

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

10 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp.
11 21-5503, and amendments thereto;

12 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
13 or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

14 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
15 to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

16 (D) criminal sodomy, K.S.A. 21-3505(a)(2) and (a)(3), prior to its
17 repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) and (a)(4), and amendments
18 thereto;

19 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
20 or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

21 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
22 or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

23 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
24 to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;

25 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
26 or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

27 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
28 K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

29 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or K.S.A.
30 2016 Supp. 21-5604(b), and amendments thereto;

31 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
32 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
33 thereto, if committed in whole or in part for the purpose of the sexual
34 gratification of the defendant or another;

35 (L) commercial sexual exploitation of a child, as defined in K.S.A.
36 2016 Supp. 21-6422, and amendments thereto; or

37 (M) an attempt, conspiracy or criminal solicitation, as defined in
38 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
39 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
40 sexually violent crime as defined in this section.

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

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

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

29 (g) Subject to the provisions of this section, the prisoner review board
30 may release on parole those persons confined in institutions who are
31 eligible for parole when: (1) The board believes that the inmate should be
32 released for hospitalization, deportation or to answer the warrant or other
33 process of a court and is of the opinion that there is reasonable probability
34 that the inmate can be released without detriment to the community or to
35 the inmate; or (2) the secretary of corrections has reported to the board in
36 writing that the inmate has satisfactorily completed the programs required
37 by any agreement entered under K.S.A. 75-5210a, and amendments
38 thereto, or any revision of such agreement, and the board believes that the
39 inmate is able and willing to fulfill the obligations of a law abiding citizen
40 and is of the opinion that there is reasonable probability that the inmate
41 can be released without detriment to the community or to the inmate.
42 Parole shall not be granted as an award of clemency and shall not be
43 considered a reduction of sentence or a pardon.

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

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

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

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

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

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

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

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

37 (l) The prisoner review board shall promulgate rules and regulations
38 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
39 inconsistent with the law and as it may deem proper or necessary, with
40 respect to the conduct of parole hearings, postrelease supervision reviews,
41 revocation hearings, orders of restitution, reimbursement of expenditures
42 by the state board of indigents' defense services and other conditions to be
43 imposed upon parolees or releasees. Whenever an order for parole or

1 postrelease supervision is issued it shall recite the conditions thereof.

2 (m) Whenever the prisoner review board orders the parole of an
3 inmate or establishes conditions for an inmate placed on postrelease
4 supervision, the board:

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

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

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

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

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

39 (6) shall order that the parolee or person on postrelease supervision
40 agree in writing to be subject to searches of the person and the person's
41 effects, vehicle, residence and property by a parole officer or a department
42 of corrections enforcement, apprehension and investigation officer, at any
43 time of the day or night, with or without a search warrant and with or

1 without cause. Nothing in this subsection shall be construed to authorize
2 such officers to conduct arbitrary or capricious searches or searches for the
3 sole purpose of harassment; and

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

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

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

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

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

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

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

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

41 (1) On or before September 1, 2013, for offenders convicted of:

42 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid
43 for nondrug crimes;

- 1 (B) severity level 4 crimes on the sentencing guidelines grid for drug
2 crimes committed prior to July 1, 2012; and
- 3 (C) severity level 5 crimes on the sentencing guidelines grid for drug
4 crimes committed on and after July 1, 2012;
- 5 (2) on or before November 1, 2013, for offenders convicted of:
- 6 (A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines
7 grid for nondrug crimes;
- 8 (B) level 3 crimes on the sentencing guidelines grid for drug crimes
9 committed prior to July 1, 2012; and
- 10 (C) level 4 crimes on the sentencing guidelines grid for drug crimes
11 committed on or after July 1, 2012; and
- 12 (3) on or before January 1, 2014, for offenders convicted of:
- 13 (A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing
14 guidelines grid for nondrug crimes;
- 15 (B) severity levels 1 and 2 crimes on the sentencing guidelines grid
16 for drug crimes committed at any time; and
- 17 (C) severity level 3 crimes on the sentencing guidelines grid for drug
18 crimes committed on or after July 1, 2012.
- 19 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
20 4643, prior to its repeal, or K.S.A. 2016 Supp. 21-6627, and amendments
21 thereto, for crimes committed on or after July 1, 2006, shall be placed on
22 parole for life and shall not be discharged from supervision by the prisoner
23 review board. When the board orders the parole of an inmate pursuant to
24 this subsection, the board shall order as a condition of parole that the
25 inmate be electronically monitored for the duration of the inmate's natural
26 life.
- 27 (v) Whenever the prisoner review board orders a person to be
28 electronically monitored pursuant to this section, or the court orders a
29 person to be electronically monitored pursuant to K.S.A. 2016 Supp. 21-
30 6604(r), and amendments thereto, the board shall order the person to
31 reimburse the state for all or part of the cost of such monitoring. In
32 determining the amount and method of payment of such sum, the board
33 shall take account of the financial resources of the person and the nature of
34 the burden that the payment of such sum will impose.
- 35 (w) (1) On and after July 1, 2012, for any inmate who is a sex
36 offender, as defined in K.S.A. 22-4902, and amendments thereto,
37 whenever the prisoner review board orders the parole of such inmate or
38 establishes conditions for such inmate placed on postrelease supervision,
39 such inmate shall agree in writing to not possess pornographic materials.
- 40 (A) As used in this subsection, "pornographic materials" means any
41 obscene material or performance depicting sexual conduct, sexual contact
42 or a sexual performance; and any visual depiction of sexually explicit
43 conduct.

1 (B) As used in this subsection, all other terms have the meanings
2 provided by K.S.A. 2016 Supp. 21-5510, and amendments thereto.

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

8 Sec. 13. K.S.A. 2016 Supp. 22-4902 is hereby amended to read as
9 follows: 22-4902. As used in the Kansas offender registration act, unless
10 the context otherwise requires:

11 (a) "Offender" means:

12 (1) A sex offender;

13 (2) a violent offender;

14 (3) a drug offender;

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

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

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

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

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

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

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

30 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
31 K.S.A. 2016 Supp. 21-5511, and amendments thereto;

32 (B) criminal sodomy, as defined in K.S.A. 21-3505(a)(1), prior to its
33 repeal, or K.S.A. 2016 Supp. 21-5504(a)(1) or (a)(2), and amendments
34 thereto;

35 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
36 repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section
37 17 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013;

38 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
39 repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section
40 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013; or

41 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
42 to its repeal, or K.S.A. 2016 Supp. 21-5513, and amendments thereto;

43 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior

1 to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5505(a), and
2 amendments thereto;

3 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
4 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
5 K.S.A. 2016 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
6 of an offense defined in this subsection; or

7 (7) has been convicted of an offense that is comparable to any crime
8 defined in this subsection, or any out-of-state conviction for an offense that
9 under the laws of this state would be an offense defined in this subsection.

10 (c) "Sexually violent crime" means:

11 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
12 2016 Supp. 21-5503, and amendments thereto;

13 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
14 to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

15 (3) aggravated indecent liberties with a child, as defined in K.S.A.
16 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
17 amendments thereto;

18 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
19 prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and
20 amendments thereto;

21 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
22 to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

23 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
24 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments
25 thereto;

26 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
27 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and
28 amendments thereto;

29 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
30 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

31 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
32 its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;

33 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
34 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

35 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
36 repeal, and K.S.A. 2016 Supp. 21-5509, and amendments thereto;

37 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
38 its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

39 (13) aggravated human trafficking, as defined in K.S.A. 21-3447,
40 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
41 thereto, if committed in whole or in part for the purpose of the sexual
42 gratification of the defendant or another;

43 (14) commercial sexual exploitation of a child, as defined in K.S.A.

1 2016 Supp. 21-6422, and amendments thereto;

2 (15) any conviction or adjudication for an offense that is comparable
3 to a sexually violent crime as defined in this subsection, or any out-of-state
4 conviction or adjudication for an offense that under the laws of this state
5 would be a sexually violent crime as defined in this subsection;

6 (16) an attempt, conspiracy or criminal solicitation, as defined in
7 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
8 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
9 violent crime, as defined in this subsection; or

10 (17) any act which has been determined beyond a reasonable doubt to
11 have been sexually motivated, unless the court, on the record, finds that
12 the act involved non-forcible sexual conduct, the victim was at least 14
13 years of age and the offender was not more than four years older than the
14 victim. As used in this paragraph, "sexually motivated" means that one of
15 the purposes for which the defendant committed the crime was for the
16 purpose of the defendant's sexual gratification.

