

SENATE BILL No. 491

By Committee on Judiciary

2-8

1 AN ACT concerning criminal history and record checks; relating to the
2 Kansas bureau of investigation; standardizing fingerprinting
3 requirements and making conforming amendments across statutes that
4 authorize fingerprinting; defining people to be fingerprinted; amending
5 K.S.A. 2-3901, 2-3902, 2-3906, 2-3907, 2-3911, 7-127, 8-2,142, 9-508,
6 9-509, 9-513e, 9-1719, 9-1722, 9-2201, 9-2209, 9-2301, 9-2302, 12-
7 1,120, 12-1679, 16a-6-104, 17-2234, 19-826, 39-969, 39-970, 39-2009,
8 40-5502, 40-5504, 41-311b, 46-1103, 46-3301, 65-503, 65-1501a, 65-
9 1505, 65-1696, 65-2401, 65-2402, 65-2802, 65-2839a, 65-28,129, 65-
10 2901, 65-3503, 65-4209, 65-5117, 73-1210a, 74-1112, 74-2113, 74-
11 4905, 74-50,182, 74-50,184, 74-5605, 74-5607, 74-7511, 74-8704, 74-
12 8705, 74-8763, 74-8769, 74-8803, 74-8805, 74-8806, 74-9802, 74-
13 9804, 74-9805, 75-712, 75-7b01, 75-7b04, 75-7b21, 75-7e01, 75-7e03,
14 75-3707e, 75-4315d, 75-5133c, 75-5156, 75-53,105, 75-5609a and 75-
15 7241 and K.S.A. 2023 Supp. 40-4905, 40-5505, 41-102, 50-6,126, 50-
16 1128, 58-3035, 58-3039, 58-4102, 58-4127, 58-4703, 58-4709, 65-516,
17 65-1120, 65-1626, 65-2924, 65-3407, 65-6129, 74-5602, 74-8702, 74-
18 8802, 74-8804, 75-7c02, 75-7c05, 75-5393a, 75-5393c and 75-5397f
19 and repealing the existing sections.

20

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

22 New Section 1. (a) A criminal justice agency as defined in K.S.A. 22-
23 4701, and amendments thereto, shall require an applicant for criminal
24 justice employment to be fingerprinted and shall submit such fingerprints
25 to the Kansas bureau of investigation and the federal bureau of
26 investigation for a search of the state and federal database. Fingerprints
27 provided pursuant to this section may be used to identify a person and to
28 determine whether such person has a record of criminal history in this state
29 or in another jurisdiction. An agency identified in subsection (b) may use
30 the information obtained from the criminal history record check for the
31 purposes of verifying the identification of a person and in the official
32 determination of the qualifications and fitness of such person to be
33 employed or to maintain employment.

34 (b) The Kansas bureau of investigation shall release criminal history
35 record information related to adult convictions, adult non-convictions,
36 adult diversions, adult expunged records, juvenile adjudications, juvenile

1 non-adjudications and juvenile diversions to:

2 (1) A city clerk for the position of chief of police as described in
3 K.S.A. 12-1,120, and amendments thereto;

4 (2) a county election officer for a candidate for sheriff as described in
5 K.S.A. 19-826, and amendments thereto;

6 (3) the governor for an appointment to the position of Kansas
7 highway patrol superintendent as described in K.S.A. 74-2113, and
8 amendments thereto; and

9 (4) a state, county, city, university, railroad, tribal, horsethief reservoir
10 benefit district or school law enforcement agency for the purpose of
11 admitting applicants as defined in K.S.A. 74-5602, and amendments
12 thereto, in connection with such application as described in K.S.A. 74-
13 5605, and amendments thereto.

14 (c) In addition to the disclosure in subsection (b), the Kansas bureau
15 of investigation shall certify any adult conviction record, if such record is
16 found, of a chief of police or candidate for sheriff to the Kansas attorney
17 general.