17 (d) "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 (e) "Violent offender" includes any person who:

21 (1) On or after July 1, 1997, is convicted of any of the following
22 crimes:

23 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
24 or K.S.A. 2016 Supp. 21-5401, ~~and amendments thereto prior to its repeal;~~

25 (B) *aggravated murder, as defined in section 2, and amendments*
26 *thereto;*

27 (C) murder in the first degree, as defined in K.S.A. 21-3401, prior to
28 its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;

29 ~~(D)~~ (D) murder in the second degree, as defined in K.S.A. 21-3402,
30 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
31 thereto;

32 ~~(E)~~ (E) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
33 to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

34 ~~(F)~~ (F) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
35 to its repeal, or K.S.A. 2016 Supp. 21-5405(a)(1), (a)(2) or (a)(4), and
36 amendments thereto. The provisions of this paragraph shall not apply to
37 violations of K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto,
38 which occurred on or after July 1, 2011, through July 1, 2013;

39 ~~(G)~~ (G) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal,
40 or K.S.A. 2016 Supp. 21-5408(a), and amendments thereto;

41 ~~(H)~~ (H) aggravated kidnapping, as defined in K.S.A. 21-3421, prior
42 to its repeal, or K.S.A. 2016 Supp. 21-5408(b), and amendments thereto;

43 ~~(I)~~ (I) criminal restraint, as defined in K.S.A. 21-3424, prior to its

1 repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by
2 a parent, and only when the victim is less than 18 years of age; or

3 (⊕) (*J*) aggravated human trafficking, as defined in K.S.A. 21-3447,
4 prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments
5 thereto, if not committed in whole or in part for the purpose of the sexual
6 gratification of the defendant or another;

7 (2) on or after July 1, 2006, is convicted of any person felony and the
8 court makes a finding on the record that a deadly weapon was used in the
9 commission of such person felony;

10 (3) has been convicted of an offense that is comparable to any crime
11 defined in this subsection, any out-of-state conviction for an offense that
12 under the laws of this state would be an offense defined in this subsection;
13 or

14 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
15 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
16 K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and amendments
17 thereto, of an offense defined in this subsection.

18 (f) "Drug offender" includes any person who, on or after July 1, 2007:

19 (1) Is convicted of any of the following crimes:

20 (A) Unlawful manufacture or attempting such of any controlled
21 substance or controlled substance analog, as defined in K.S.A. 65-4159,
22 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
23 K.S.A. 2016 Supp. 21-5703, and amendments thereto;

24 (B) possession of ephedrine, pseudoephedrine, red phosphorus,
25 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
26 ammonia or phenylpropanolamine, or their salts, isomers or salts of
27 isomers with intent to use the product to manufacture a controlled
28 substance, as defined in K.S.A. 65-7006(a), prior to its repeal, K.S.A. 2010
29 Supp. 21-36a09(a), prior to its transfer, or K.S.A. 2016 Supp. 21-5709(a),
30 and amendments thereto;

31 (C) K.S.A. 65-4161, prior to its repeal, K.S.A. 2010 Supp. 21-
32 36a05(a)(1), prior to its transfer, or K.S.A. 2016 Supp. 21-5705(a)(1), and
33 amendments thereto. The provisions of this paragraph shall not apply to
34 violations of K.S.A. 2010 Supp. 21-36a05(a)(2) through (a)(6) or (b)
35 which occurred on or after July 1, 2009, through April 15, 2010;

36 (2) has been convicted of an offense that is comparable to any crime
37 defined in this subsection, any out-of-state conviction for an offense that
38 under the laws of this state would be an offense defined in this subsection;
39 or

40 (3) is or has been convicted of an attempt, conspiracy or criminal
41 solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
42 their repeal, or K.S.A. 2016 Supp. 21-5301, 21-5302 and 21-5303, and
43 amendments thereto, of an offense defined in this subsection.

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

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

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

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

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

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

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

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

37 (o) "Registering entity" means any person, agency or other
38 governmental unit, correctional facility or registering law enforcement
39 agency responsible for obtaining the required information from, and
40 explaining the required registration procedures to, any person required to
41 register pursuant to the Kansas offender registration act. "Registering
42 entity" shall include, but not be limited to, sheriff's offices, tribal police
43 departments and correctional facilities.

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

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

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

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

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

15 (A) Convicted of unlawful transmission of a visual depiction of a
16 child, as defined in K.S.A. 2016 Supp. 21-5611(a), and amendments
17 thereto, aggravated unlawful transmission of a visual depiction of a child,
18 as defined in K.S.A. 2016 Supp. 21-5611(b), and amendments thereto, or
19 unlawful possession of a visual depiction of a child, as defined in K.S.A.
20 2016 Supp. 21-5610, and amendments thereto; or

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

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

27 Sec. 14. K.S.A. 2016 Supp. 22-4906 is hereby amended to read as
28 follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted
29 of any of the following offenses, an offender's duration of registration shall
30 be, if confined, 15 years after the date of parole, discharge or release,
31 whichever date is most recent, or, if not confined, 15 years from the date of
32 conviction:

33 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
34 or ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-5505(a), and amendments
35 thereto;

36 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
37 K.S.A. 2016 Supp. 21-5511, and amendments thereto, when one of the
38 parties involved is less than 18 years of age;

39 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
40 repeal, or K.S.A. 2016 Supp. 21-6421, prior to its amendment by section
41 18 of chapter 120 of the 2013 Session Laws of Kansas on July 1, 2013,
42 when one of the parties involved is less than 18 years of age;

43 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior

- 1 to its repeal, or K.S.A. 2016 Supp. 21-5513, and amendments thereto,
2 when one of the parties involved is less than 18 years of age;
- 3 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
4 or K.S.A. 2016 Supp. 21-5401, ~~and amendments thereto prior to its repeal~~;
- 5 (F) *aggravated murder*, as defined in section 2, and amendments
6 *thereto*;
- 7 ~~(F)~~(G) murder in the first degree, as defined in K.S.A. 21-3401, prior
8 to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;
- 9 ~~(G)~~(H) murder in the second degree, as defined in K.S.A. 21-3402,
10 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
11 thereto;
- 12 ~~(H)~~(I) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
13 its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;
- 14 ~~(I)~~(J) involuntary manslaughter, as defined in K.S.A. 21-3404, prior
15 to its repeal, or ~~subsections (a)(1), (a)(2) or (a)(4) of K.S.A. 2016 Supp.~~
16 ~~21-5405(a)(1), (a)(2) or (a)(4), and amendments thereto~~;
- 17 ~~(J)~~(K) criminal restraint, as defined in K.S.A. 21-3424, prior to its
18 repeal, or K.S.A. 2016 Supp. 21-5411, and amendments thereto, except by
19 a parent, and only when the victim is less than 18 years of age;
- 20 ~~(K)~~(L) any act which has been determined beyond a reasonable
21 doubt to have been sexually motivated, unless the court, on the record,
22 finds that the act involved non-forcible sexual conduct, the victim was at
23 least 14 years of age and the offender was not more than four years older
24 than the victim;
- 25 ~~(L)~~(M) conviction of any person required by court order to register
26 for an offense not otherwise required as provided in the Kansas offender
27 registration act;
- 28 ~~(M)~~(N) conviction of any person felony and the court makes a
29 finding on the record that a deadly weapon was used in the commission of
30 such person felony;
- 31 ~~(N)~~(O) unlawful manufacture or attempting such of any controlled
32 substance or controlled substance analog, as defined in K.S.A. 65-4159,
33 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
34 K.S.A. 2016 Supp. 21-5703, and amendments thereto;
- 35 ~~(O)~~(P) possession of ephedrine, pseudoephedrine, red phosphorus,
36 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
37 ammonia or phenylpropanolamine, or their salts, isomers or salts of
38 isomers with intent to use the product to manufacture a controlled
39 substance, as defined by ~~subsection (a) of K.S.A. 65-7006(a), prior to its~~
40 ~~repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09(a), prior to its~~
41 ~~transfer, or subsection (a) of K.S.A. 2016 Supp. 21-5709(a), and~~
42 amendments thereto;
- 43 ~~(P)~~(Q) K.S.A. 65-4161, prior to its repeal, ~~subsection (a)(1) of~~

1 K.S.A. 2010 Supp. 21-36a05(a)(1), prior to its transfer, or ~~subsection (a)~~
 2 ~~(1)~~ of K.S.A. 2016 Supp. 21-5705(a)(1), and amendments thereto; or

3 ~~(Q)~~ (R) any attempt, conspiracy or criminal solicitation, as defined in
 4 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
 5 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
 6 offense defined in this subsection.

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

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

19 (A) Criminal sodomy, as defined in ~~subsection (a)(1)~~ of K.S.A. 21-
 20 3505(a)(1), prior to its repeal, or ~~subsection (a)(1) or (a)(2)~~ of K.S.A. 2016
 21 Supp. 21-5504(a)(1) or (a)(2), and amendments thereto, when one of the
 22 parties involved is less than 18 years of age;

23 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
 24 prior to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5508(a), and
 25 amendments thereto;

26 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
 27 repeal, or K.S.A. 2016 Supp. 21-5509, and amendments thereto;

28 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
 29 repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5604(b), and
 30 amendments thereto;

31 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
 32 to its repeal, or ~~subsection (a)~~ of K.S.A. 2016 Supp. 21-5506(a), and
 33 amendments thereto;

34 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
 35 its repeal, or K.S.A. 2016 Supp. 21-5512, and amendments thereto;

36 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
 37 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if
 38 the victim is 14 or more years of age but less than 18 years of age;

39 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
 40 its repeal, or ~~subsection (b)~~ of K.S.A. 2016 Supp. 21-5505(b), and
 41 amendments thereto;

42 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
 43 repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section

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

4 (J) any attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
6 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
7 offense defined in this subsection.

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

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

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

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2016 Supp. 21-5503, and amendments thereto;

23 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
24 21-3511, prior to its repeal, or ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-
25 5508(b), 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~~ K.S.A. 2016 Supp. 21-
28 5506(b), and amendments thereto;

29 (4) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~
30 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~
31 ~~(a)(4) of~~ K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and amendments
32 thereto;

33 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
34 to its repeal, or ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5504(b), and
35 amendments thereto;

36 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
37 to its repeal, or ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5426(b), and
38 amendments thereto;

39 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
40 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, if
41 the victim is less than 14 years of age;

42 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
43 repeal, or K.S.A. 2016 Supp. 21-6420, prior to its amendment by section

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

3 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
4 ~~subsection (a) of K.S.A. 2016 Supp. 21-5408(a)~~, and amendments thereto;

5 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
6 repeal, or ~~subsection (b) of K.S.A. 2016 Supp. 21-5408(b)~~, and
7 amendments thereto;

8 (11) commercial sexual exploitation of a child, as defined in K.S.A.
9 2016 Supp. 21-6422, and amendments thereto; or

10 (12) any attempt, conspiracy or criminal solicitation, as defined in
11 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2016
12 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
13 offense defined in this subsection.

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

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

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

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

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

39 If such offender violates a condition of release during the term of the
40 conditional release, the court may require such offender to register
41 pursuant to ~~paragraph~~ *subsection (f)(1)*.

42 (g) Notwithstanding any other provisions of this section, for an
43 offender 14 years of age or more who is adjudicated as a juvenile offender

1 for an act which if committed by an adult would constitute a sexually
2 violent crime set forth in ~~subsection (e) of K.S.A. 22-4902(c)~~, and
3 amendments thereto, and such crime is not an off-grid felony or a felony
4 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
5 4704, prior to its repeal, or K.S.A. 2016 Supp. 21-6804, and amendments
6 thereto, the court shall:

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

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

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

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

27 (h) Notwithstanding any other provisions of this section, an offender
28 14 years of age or more who is adjudicated as a juvenile offender for an
29 act which if committed by an adult would constitute a sexually violent
30 crime set forth in ~~subsection (e) of K.S.A. 22-4902(c)~~, and amendments
31 thereto, and such crime is an off-grid felony or a felony ranked in severity
32 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
33 repeal, or K.S.A. 2016 Supp. 21-6804, and amendments thereto, shall be
34 required to register for such offender's lifetime.

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

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

4 (k) For any person moving to Kansas who has been convicted or
5 adjudicated in an out-of-state court, or who was required to register under
6 an out-of-state law, the duration of registration shall be the length of time
7 required by the out-of -state jurisdiction or by the Kansas offender
8 registration act, whichever length of time is longer. The provisions of this
9 subsection shall apply to convictions or adjudications prior to June 1,
10 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
11 convictions or adjudications on or after June 1, 2006, and to persons who
12 moved to Kansas on or after June 1, 2006.

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

20 Sec. 15. K.S.A. 2016 Supp. 38-2255 is hereby amended to read as
21 follows: 38-2255. (a) *Considerations*. Prior to entering an order of
22 disposition, the court shall give consideration to:

- 23 (1) The child's physical, mental and emotional condition;
24 (2) the child's need for assistance;
25 (3) the manner in which the parent participated in the abuse, neglect
26 or abandonment of the child;
27 (4) any relevant information from the intake and assessment process;
28 and
29 (5) the evidence received at the dispositional hearing.

30 (b) *Custody with a parent*. The court may place the child in the
31 custody of either of the child's parents subject to terms and conditions
32 which the court prescribes to assure the proper care and protection of the
33 child, including, but not limited to:

- 34 (1) Supervision of the child and the parent by a court services officer;
35 (2) participation by the child and the parent in available programs
36 operated by an appropriate individual or agency; and
37 (3) any special treatment or care which the child needs for the child's
38 physical, mental or emotional health and safety.

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

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

3 (C) immediate placement of the child is in the best interest of the
4 child; and

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

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

11 (d) *Custody of a child removed from the custody of a parent.* If the
12 court has made the findings required by subsection (c), the court shall
13 enter an order awarding custody to: A relative of the child or to a person
14 with whom the child has close emotional ties who shall not be required to
15 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
16 and amendments thereto; any other suitable person; a shelter facility; a
17 youth residential facility; a staff secure facility, notwithstanding any other
18 provision of law, if the child has been subjected to human trafficking or
19 aggravated human trafficking, as defined by K.S.A. 2016 Supp. 21-5426,
20 and amendments thereto, or commercial sexual exploitation of a child, as
21 defined by K.S.A. 2016 Supp. 21-6422, and amendments thereto, or the
22 child committed an act which, if committed by an adult, would constitute a
23 violation of K.S.A. 2016 Supp. 21-6419, and amendments thereto; or, if
24 the child is 15 years of age or younger, or 16 or 17 years of age if the child
25 has no identifiable parental or family resources or shows signs of physical,
26 mental, emotional or sexual abuse, to the secretary. Custody awarded
27 under this subsection shall continue until further order of the court.

28 (1) When custody is awarded to the secretary, the secretary shall
29 consider any placement recommendation by the court and notify the court
30 of the placement or proposed placement of the child within 10 days of the
31 order awarding custody. After providing the parties or interested parties
32 notice and opportunity to be heard, the court may determine whether the
33 secretary's placement or proposed placement is contrary to the welfare or
34 in the best interests of the child. In making that determination the court
35 shall consider the health and safety needs of the child and the resources
36 available to meet the needs of children in the custody of the secretary. If
37 the court determines that the placement or proposed placement is contrary
38 to the welfare or not in the best interests of the child, the court shall notify
39 the secretary, who shall then make an alternative placement.

40 (2) The custodian designated under this subsection shall notify the
41 court in writing at least 10 days prior to any planned placement with a
42 parent. The written notice shall state the basis for the custodian's belief that
43 placement with a parent is no longer contrary to the welfare or best interest

1 of the child. Upon reviewing the notice, the court may allow the custodian
2 to proceed with the planned placement or may set the date for a hearing to
3 determine if the child shall be allowed to return home. If the court sets a
4 hearing on the matter, the custodian shall not return the child home without
5 written consent of the court.

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

9 (4) The court may enter an order restraining any alleged perpetrator
10 of physical, mental or emotional abuse or sexual abuse of the child from
11 residing in the child's home; visiting, contacting, harassing or intimidating
12 the child, other family member or witness; or attempting to visit, contact,
13 harass or intimidate the child, other family member or witness. Such
14 restraining order shall be served by personal service pursuant to ~~subsection~~
15 ~~(a)~~ of K.S.A. 2016 Supp. 38-2237(a), and amendments thereto, on any
16 alleged perpetrator to whom the order is directed.

17 (5) The court shall provide a copy of any orders entered within 10
18 days of entering the order to the custodian designated under this
19 subsection.

20 (e) *Further determinations regarding a child removed from the home.*
21 If custody has been awarded under subsection (d) to a person other than a
22 parent, a permanency plan shall be provided or prepared pursuant to
23 K.S.A. 2016 Supp. 38-2264, and amendments thereto. If a permanency
24 plan is provided at the dispositional hearing, the court may determine
25 whether reintegration is a viable alternative or, if reintegration is not a
26 viable alternative, whether the child should be placed for adoption or a
27 permanent custodian appointed. In determining whether reintegration is a
28 viable alternative, the court shall consider:

29 (1) Whether a parent has been found by a court to have committed
30 one of the following crimes or to have violated the law of another state
31 prohibiting such crimes or to have aided and abetted, attempted, conspired
32 or solicited the commission of one of these crimes: (A) *Capital murder,*
33 *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, prior to*
34 *its repeal;* (B) *aggravated murder, section 2, and amendments thereto;* (C)
35 *murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A.*
36 *2016 Supp. 21-5402, and amendments thereto;* ~~(B)~~ (D) *murder in the*
37 *second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp.*
38 *21-5403, and amendments thereto;* ~~(C)~~ ~~capital murder, K.S.A. 21-3439,~~
39 ~~prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments~~
40 ~~thereto;~~ ~~(D)~~ (E) *voluntary manslaughter, K.S.A. 21-3403, prior to its*
41 *repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;* or ~~(E)~~ (F)
42 *a felony battery that resulted in bodily injury;*

43 (2) whether a parent has subjected the child or another child to

1 aggravated circumstances;

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

5 (4) whether the child has been in extended out of home placement;

6 (5) whether the parents have failed to work diligently toward
7 reintegration;

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

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

12 (f) *Proceedings if reintegration is not a viable alternative.* If the court
13 determines that reintegration is not a viable alternative, proceedings to
14 terminate parental rights and permit placement of the child for adoption or
15 appointment of a permanent custodian shall be initiated unless the court
16 finds that compelling reasons have been documented in the case plan why
17 adoption or appointment of a permanent custodian would not be in the best
18 interests of the child. If compelling reasons have not been documented, the
19 county or district attorney shall file a motion within 30 days to terminate
20 parental rights or a motion to appoint a permanent custodian within 30
21 days and the court shall hold a hearing on the motion within 90 days of its
22 filing. No hearing is required when the parents voluntarily relinquish
23 parental rights or consent to the appointment of a permanent custodian.