18 (d) (1) Fingerprints and criminal history record information received
19 pursuant to this section shall be confidential and shall not be subject to the
20 provisions of the Kansas open records act, K.S.A. 45-215 et seq., and
21 amendments thereto. The provisions of this paragraph shall expire on July
22 1, 2029, unless the legislature reviews and reenacts this provision pursuant
23 to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

24 (2) Disclosure or use of any information received pursuant to this
25 section for any purpose other than the purpose described in this section
26 shall be a class A nonperson misdemeanor and shall constitute grounds for
27 removal from office.

28 New Sec. 2. (a) A governmental agency other than a criminal justice
29 agency as defined in K.S.A. 22-4701, and amendments thereto, identified
30 in subsection (b) may require a person to be fingerprinted and shall submit
31 such fingerprints to the Kansas bureau of investigation and the federal
32 bureau of investigation for a search of the state and federal database.
33 Fingerprints provided pursuant to this section may be used to identify a
34 person and to determine whether such person has a record of criminal
35 history in this state or in another jurisdiction. An agency identified in
36 subsection (b) may use the information obtained from the criminal history
37 record check for the purposes of verifying the identification of a person
38 and in the official determination of the qualifications and fitness of such
39 person to be issued or maintain employment, licensure, registration,
40 certification or a permit, act as an agent of a licensee, hold ownership of a
41 licensee or serve as a director or officer of a licensee.

42 (b) (1) The Kansas bureau of investigation shall release criminal history
43 record information related to adult convictions, adult non-convictions,

1 adult diversions, adult expunged records, juvenile adjudications, juvenile
2 non-adjudications, juvenile diversions and juvenile expunged records to
3 the Kansas department for children and families or the Kansas department
4 for aging and disability services for initial or continuing employment or
5 participation in any program administered for the placement, safety,
6 protection or treatment of vulnerable children or adults as described in
7 K.S.A. 75-53,105, and amendments thereto.

8 (2) The Kansas bureau of investigation shall release criminal history
9 record information related to adult convictions, adult non-convictions,
10 adult diversions, adult expunged records and juvenile expunged records to:

11 (A) The state lottery for candidates for employees as defined in
12 K.S.A. 74-8702, and amendments thereto, in connection with such
13 employment as described in K.S.A. 74-8704, and amendments thereto;

14 **and**

15 (B) the Kansas racing and gaming commission for candidates for
16 employees or licensees as defined in K.S.A. 74-8802, and amendments
17 thereto, in connection with such employment or license as described in
18 K.S.A. 74-8804, and amendments thereto, including an applicant for a
19 simulcasting license; ~~and~~

20 ~~(C) the attorney general for applicants as defined in K.S.A. 75-7b01,~~
21 ~~and amendments thereto, in connection with such application as described~~
22 ~~in K.S.A. 75-7b04, and amendments thereto.~~

23 (3) The Kansas bureau of investigation shall release criminal history
24 record information related to adult convictions, adult non-convictions,
25 adult diversions, adult expunged records, juvenile adjudications, juvenile
26 non-adjudications and juvenile diversions to:

27 (A) ***The emergency medical services board for applicants as defined***
28 ***in K.S.A. 65-6129, and amendments thereto, in connection with such***
29 ***application as described in K.S.A. 65-6129, and amendments thereto;***

30 (B) The attorney general for applicants as defined in K.S.A 75-7c01,
31 and amendments thereto, in connection with such application as described
32 in K.S.A. 75-7c05, and amendments thereto; and

33 ~~(B)(C)~~ the department of administration for candidates for sensitive
34 employees as defined in K.S.A. 75-3707e, and amendments thereto, in
35 connection with such employment as described in K.S.A. 75-3707e, and
36 amendments thereto.