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

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

33 (2) If the court has reason to believe that a child is before the court
34 due, in whole or in part, to the use or misuse of alcohol or a violation of
35 K.S.A. 2016 Supp. 21-5701 through 21-5717, and amendments thereto, by
36 the child, a parent of the child, or another person responsible for the care
37 of the child, the court may order the child, parent of the child or other
38 person responsible for the care of the child to submit to and complete an
39 alcohol and drug evaluation by a qualified person or agency and comply
40 with any recommendations. If the evaluation is performed by a
41 community-based alcohol and drug safety program certified pursuant to
42 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
43 other person responsible for the care of the child shall pay a fee not to

1 exceed the fee established by that statute. If the court finds that the child
2 and those legally liable for the child's support are indigent, the fee may be
3 waived. In no event shall the fee be assessed against the secretary.

4 (3) If child support has been requested and the parent or parents have
5 a duty to support the child, the court may order one or both parents to pay
6 child support and, when custody is awarded to the secretary, the court shall
7 order one or both parents to pay child support. The court shall determine,
8 for each parent separately, whether the parent is already subject to an order
9 to pay support for the child. If the parent is not presently ordered to pay
10 support for any child who is subject to the jurisdiction of the court and the
11 court has personal jurisdiction over the parent, the court shall order the
12 parent to pay child support in an amount determined under K.S.A. 2016
13 Supp. 38-2277, and amendments thereto. Except for good cause shown,
14 the court shall issue an immediate income withholding order pursuant to
15 K.S.A. 2016 Supp. 23-3101 et seq., and amendments thereto, for each
16 parent ordered to pay support under this subsection, regardless of whether
17 a payor has been identified for the parent. A parent ordered to pay child
18 support under this subsection shall be notified, at the hearing or otherwise,
19 that the child support order may be registered pursuant to K.S.A. 2016
20 Supp. 38-2279, and amendments thereto. The parent shall also be informed
21 that, after registration, the income withholding order may be served on the
22 parent's employer without further notice to the parent and the child support
23 order may be enforced by any method allowed by law. Failure to provide
24 this notice shall not affect the validity of the child support order.

25 Sec. 16. K.S.A. 2016 Supp. 38-2271 is hereby amended to read as
26 follows: 38-2271. (a) It is presumed in the manner provided in K.S.A. 60-
27 414, and amendments thereto, that a parent is unfit by reason of conduct or
28 condition which renders the parent unable to fully care for a child, if the
29 state establishes, by clear and convincing evidence, that:

30 (1) A parent has previously been found to be an unfit parent in
31 proceedings under K.S.A. 2016 Supp. 38-2266 et seq., and amendments
32 thereto, or comparable proceedings under the laws of another jurisdiction;

33 (2) a parent has twice before been convicted of a crime specified in
34 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, prior
35 to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes
36 Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418
37 through 21-6421, and amendments thereto, or comparable offenses under
38 the laws of another jurisdiction, or an attempt or attempts to commit such
39 crimes and the victim was under the age of 18 years;

40 (3) on two or more prior occasions a child in the physical custody of
41 the parent has been adjudicated a child in need of care as defined by
42 K.S.A. 2016 Supp. 38-2202(d)(1), (d)(3), (d)(5) or (d)(11), and
43 amendments thereto, or comparable proceedings under the laws of another

1 jurisdiction;

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

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

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

15 (7) a parent has been convicted of capital murder, K.S.A. 21-3439,
16 prior to its repeal, or K.S.A. 2016 Supp. 21-5401, *prior to its repeal*,
17 *aggravated murder; section 2*, and amendments thereto, murder in the first
18 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402,
19 and amendments thereto, murder in the second degree, K.S.A. 21-3402,
20 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
21 thereto, voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or
22 K.S.A. 2016 Supp. 21-5404, and amendments thereto, human trafficking
23 or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their
24 repeal, or K.S.A. 2016 Supp. 21-5426, and amendments thereto, or
25 commercial sexual exploitation of a child, K.S.A. 2016 Supp. 21-6422,
26 and amendments thereto, or comparable proceedings under the laws of
27 another jurisdiction or, has been adjudicated a juvenile offender because of
28 an act which if committed by an adult would be an offense as provided in
29 this subsection, and the victim of such murder was the other parent of the
30 child;

31 (8) a parent abandoned or neglected the child after having knowledge
32 of the child's birth or either parent has been granted immunity from
33 prosecution for abandonment of the child under K.S.A. 21-3604(b), prior
34 to its repeal, or K.S.A. 2016 Supp. 21-5605(d), and amendments thereto;
35 or

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

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

41 (11) a father abandoned the mother after having knowledge of the
42 pregnancy;

43 (12) a parent has been convicted of rape, K.S.A. 21-3502, prior to its

1 repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto, or
2 comparable proceedings under the laws of another jurisdiction resulting in
3 the conception of the child; or

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

8 (b) The burden of proof is on the parent to rebut the presumption of
9 unfitness by a preponderance of the evidence. In the absence of proof that
10 the parent is presently fit and able to care for the child or that the parent
11 will be fit and able to care for the child in the foreseeable future, the court
12 shall terminate parental rights in proceedings pursuant to K.S.A. 2016
13 Supp. 38-2266 et seq., and amendments thereto.

14 Sec. 17. K.S.A. 2016 Supp. 38-2312 is hereby amended to read as
15 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
16 records or files specified in this code concerning a juvenile may be
17 expunged upon application to a judge of the court of the county in which
18 the records or files are maintained. The application for expungement may
19 be made by the juvenile, if 18 years of age or older or, if the juvenile is
20 less than 18 years of age, by the juvenile's parent or next friend.

21 (b) There shall be no expungement of records or files concerning acts
22 committed by a juvenile which, if committed by an adult, would constitute
23 a violation of *K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-*
24 *5401, prior to its repeal, capital murder; section 2, and amendments*
25 *thereto, aggravated murder; K.S.A. 21-3401, prior to its repeal, or K.S.A.*
26 *2016 Supp. 21-5402, and amendments thereto, murder in the first degree;*
27 *K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and*
28 *amendments thereto, murder in the second degree; K.S.A. 21-3403, prior*
29 *to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto,*
30 *voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A.*
31 *2016 Supp. 21-5405, and amendments thereto, involuntary manslaughter;*
32 ~~*K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and*~~
33 ~~*amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or*~~
34 ~~*K.S.A. 2016 Supp. 21-5405(a)(3), and amendments thereto, involuntary*~~
35 ~~*manslaughter while driving under the influence of alcohol or drugs; K.S.A.*~~
36 ~~*21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and*~~
37 ~~*amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.*~~
38 ~~*2016 Supp. 21-5506(a), and amendments thereto, indecent liberties with a*~~
39 ~~*child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-*~~
40 ~~*5506(b), and amendments thereto, aggravated indecent liberties with a*~~
41 ~~*child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-*~~
42 ~~*5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.*~~
43 ~~*21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and*~~

1 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior
2 to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto,
3 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
4 repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto, sexual
5 exploitation of a child; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016
6 Supp. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-
7 3608, prior to its repeal, or K.S.A. 2016 Supp. 21-5601(a), and
8 amendments thereto, endangering a child; K.S.A. 21-3609, prior to its
9 repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto, abuse of a
10 child; or which would constitute an attempt to commit a violation of any of
11 the offenses specified in this subsection.

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

18 (d) When a petition for expungement is filed, the court shall set a date
19 for a hearing on the petition and shall give notice thereof to the county or
20 district attorney. The petition shall state: (1) The juvenile's full name; (2)
21 the full name of the juvenile as reflected in the court record, if different
22 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
23 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
24 of the trial court. Except as otherwise provided by law, a petition for
25 expungement shall be accompanied by a docket fee in the amount of \$176.
26 On and after July 1, 2015, through June 30, 2017, the supreme court may
27 impose a charge, not to exceed \$19 per case, to fund the costs of non-
28 judicial personnel. All petitions for expungement shall be docketed in the
29 original action. Any person who may have relevant information about the
30 petitioner may testify at the hearing. The court may inquire into the
31 background of the petitioner.

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

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

36 (ii) one year has elapsed since the final discharge for an adjudication
37 concerning acts committed by a juvenile which, if committed by an adult,
38 would constitute a violation of K.S.A. 2016 Supp. 21-6419, and
39 amendments thereto;

40 (B) since the final discharge of the juvenile, the juvenile has not been
41 convicted of a felony or of a misdemeanor other than a traffic offense or
42 adjudicated as a juvenile offender under the revised Kansas juvenile justice
43 code and no proceedings are pending seeking such a conviction or

1 adjudication; and

2 (C) the circumstances and behavior of the petitioner warrant
3 expungement.

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

6 (f) Upon entry of an order expunging records or files, the offense
7 which the records or files concern shall be treated as if it never occurred,
8 except that upon conviction of a crime or adjudication in a subsequent
9 action under this code the offense may be considered in determining the
10 sentence to be imposed. The petitioner, the court and all law enforcement
11 officers and other public offices and agencies shall properly reply on
12 inquiry that no record or file exists with respect to the juvenile. Inspection
13 of the expunged files or records thereafter may be permitted by order of
14 the court upon petition by the person who is the subject thereof. The
15 inspection shall be limited to inspection by the person who is the subject of
16 the files or records and the person's designees.

17 (g) A certified copy of any order made pursuant to subsection (a) or
18 (d) shall be sent to the Kansas bureau of investigation, which shall notify
19 every juvenile or criminal justice agency which may possess records or
20 files ordered to be expunged. If the agency fails to comply with the order
21 within a reasonable time after its receipt, such agency may be adjudged in
22 contempt of court and punished accordingly.

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

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

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

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

36 (1) The person whose record was expunged;

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

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

43 (4) the secretary for aging and disability services, or a designee of the

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

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

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

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

19 (8) the Kansas sentencing commission; or

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

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

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

27 (l) The provisions of subsection (k)(9) shall apply to all records
28 created prior to, on and after July 1, 2011.

29 Sec. 18. K.S.A. 2016 Supp. 38-2365 is hereby amended to read as
30 follows: 38-2365. (a) When a juvenile offender has been placed in the
31 custody of the secretary, the secretary shall have a reasonable time to make
32 a placement. If the juvenile offender has not been placed, any party who
33 believes that the amount of time elapsed without placement has exceeded a
34 reasonable time may file a motion for review with the court. In
35 determining what is a reasonable amount of time, matters considered by
36 the court shall include, but not be limited to, the nature of the underlying
37 offense, efforts made for placement of the juvenile offender and the
38 availability of a suitable placement. The secretary shall notify the court,
39 the juvenile's attorney of record and the juvenile's parent, in writing, of the
40 initial placement and any subsequent change of placement as soon as the
41 placement has been accomplished. The notice to the juvenile offender's
42 parent shall be sent to such parent's last known address or addresses. The
43 court shall have no power to direct a specific placement by the secretary,

1 but may make recommendations to the secretary. The secretary may place
2 the juvenile offender in an institution operated by the secretary, a youth
3 residential facility or any other appropriate placement. If the court has
4 recommended an out-of-home placement, the secretary may not return the
5 juvenile offender to the home from which removed without first notifying
6 the court of the plan.

7 (b) If a juvenile is in the custody of the secretary, the secretary shall
8 prepare and present a permanency plan at sentencing or within 30 days
9 thereafter. If the juvenile is 14 years of age or older and the juvenile is
10 able, the secretary shall prepare the permanency plan in consultation with
11 the juvenile. If a permanency plan is already in place under a child in need
12 of care proceeding, the court may adopt the plan under the present
13 proceeding. The written permanency plan shall provide for reintegration of
14 the juvenile into such juvenile's family or, if reintegration is not a viable
15 alternative, for other permanent placement of the juvenile. Reintegration
16 may not be a viable alternative when: (1) The parent has been found by a
17 court to have committed *capital murder, K.S.A. 21-3439, prior to its*
18 *repeal, or K.S.A. 2016 Supp 21-5401, prior to its repeal, aggravated*
19 *murder, section 2, and amendments thereto*, murder in the first degree,
20 K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and
21 amendments thereto, murder in the second degree, K.S.A. 21-3402, prior
22 to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto,
23 ~~capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp.~~
24 ~~21-5401, and amendments thereto~~, voluntary manslaughter, K.S.A. 21-
25 3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments
26 thereto, of a child or violated a law of another state which prohibits such
27 murder or manslaughter of a child;

28 (2) the parent aided or abetted, attempted, conspired or solicited to
29 commit such murder or voluntary manslaughter of a child;

30 (3) the parent committed a felony battery that resulted in bodily
31 injury to the juvenile who is the subject of this proceeding or another
32 child;

33 (4) the parent has subjected the juvenile who is the subject of this
34 proceeding or another child to aggravated circumstances as defined in
35 K.S.A. 38-1502, and amendments thereto;

36 (5) the parental rights of the parent to another child have been
37 terminated involuntarily; or

38 (6) the juvenile has been in extended out-of-home placement as
39 defined in K.S.A. 2016 Supp. 38-2202, and amendments thereto.

40 (c) If the juvenile is placed in the custody of the secretary, the plan
41 shall be prepared and submitted by the secretary. If the juvenile is placed
42 in the custody of a facility or person other than the secretary, the plan shall
43 be prepared and submitted by a court services officer. If the permanency

1 goal is reintegration into the family, the permanency plan shall include
2 measurable objectives and time schedules for reintegration.

3 (d) During the time a juvenile remains in the custody of the secretary,
4 the secretary shall submit to the court, at least every six months, a written
5 report of the progress being made toward the goals of the permanency plan
6 submitted pursuant to subsections (b) and (c) and the specific actions taken
7 to achieve the goals of the permanency plan. If the juvenile is placed in
8 foster care, the court may request the foster parent to submit to the court,
9 at least every six months, a report in regard to the juvenile's adjustment,
10 progress and condition. Such report shall be made a part of the juvenile's
11 court social file. The court shall review the plan submitted by the secretary
12 and the report, if any, submitted by the foster parent and determine
13 whether reasonable efforts and progress have been made to achieve the
14 goals of the permanency plan. If the court determines that progress is
15 inadequate or that the permanency plan is no longer viable, the court shall
16 hold a hearing pursuant to subsection (e).

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

26 (1) Reintegrated with the juvenile's parents;
27 (2) placed for adoption;
28 (3) placed with a permanent custodian; or
29 (4) if the juvenile is 16 years of age or older and the secretary has
30 documented compelling reasons why it would not be in the juvenile's best
31 interests for a placement in one of the placements pursuant to paragraphs
32 (1), (2) or (3), placed in another planned permanent arrangement.

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

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

37 (2) make a written finding as to whether the reasonable and prudent
38 parenting standard has been met and whether the juvenile has regular,
39 ongoing opportunities to engage in age or developmentally appropriate
40 activities. The secretary shall report to the court the steps the secretary is
41 taking to ensure that the reasonable and prudent parenting standard is
42 being met and that the juvenile has regular, ongoing opportunities to
43 engage in age or developmentally appropriate activities, including

1 consultation with the juvenile in an age-appropriate manner about the
2 opportunities of the juvenile to participate in the activities; and

3 (3) if the juvenile is 14 years of age or older, document the efforts
4 made by the secretary to help the juvenile prepare for the transition from
5 custody to a successful adulthood. The secretary shall report to the court
6 the programs and services that are being provided to the juvenile which
7 will help the juvenile prepare for the transition from custody to a
8 successful adulthood.

9 (g) The requirements of this subsection shall apply only if the
10 permanency goal in place at the time of the hearing is another planned
11 permanent arrangement as described in subsection (e)(4). At each
12 permanency hearing held with respect to the juvenile, in addition to the
13 requirements of subsection (f), the court shall:

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

17 (2) document the intensive, ongoing and, as of the date of the hearing,
18 unsuccessful permanency efforts made by the secretary to return the
19 juvenile home or secure a placement for the juvenile with a fit and willing
20 relative, a legal guardian or an adoptive parent. The secretary shall report
21 to the court the intensive, ongoing and, as of the date of the hearing,
22 unsuccessful efforts made by the secretary to return the juvenile home or
23 secure a placement for the juvenile with a fit and willing relative, a legal
24 guardian or an adoptive parent, including efforts that utilize search
25 technology, including social media, to find biological family members of
26 the children; and

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

33 (h) Whenever a hearing is required under subsection (e), the court
34 shall notify all interested parties of the hearing date, the secretary, foster
35 parent and preadoptive parent or relatives providing care for the juvenile
36 and hold a hearing. If the juvenile is 14 years of age or older, the court
37 shall require notice of the time and place of the permanency hearing be
38 given to the juvenile. Such notice shall request the juvenile's participation
39 in the hearing by attendance or by report to the court. Individuals receiving
40 notice pursuant to this subsection shall not be made a party to the action
41 solely on the basis of this notice and opportunity to be heard. After
42 providing the persons receiving notice an opportunity to be heard, the
43 court shall determine whether the juvenile's needs are being adequately

1 met; whether services set out in the permanency plan necessary for the
2 safe return of the juvenile have been made available to the parent with
3 whom reintegration is planned; and whether reasonable efforts and
4 progress have been made to achieve the goals of the permanency plan.

5 (i) If the court finds reintegration continues to be a viable alternative,
6 the court shall determine whether and, if applicable, when the juvenile will
7 be returned to the parent. The court may rescind any of its prior
8 dispositional orders and enter any dispositional order authorized by this
9 code or may order that a new plan for the reintegration be prepared and
10 submitted to the court. If reintegration cannot be accomplished as
11 approved by the court, the court shall be informed and shall schedule a
12 hearing pursuant to subsection (j). No such hearing is required when the
13 parent voluntarily relinquishes parental rights or agrees to appointment of
14 a permanent guardian.

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

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

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

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

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

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

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

1 rights.