37 (4) The Kansas bureau of investigation shall release criminal history
38 record information related to adult convictions, adult non-convictions,
39 adult diversions and adult expunged records to:

40 (A) The supreme court and state board of law examiners for
41 applicants as defined in K.S.A. 7-127, and amendments thereto, in
42 connection with such application as described in K.S.A. 7-127, and
43 amendments thereto;

1 (B) the state gaming agency for candidates for employees and
2 licensees as defined in K.S.A. 74-9802, and amendments thereto, in
3 connection with such employment or license as described in K.S.A. 74-
4 9805, and amendments thereto;

5 (C) *the attorney general for applicants as defined in K.S.A. 75-
6 7b01, and amendments thereto, in connection with such application as
7 described in K.S.A. 75-7b04, and amendments thereto;*

8 (D) the attorney general for applicants as defined in K.S.A. 75-7b01,
9 and amendments thereto, in connection with such application for
10 certification as described in K.S.A. 75-7b21, and amendments thereto; and

11 ~~(D)~~(E) the commission on peace officers' standards and training for
12 applicants for certification under the Kansas law enforcement training act
13 as described in K.S.A. 74-5607, and amendments thereto.

14 (5) The Kansas bureau of investigation shall release criminal history
15 record information related to adult convictions, adult non-convictions,
16 adult diversions and juvenile adjudications to:

17 (A) The athletic commission within the Kansas department of
18 commerce for a candidate for boxing commission as defined in K.S.A. 74-
19 50,182, and amendments thereto, in connection with such appointment as
20 described in K.S.A. 74-50,184, and amendments thereto; and

21 (B) the secretary of health and environment for employees at a child
22 care facility as defined in K.S.A. 65-503, and amendments thereto, in
23 connection with such employment as described in K.S.A. 65-516, and
24 amendments thereto.

25 (6) The Kansas bureau of investigation shall release criminal history
26 record information related to adult convictions and juvenile adjudications
27 to:

28 (A) The secretary for aging and disability services for applicants as
29 defined in K.S.A. 39-970, and amendments thereto, in connection with
30 such application as described in K.S.A. 39-970, and amendments thereto;

31 (B) the Kansas department for aging and disability services for
32 applicants as defined in K.S.A. 39-2009, and amendments thereto, in
33 connection with such application as described in K.S.A. 39-2009, and
34 amendments thereto; and

35 (C) the secretary for aging and disability services for applicants as
36 defined in K.S.A. 65-5117, and amendments thereto, in connection with
37 such application as described in K.S.A. 65-5117, and amendments thereto.

38 (7) The Kansas bureau of investigation shall release criminal history
39 record information related to adult convictions and adult non-convictions
40 to:

41 (A) The division of motor vehicles within the department of revenue
42 for applicants for reinstatement of a license to drive a commercial motor
43 vehicle as described in K.S.A. 8-2,142, and amendments thereto;

1 (B) the board of examiners in optometry for applicants or licensees as
2 defined in K.S.A. 65-1501, and amendments thereto, in connection with
3 such application or an investigation as described in K.S.A. 65-1505, and
4 amendments thereto;

5 (C) the board of pharmacy for fingerprint candidates as defined in
6 K.S.A. 65-1626, and amendments thereto, in connection with such
7 application or license as described in K.S.A. 65-1696, and amendments
8 thereto;

9 (D) the state board of healing arts for ~~an applicant or licensee~~
10 ***applicants or licensees*** as defined in K.S.A. ~~65-28,102~~ **65-2802**, and
11 amendments thereto, in connection with such application or an
12 investigation as described in K.S.A. 65-28,129, and amendments thereto;

13 (E) the state board of healing arts for applicants or licensees as
14 defined in K.S.A. 65-2901, and amendments thereto, in connection with
15 such application or an investigation as described in K.S.A. 65-2924, and
16 amendments thereto;

17 (F) ~~the emergency medical services board for applicants as defined in~~
18 ~~K.S.A. 65-6129, and amendments thereto, in connection with such~~
19 ~~application as described in K.S.A. 65-6129, and amendments thereto;~~

20 (G) ~~the board of nursing for applicants as defined in K.S.A. 74-1112,~~
21 ~~and amendments thereto, in connection with such application as described~~
22 ~~in K.S.A. 74-1112, and amendments thereto;~~

23 (H)(G) the behavioral sciences regulatory board for ~~a licensee~~
24 ***licensees*** as defined in K.S.A. 74-7511, and amendments thereto, in
25 connection with such application or license as described in K.S.A. 74-
26 7511, and amendments thereto;