2 Sec. 19. K.S.A. 2016 Supp. 39-970 is hereby amended to read as
3 follows: 39-970. (a) (1) No person shall knowingly operate an adult care
4 home if, in the adult care home, there works any person who has been
5 convicted of or has been adjudicated a juvenile offender because of having
6 committed an act which if done by an adult would constitute the
7 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
8 repeal, or K.S.A. 2016 Supp. 21-5401, *prior to its repeal, aggravated*
9 *murder, section 2*, and amendments thereto, first degree murder, pursuant
10 to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and
11 amendments thereto, second degree murder, pursuant to K.S.A. 21-
12 3402(a), prior to its repeal, or K.S.A. 2016 Supp. 21-5403(a), and
13 amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403,
14 prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments
15 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
16 K.S.A. 2016 Supp. 21-5407, and amendments thereto, mistreatment of a
17 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
18 3437, prior to its repeal, or K.S.A. 2016 Supp. 21-5417, and amendments
19 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
20 or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto, aggravated
21 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
22 K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
23 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and
24 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
25 3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and
26 amendments thereto, aggravated indecent liberties with a child, pursuant to
27 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
28 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
29 3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and
30 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
31 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and
32 amendments thereto, aggravated indecent solicitation of a child, pursuant
33 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b),
34 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
35 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and
36 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
37 its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto,
38 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
39 or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto, commercial
40 sexual exploitation of a child, pursuant to K.S.A. 2016 Supp. 21-6422, and
41 amendments thereto, an attempt to commit any of the crimes listed in this
42 subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.
43 2016 Supp. 21-5301, and amendments thereto, a conspiracy to commit any

1 of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302,
2 prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments
3 thereto, or criminal solicitation of any of the crimes listed in this
4 subsection (a)(1), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.
5 2016 Supp. 21-5303, and amendments thereto, or similar statutes of other
6 states or the federal government. The provisions of subsection (a)(2)(C)
7 shall not apply to any person who is employed by an adult care home on
8 July 1, 2010, and while continuously employed by the same adult care
9 home.

10 (2) A person operating an adult care home may employ an applicant
11 who has been convicted of any of the following if five or more years have
12 elapsed since the applicant satisfied the sentence imposed or was
13 discharged from probation, a community correctional services program,
14 parole, postrelease supervision, conditional release or a suspended
15 sentence; or if five or more years have elapsed since the applicant has been
16 finally discharged from the custody of the commissioner of juvenile justice
17 or from probation or has been adjudicated a juvenile offender, whichever
18 time is longer: A felony conviction for a crime which is described in: (A)
19 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their
20 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or
21 K.S.A. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
22 amendments thereto, except those crimes listed in subsection (a)(1); (B)
23 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to
24 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
25 Annotated, or K.S.A. 2016 Supp. 21-6419 through 21-6421, and
26 amendments thereto, except those crimes listed in subsection (a)(1) and
27 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2016 Supp. 21-5606, and
28 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
29 2016 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
30 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-
31 3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments
32 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
33 (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016
34 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of
35 the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to
36 its repeal, or K.S.A. 2016 Supp. 21-5303, and amendments thereto; or (G)
37 similar statutes of other states or the federal government.

38 (b) No person shall operate an adult care home if such person has
39 been found to be in need of a guardian or conservator, or both as provided
40 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The
41 provisions of this subsection shall not apply to a minor found to be in need
42 of a guardian or conservator for reasons other than impairment.

43 (c) The secretary for aging and disability services shall have access to

1 any criminal history record information in the possession of the Kansas
2 bureau of investigation regarding any criminal history information,
3 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
4 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
5 amendments thereto, adjudications of a juvenile offender which if
6 committed by an adult would have been a felony conviction, and
7 adjudications of a juvenile offender for an offense described in K.S.A. 21-
8 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-
9 5417, 21-5505(a) and 21-5801, and amendments thereto, concerning
10 persons working in an adult care home. The secretary shall have access to
11 these records for the purpose of determining whether or not the adult care
12 home meets the requirements of this section. The Kansas bureau of
13 investigation may charge to the Kansas department for aging and disability
14 services a reasonable fee for providing criminal history record information
15 under this subsection.

16 (d) For the purpose of complying with this section, the operator of an
17 adult care home shall request from the Kansas department for aging and
18 disability services information regarding any criminal history information,
19 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
20 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
21 amendments thereto, adjudications of a juvenile offender which if
22 committed by an adult would have been a felony conviction, and
23 adjudications of a juvenile offender for an offense described in K.S.A. 21-
24 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-
25 5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates
26 to a person who works in the adult care home, or is being considered for
27 employment by the adult care home, for the purpose of determining
28 whether such person is subject to the provision of this section. For the
29 purpose of complying with this section, the operator of an adult care home
30 shall receive from any employment agency which provides employees to
31 work in the adult care home written certification that such employees are
32 not prohibited from working in the adult care home under this section. For
33 the purpose of complying with this section, information relating to
34 convictions and adjudications by the federal government or to convictions
35 and adjudications in states other than Kansas shall not be required until
36 such time as the secretary for aging and disability services determines the
37 search for such information could reasonably be performed and the
38 information obtained within a two-week period. For the purpose of
39 complying with this section, a person who operates an adult care home
40 may hire an applicant for employment on a conditional basis pending the
41 results from the Kansas department for aging and disability services of a
42 request for information under this subsection. No adult care home, the
43 operator or employees of an adult care home or an employment agency, or

1 the operator or employees of an employment agency, shall be liable for
2 civil damages resulting from any decision to employ, to refuse to employ
3 or to discharge from employment any person based on such adult care
4 home's compliance with the provisions of this section if such adult care
5 home or employment agency acts in good faith to comply with this
6 section.

7 (e) The secretary for aging and disability services shall charge each
8 person 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 to the department under this section.

11 (f) (1) The secretary for aging and disability services shall provide
12 each 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 their
15 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
16 amendments thereto, in writing and within three working days of receipt of
17 such information from the Kansas bureau of investigation. The criminal
18 history record information shall be provided regardless of whether the
19 information discloses that the subject of the request has been convicted of
20 an offense enumerated in subsection (a).

21 (2) When an offense enumerated in subsection (a) exists in the
22 criminal history record information, and when further confirmation
23 regarding criminal history record information is required from the
24 appropriate court of jurisdiction or Kansas department of corrections, the
25 secretary shall notify each operator that requests information under this
26 section in writing and within three working days of receipt from the
27 Kansas bureau of investigation that further confirmation is required. The
28 secretary shall provide to the operator requesting information under this
29 section information in writing and within three working days of receipt of
30 such information from the appropriate court of jurisdiction or Kansas
31 department of corrections regarding confirmation regarding the criminal
32 history record information.

33 (3) Whenever the criminal history record information reveals that the
34 subject of the request has no criminal history on record, the secretary shall
35 provide notice to each operator requesting information under this section,
36 in writing and within three working days after receipt of such information
37 from the Kansas bureau of investigation.

38 (4) The secretary for aging and disability services shall not provide
39 each operator requesting information under this section with the juvenile
40 criminal history record information which relates to a person subject to a
41 background check as is provided by K.S.A. 2016 Supp. 38-2326, and
42 amendments thereto, except for adjudications of a juvenile offender for an
43 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016

1 Supp. 21-5801, and amendments thereto. The secretary shall notify the
2 operator that requested the information, in writing and within three
3 working days of receipt of such information from the Kansas bureau of
4 investigation, whether juvenile criminal history record information
5 received pursuant to this section reveals that the operator would or would
6 not be prohibited by this section from employing the subject of the request
7 for information and whether such information contains adjudications of a
8 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
9 repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto.

10 (5) An operator who receives criminal history record information
11 under this subsection shall keep such information confidential, except that
12 the operator may disclose such information to the person who is the
13 subject of the request for information. A violation of this paragraph shall
14 be an unclassified misdemeanor punishable by a fine of \$100.

15 (g) No person who works for an adult care home and who is currently
16 licensed or registered by an agency of this state to provide professional
17 services in the state and who provides such services as part of the work
18 which such person performs for the adult care home shall be subject to the
19 provisions of this section.

20 (h) A person who volunteers in an adult care home shall not be
21 subject to the provisions of this section because of such volunteer activity.

22 (i) An operator may request from the Kansas department for aging
23 and disability services criminal history information on persons employed
24 under subsections (g) and (h).

25 (j) No person who has been employed by the same adult care home
26 since July 1, 1992, shall be subject to the provisions of this section while
27 employed by such adult care home.

28 (k) The operator of an adult care home shall not be required under
29 this section to conduct a background check on an applicant for
30 employment with the adult care home if the applicant has been the subject
31 of a background check under this act within one year prior to the
32 application for employment with the adult care home. The operator of an
33 adult care home where the applicant was the subject of such background
34 check may release a copy of such background check to the operator of an
35 adult care home where the applicant is currently applying.

36 (l) No person who is in the custody of the secretary of corrections and
37 who provides services, under direct supervision in nonpatient areas, on the
38 grounds or other areas designated by the superintendent of the Kansas
39 soldiers' home or the Kansas veterans' home shall be subject to the
40 provisions of this section while providing such services.

41 (m) For purposes of this section, the Kansas bureau of investigation
42 shall report any criminal history information, convictions under K.S.A. 21-
43 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-

1 5417, 21-5505(a) and 21-5801, and amendments thereto, adjudications of
2 a juvenile offender which if committed by an adult would have been a
3 felony conviction, and adjudications of a juvenile offender for an offense
4 described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,
5 or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
6 thereto, to the secretary for aging and disability services when a
7 background check is requested.

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

10 Sec. 20. K.S.A. 2016 Supp. 65-5117 is hereby amended to read as
11 follows: 65-5117. (a) (1) No person shall knowingly operate a home health
12 agency if, for the home health agency, there works any person who has
13 been convicted of or has been adjudicated a juvenile offender because of
14 having committed an act which if done by an adult would constitute the
15 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
16 repeal, or K.S.A. 2016 Supp. 21-5401, *prior to its repeal, aggravated*
17 *murder, pursuant to section 2*, and amendments thereto, first degree
18 murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016
19 Supp. 21-5402, and amendments thereto, second degree murder, pursuant
20 to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 2016 Supp. 21-5403(a),
21 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-
22 3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments
23 thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or
24 K.S.A. 2016 Supp. 21-5407, and amendments thereto, mistreatment of a
25 dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-
26 3437, prior to its repeal, or K.S.A. 2016 Supp. 21-5417, and amendments
27 thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal,
28 or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto, aggravated
29 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
30 K.S.A. 2016 Supp. 21-5426(b), and amendments thereto, rape, pursuant to
31 K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and
32 amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-
33 3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and
34 amendments thereto, aggravated indecent liberties with a child, pursuant to
35 K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
36 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-
37 3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and
38 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
39 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and
40 amendments thereto, aggravated indecent solicitation of a child, pursuant
41 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b),
42 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A.
43 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and

1 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to
2 its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto,
3 aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal,
4 or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto, commercial
5 sexual exploitation of a child, pursuant to K.S.A. 2016 Supp. 21-6422, and
6 amendments thereto, an attempt to commit any of the crimes listed in this
7 subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A.
8 2016 Supp. 21-5301, and amendments thereto, a conspiracy to commit any
9 of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302,
10 prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments
11 thereto, or criminal solicitation of any of the crimes listed in this
12 subsection (a)(1), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A.
13 2016 Supp. 21-5303, and amendments thereto, or similar statutes of other
14 states or the federal government. The provisions of subsection (a)(2)(C)
15 shall not apply to any person who is employed by a home health agency on
16 July 1, 2010, and while continuously employed by the same home health
17 agency.

18 (2) A person operating a home health agency may employ an
19 applicant who has been convicted of any of the following if five or more
20 years have elapsed since the applicant satisfied the sentence imposed or
21 was discharged from probation, a community correctional services
22 program, parole, postrelease supervision, conditional release or a
23 suspended sentence; or if five or more years have elapsed since the
24 applicant has been finally discharged from the custody of the
25 commissioner of juvenile justice or from probation or has been adjudicated
26 a juvenile offender, whichever time is longer: A felony conviction for a
27 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
28 Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the
29 Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325, 21-
30 6326 or 21-6418, and amendments thereto, except those crimes listed in
31 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
32 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
33 Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6419 through 21-
34 6421, and amendments thereto, except those crimes listed in subsection (a)
35 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2016 Supp. 21-5606,
36 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
37 2016 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
38 any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-
39 3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments
40 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
41 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp.
42 21-5302, and amendments thereto; (F) criminal solicitation of any of the
43 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its

1 repeal, or K.S.A. 2016 Supp. 21-5303, and amendments thereto; or (G)
2 similar statutes of other states or the federal government.

3 (b) No person shall operate a home health agency if such person has
4 been found to be a person in need of a guardian or a conservator, or both,
5 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.
6 The provisions of this subsection shall not apply to a minor found to be in
7 need of a guardian or conservator for reasons other than impairment.

8 (c) The secretary of health and environment shall have access to any
9 criminal history record information in the possession of the Kansas bureau
10 of investigation regarding any criminal history information, convictions
11 under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or
12 K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
13 thereto, adjudications of a juvenile offender which if committed by an
14 adult would have been a felony conviction, and adjudications of a juvenile
15 offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-
16 3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and
17 21-5801, and amendments thereto, concerning persons working for a home
18 health agency. The secretary shall have access to these records for the
19 purpose of determining whether or not the home health agency meets the
20 requirements of this section. The Kansas bureau of investigation may
21 charge to the department of health and environment a reasonable fee for
22 providing criminal history record information under this subsection.

23 (d) For the purpose of complying with this section, the operator of a
24 home health agency shall request from the department of health and
25 environment information regarding any criminal history information,
26 convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
27 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
28 amendments thereto, adjudications of a juvenile offender which if
29 committed by an adult would have been a felony conviction, and
30 adjudications of a juvenile offender for an offense described in K.S.A. 21-
31 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-
32 5417, 21-5505(a) and 21-5801, and amendments thereto, and which relates
33 to a person who works for the home health agency or is being considered
34 for employment by the home health agency, for the purpose of determining
35 whether such person is subject to the provisions of this section. For the
36 purpose of complying with this section, information relating to convictions
37 and adjudications by the federal government or to convictions and
38 adjudications in states other than Kansas shall not be required until such
39 time as the secretary of health and environment determines the search for
40 such information could reasonably be performed and the information
41 obtained within a two-week period. For the purpose of complying with this
42 section, the operator of a home health agency shall receive from any
43 employment agency which provides employees to work for the home

1 health agency written certification that such employees are not prohibited
2 from working for the home health agency under this section. For the
3 purpose of complying with this section, a person who operates a home
4 health agency may hire an applicant for employment on a conditional basis
5 pending the results from the department of health and environment of a
6 request for information under this subsection. No home health agency, the
7 operator or employees of a home health agency or an employment agency,
8 or the operator or employees of an employment agency, which provides
9 employees to work for the home health agency shall be liable for civil
10 damages resulting from any decision to employ, to refuse to employ or to
11 discharge from employment any person based on such home health
12 agency's compliance with the provisions of this section if such home
13 health agency or employment agency acts in good faith to comply with
14 this section.

15 (e) The secretary of health and environment shall charge each person
16 requesting information under this section a fee equal to cost, not to exceed
17 \$10, for each name about which an information request has been submitted
18 under this section.

19 (f) (1) The secretary of health and environment shall provide each
20 operator requesting information under this section with the criminal
21 history record information concerning any criminal history information
22 and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their
23 repeal, or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and
24 amendments thereto, in writing and within three working days of receipt of
25 such information from the Kansas bureau of investigation. The criminal
26 history 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 the
42 subject of the request has no criminal history on record, the secretary shall
43 provide notice to each operator requesting information under this section,

1 in writing and within three working days after receipt of such information
2 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. 2016 Supp. 38-2326, and
7 amendments thereto, except for adjudications of a juvenile offender for an
8 offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2016
9 Supp. 21-5801, and amendments thereto. The secretary shall notify the
10 operator that requested the information, in writing and within three
11 working days of receipt of such information from the Kansas bureau of
12 investigation, whether juvenile criminal history record information
13 received pursuant to this section reveals that the operator would or would
14 not be prohibited by this section from employing the subject of the request
15 for information and whether such information contains adjudications of a
16 juvenile offender for an offense described in K.S.A. 21-3701, prior to its
17 repeal, or K.S.A. 2016 Supp. 21-5801, and amendments thereto.

18 (5) An operator who receives criminal history record information
19 under this subsection (f) shall keep such information confidential, except
20 that the operator may disclose such information to the person who is the
21 subject of the request for information. A violation of this paragraph (5)
22 shall be an unclassified misdemeanor punishable by a fine of \$100.

23 (g) No person who works for a home health agency and who is
24 currently licensed or registered by an agency of this state to provide
25 professional services in this state and who provides such services as part of
26 the work which such person performs for the home health agency shall be
27 subject to the provisions of this section.

28 (h) A person who volunteers to assist a home health agency shall not
29 be subject to the provisions of this section because of such volunteer
30 activity.

31 (i) An operator may request from the department of health and
32 environment criminal history information on persons employed under
33 subsections (g) and (h).

34 (j) No person who has been employed by the same home health
35 agency since July 1, 1992, shall be subject to the requirements of this
36 section while employed by such home health agency.

37 (k) The operator of a home health agency shall not be required under
38 this section to conduct a background check on an applicant for
39 employment with the home health agency if the applicant has been the
40 subject of a background check under this act within one year prior to the
41 application for employment with the home health agency. The operator of
42 a home health agency where the applicant was the subject of such
43 background check may release a copy of such background check to the

1 operator of a home health agency where the applicant is currently
2 applying.

3 (l) For purposes of this section, the Kansas bureau of investigation
4 shall only report felony convictions, convictions under K.S.A. 21-3437,
5 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2016 Supp. 21-5417,
6 21-5505(a) and 21-5801, and amendments thereto, adjudications of a
7 juvenile offender which if committed by an adult would have been a
8 felony conviction, and adjudications of a juvenile offender for an offense
9 described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,
10 or K.S.A. 2016 Supp. 21-5417, 21-5505(a) and 21-5801, and amendments
11 thereto, to the secretary of health and environment when a background
12 check is requested.