27 (I)(H) the state lottery for a vendor to whom a major procurement
28 contract is to be awarded in connection with an investigation as described
29 in K.S.A. 74-8705, and amendments thereto;

30 (J)(I) the attorney general for appointees of the governor to positions
31 subject to confirmation by the senate and judicial appointees as described
32 in K.S.A. 75-712, and amendments thereto;

33 (K)(J) appointing authorities as defined in K.S.A. 75-4315d, and
34 amendments thereto, for nongubernatorial appointees as described in
35 K.S.A. 75-4315d, and amendments thereto;

36 (L)(K) the Kansas real estate commission for ~~an applicant~~ ***applicants***
37 as defined in K.S.A. 58-3035, and amendments thereto, or for ~~a licensee~~
38 ***licensees*** as defined in K.S.A. 58-3035, and amendments thereto, in
39 connection with an investigation as described in K.S.A. 58-3039, and
40 amendments thereto;

41 (L) ***the insurance commissioner for applicants for licensure as an***
42 ***insurance agent as defined in K.S.A. 40-4902, and amendments thereto,***
43 ***in connection with such application as described in K.S.A. 40-4905, and***

1 *amendments thereto; and*

2 *(M) the insurance commissioner for applicants as defined in K.S.A.*
3 *40-5501, and amendments thereto, in connection with such application*
4 *as described in K.S.A. 40-5505, and amendments thereto.*

5 (8) The Kansas bureau of investigation shall release criminal history
6 record information related to adult convictions to:

7 (A) The department of agriculture for hemp employees as defined in
8 K.S.A. 2-3901, and amendments thereto, in connection with such
9 employment as described in K.S.A. 2-3902, and amendments thereto;

10 (B) The department of agriculture for ~~an applicant~~ **applicants** for
11 licensure as a hemp producer as defined in K.S.A. 2-3901, and
12 amendments thereto, in connection with such application as described in
13 K.S.A. 2-3906, and amendments thereto;

14 (C) the office of state fire marshal for applicants for registration as a
15 hemp processor as defined in K.S.A. 2-3901, and amendments thereto, in
16 connection with such application as described in K.S.A. 2-3907, and
17 amendments thereto;

18 (D) the department of agriculture for hemp destruction employees as
19 defined in K.S.A. 2-3901, and amendments thereto, in connection with
20 such employment as described in K.S.A. 2-3911, and amendments thereto;

21 (E) the bank commissioner for any applicant as defined in K.S.A. 9-
22 508, and amendments thereto, in connection with such application as
23 described in K.S.A. 9-509, and amendments thereto;

24 (F) the bank commissioner for an applicant for employment as a new
25 executive officer or director with a money transmitter company as
26 described in K.S.A. 9-513e, and amendments thereto;

27 (G) the bank commissioner for any applicant as defined in K.S.A. 9-
28 1719, and amendments thereto, in connection with such application as
29 described in K.S.A. 9-1722, and amendments thereto;

30 (H) the bank commissioner for an applicant, registrant or licensee as
31 defined in K.S.A. 9-2201, and amendments thereto, in connection with
32 such application, registration or license as described in K.S.A. 9-2209, and
33 amendments thereto;

34 (I) the state banking board for any officer, director or organizer of a
35 proposed fiduciary financial institution as defined in K.S.A. 9-2301, and
36 amendments thereto, in connection with such role as described in K.S.A.
37 9-2302, and amendments thereto;

38 (J) municipalities for ~~the an applicant~~ **applicants** for merchant or
39 security police as described in K.S.A. 12-1679, and amendments thereto;

40 (K) the bank commissioner for ~~an applicant~~ **applicants** as defined in
41 K.S.A. 16a-6-104, and amendments thereto, in connection with such
42 application as described in K.S.A. 16a-6-104, and amendments thereto;

43 (L) the state department of credit unions for every candidate as

1 defined in K.S.A. 17-2234, and amendments thereto, in connection with
2 such employment as described in K.S.A. 17-2234, and amendments
3 thereto;

4 ~~(M) the insurance commissioner for applicants for licensure as an~~
5 ~~insurance agent as defined in K.S.A. 40-4902, and amendments thereto, in~~
6 ~~connection with such application as described in K.S.A. 40-4905, and~~
7 ~~amendments thereto;~~