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

16 Sec. 21. K.S.A. 2016 Supp. 72-1397 is hereby amended to read as
17 follows: 72-1397. (a) The state board of education shall not knowingly
18 issue a license to or renew the license of any person who has been
19 convicted of:

20 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
21 2016 Supp. 21-5503, and amendments thereto;

22 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
23 to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

24 (3) aggravated indecent liberties with a child, as defined in K.S.A.
25 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and
26 amendments thereto;

27 (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
28 prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and
29 amendments thereto;

30 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
31 to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

32 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
33 prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments
34 thereto;

35 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
36 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and
37 amendments thereto;

38 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
39 to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;

40 (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its
41 repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;

42 (10) aggravated endangering a child, as defined in K.S.A. 21-3608a,
43 prior to its repeal, or K.S.A. 2016 Supp. 21-5601(b), and amendments

1 thereto;

2 (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
3 or K.S.A. 2016 Supp. 21-5602, and amendments thereto;

4 (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
5 or K.S.A. 2016 Supp. 21-5401, *prior to its repeal*;

6 (13) *aggravated murder, as defined in section 2*, and amendments
7 thereto;

8 ~~(13)~~ (14) murder in the first degree, as defined in K.S.A. 21-3401,
9 prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments
10 thereto;

11 ~~(14)~~ (15) murder in the second degree, as defined in K.S.A. 21-3402,
12 prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments
13 thereto;

14 ~~(15)~~ (16) voluntary manslaughter, as defined in K.S.A. 21-3403, prior
15 to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;

16 ~~(16)~~ (17) involuntary manslaughter, as defined in K.S.A. 21-3404,
17 prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments
18 thereto;

19 ~~(17)~~ (18) involuntary manslaughter while driving under the influence
20 of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;

21 ~~(18)~~ (19) sexual battery, as defined in K.S.A. 21-3517, prior to its
22 repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto, when,
23 at the time the crime was committed, the victim was less than 18 years of
24 age or a student of the person committing such crime;

25 ~~(19)~~ (20) aggravated sexual battery, as defined in K.S.A. 21-3518,
26 prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments
27 thereto;

28 ~~(20)~~ (21) commercial sexual exploitation of a child, as defined in
29 K.S.A. 2016 Supp. 21-6422, and amendments thereto;

30 ~~(21)~~ (22) human trafficking, as defined in K.S.A. 21-3446, prior to its
31 repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto;

32 ~~(22)~~ (23) aggravated human trafficking, as defined in K.S.A. 21-
33 3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and
34 amendments thereto;

35 ~~(23)~~ (24) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A.
36 2016 Supp. 21-5301, and amendments thereto, to commit any act specified
37 in this subsection;

38 ~~(24)~~ (25) conspiracy under K.S.A. 21-3302, prior to its repeal, or
39 K.S.A. 2016 Supp. 21-5302, and amendments thereto, to commit any act
40 specified in this subsection;

41 ~~(25)~~ (26) an act in another state or by the federal government that is
42 comparable to any act described in this subsection; or

43 ~~(26)~~ (27) an offense in effect at any time prior to the effective date of

1 this act that is comparable to an offense as provided in this subsection.

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

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

10 (2) a felony described in any section of article 34 of chapter 21 of the
11 Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21
12 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325,
13 21-6326 or 21-6418, and amendments thereto, other than an act specified
14 in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its
15 repeal, or K.S.A. 2016 Supp. 21-5413(a), and amendments thereto, or
16 domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or
17 K.S.A. 2016 Supp. 21-5414, and amendments thereto, if the victim is a
18 minor or student;

19 (3) a felony described in any section of article 35 of chapter 21 of the
20 Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21
21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6419 through
22 21-6421, and amendments thereto, other than an act specified in
23 subsection (a);

24 (4) any act described in any section of article 36 of chapter 21 of the
25 Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21
26 of the Kansas Statutes Annotated, and amendments thereto, other than an
27 act specified in subsection (a);

28 (5) a felony described in article 37 of chapter 21 of the Kansas
29 Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the
30 Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6412(a)(6), and
31 amendments thereto;

32 (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its
33 repeal, or K.S.A. 2016 Supp. 21-6401(a), and amendments thereto,
34 promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to
35 its repeal, or K.S.A. 2016 Supp. 21-6401(b), and amendments thereto, or
36 promoting to minors obscenity harmful to minors, as described in K.S.A.
37 21-4301c, prior to its repeal, or K.S.A. 2016 Supp. 21-6402, and
38 amendments thereto;

39 (7) endangering a child, as defined in K.S.A. 21-3608, prior to its
40 repeal, or K.S.A. 2016 Supp. 21-5601(a), and amendments thereto;

41 (8) driving under the influence of alcohol or drugs in violation of
42 K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is
43 punishable as a felony;

1 (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016
2 Supp. 21-5301, and amendments thereto, to commit any act specified in
3 this subsection;

4 (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A.
5 2016 Supp. 21-5302, and amendments thereto, to commit any act specified
6 in this subsection; or

7 (11) an act committed in violation of a federal law or in violation of
8 another state's law that is comparable to any act described in this
9 subsection.

10 (c) The state board of education may issue a license to or renew the
11 license of a person who has been convicted of committing an offense or
12 act described in subsection (b) or who has entered into a criminal diversion
13 agreement after having been charged with an offense or act described in
14 subsection (b) if the state board determines, following a hearing, that the
15 person has been rehabilitated for a period of at least five years from the
16 date of conviction of the offense or commission of the act or, in the case of
17 a person who has entered into a criminal diversion agreement, that the
18 person has satisfied the terms and conditions of the agreement. The state
19 board of education may consider factors including, but not limited to, the
20 following in determining whether to grant a license:

21 (1) The nature and seriousness of the offense or act;

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

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

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

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

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

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

33 (e) The county or district attorney shall file a report with the state
34 board of education indicating the name, address and social security
35 number of any person who has been determined to have committed any
36 offense or act specified in subsection (a) or (b) or to have entered into a
37 criminal diversion agreement after having been charged with any offense
38 or act specified in subsection (b). Such report shall be filed within 30 days
39 of the date of the determination that the person has committed any such act
40 or entered into any such diversion agreement.

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

1 Sec. 22. K.S.A. 2016 Supp. 75-52,148 is hereby amended to read as
2 follows: 75-52,148. (a) The department of corrections shall be required to
3 review and report on the following serious offenses committed by sex
4 offenders, as defined by K.S.A. 22-4902, and amendments thereto, while
5 such offenders are in the custody of the secretary of corrections:

6 (1) Murder in the first degree, as defined in K.S.A. 2016 Supp. 21-
7 5402, and amendments thereto;

8 (2) murder in the second degree, as defined in K.S.A. 2016 Supp. 21-
9 5403, and amendments thereto;

10 (3) ~~capital murder, as defined in K.S.A. 2016 Supp. 21-~~
11 ~~5401~~ *aggravated murder, as defined in section 2*, and amendments thereto;

12 (4) rape, as defined in K.S.A. 2016 Supp. 21-5503, and amendments
13 thereto;

14 (5) aggravated criminal sodomy, as defined in ~~subsection (b) of~~
15 K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;

16 (6) sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-
17 5510, and amendments thereto;

18 (7) kidnapping as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-
19 5408(a), and amendments thereto;

20 (8) aggravated kidnapping, as defined in ~~subsection (b) of~~ K.S.A.
21 2016 Supp. 21-5408(b), and amendments thereto;

22 (9) criminal restraint, as defined in K.S.A. 2016 Supp. 21-5411, and
23 amendments thereto;

24 (10) indecent solicitation of a child, as defined in ~~subsection (a) of~~
25 K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;

26 (11) aggravated indecent solicitation of a child, as defined in
27 ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;

28 (12) indecent liberties with a child, as defined in ~~subsection (a) of~~
29 K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;

30 (13) aggravated indecent liberties with a child, as defined in
31 ~~subsection (b) of~~ K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;

32 (14) criminal sodomy, as defined in ~~subsection (a) of~~ K.S.A. 2016
33 Supp. 21-5504(a), and amendments thereto;

34 (15) child abuse, as defined in K.S.A. 2016 Supp. 21-5602, and
35 amendments thereto;

36 (16) aggravated robbery, as defined in ~~subsection (b) of~~ K.S.A. 2016
37 Supp. 21-5420(b), and amendments thereto;

38 (17) burglary, as defined in ~~subsection (a) of~~ K.S.A. 2016 Supp. 21-
39 5807(b), and amendments thereto;

40 (18) aggravated burglary, as defined in ~~subsection (b) of~~ K.S.A. 2016
41 Supp. 21-5807(b), and amendments thereto;

42 (19) theft, as defined in K.S.A. 2016 Supp. 21-5801, and amendments
43 thereto;

1 (20) vehicular homicide, as defined in K.S.A. 2016 Supp. 21-5406,
2 and amendments thereto;

3 (21) involuntary manslaughter while driving under the influence, as
4 defined in ~~subsection (a)(3)~~ of K.S.A. 2016 Supp. 21-5405(a)(3), and
5 amendments thereto; or

6 (22) stalking, as defined in K.S.A. 2016 Supp. 21-5427, and
7 amendments thereto.

8 (b) The secretary of corrections shall submit such report to the
9 speaker of the house of representatives and the president of the senate
10 annually, beginning January 1, 2007.

11 Sec. 23. K.S.A. 2016 Supp. 21-5401, 21-5419, 21-6614, 21-6614g,
12 21-6614h, 21-6617, 21-6618, 21-6619, 21-6620, 21-6622, 21-6628, 21-
13 6629, 21-6806, 22-3717, 22-4902, 22-4906, 38-2255, 38-2271, 38-2312,
14 38-2365, 39-970, 65-5117, 72-1397 and 75-52,148 are hereby repealed.

15 Sec. 24. This act shall take effect and be in force from and after its
16 publication in the statute book.