8 ~~(N) the insurance commissioner for applicants as defined in K.S.A.~~
9 ~~40-5501, and amendments thereto, in connection with such application as~~
10 ~~described in K.S.A. 40-5505, and amendments thereto;~~

11 ~~(O)~~(M) the division of alcoholic beverage control within the
12 department of revenue for applicants as defined in K.S.A. 41-102, and
13 amendments thereto, in connection with such application as described in
14 K.S.A. 41-311b, and amendments thereto;

15 ~~(P)~~(N) the division of post audit for employees as defined in K.S.A.
16 46-1103, and amendments thereto, in connection with such employment as
17 described in K.S.A. 46-1103, and amendments thereto;

18 ~~(Q)~~(O) the bank commissioner for ~~any licensee~~ *licensees* as defined
19 in K.S.A. 50-1126, and amendments thereto, in connection with such
20 license as described in K.S.A. 50-1128, and amendments thereto;

21 ~~(R)~~(P) the real estate appraisal board for ~~a licensee~~ *licensees* as
22 defined in K.S.A. 58-4102, and amendments thereto, in connection with an
23 application or investigation as described in K.S.A. 58-4127, and
24 amendments thereto;

25 ~~(S)~~(Q) the real estate appraisal board for ~~an applicant~~ *applicants* as
26 defined in K.S.A. 58-4703, and amendments thereto, in connection with
27 such application as described in K.S.A. 58-4709, and amendments thereto;

28 ~~(T)~~(R) the department of health and environment for an employee as
29 defined in K.S.A. 65-2401, and amendments thereto, in connection with
30 such employment as described in K.S.A. 65-2402, and amendments
31 thereto;

32 ~~(U)~~(S) the Kansas commission on veterans affairs office for
33 candidates as defined in K.S.A. 73-1210a, and amendments thereto, in
34 connection with an application as described in K.S.A. 73-1210a, and
35 amendments thereto;

36 ~~(V)~~(T) a senate standing committee for a member named, appointed
37 or elected to the public employee retirement systems board of trustee
38 membership as described in K.S.A. 74-4905, and amendments thereto;

39 ~~(W)~~(U) the attorney general for applicants as defined in K.S.A. 75-
40 7e01, and amendments thereto, in connection with such application as
41 described in K.S.A. 75-7e03, and amendments thereto;

42 ~~(X) appointing authorities as defined in K.S.A. 75-4315d, and~~
43 ~~amendments thereto, for nongubernatorial appointees as described in~~

1 ~~K.S.A. 75-4315d, and amendments thereto;~~

2 ~~(Y)(V)~~ the department of revenue for employees as defined in K.S.A.
3 75-5133c, and amendments thereto, in connection with such employment
4 as described in K.S.A. 75-5133c, and amendments thereto;

5 ~~(Z)(W)~~ the division of motor vehicles within the department of
6 revenue for employees as defined in K.S.A. 75-5156, and amendments
7 thereto, in connection with such employment as described in K.S.A. 75-
8 5156, and amendments thereto;

9 ~~(AA)(X)~~ the Kansas commission for the deaf and hard of hearing for
10 applicants as defined in K.S.A. 75-5397f, and amendments thereto, in
11 connection with such application as described in K.S.A. 75-5393a, and
12 amendments thereto;

13 ~~(BB)(Y)~~ the Kansas commission for the deaf and hard of hearing for
14 employees as defined in K.S.A. 75-5397f, and amendments thereto, in
15 connection with such employment as described in K.S.A. 75-5393c, and
16 amendments thereto;

17 ~~(CC)(Z)~~ the department of health and environment for employees as
18 defined in K.S.A. 75-5609a, and amendments thereto, in connection with
19 such employment as described in K.S.A. 75-5609a, and amendments
20 thereto; and

21 ~~(DD)(AA)~~ an executive branch agency head for employees as defined
22 in K.S.A. 75-7241, and amendments thereto, in connection with such
23 employment as described in K.S.A. 75-7241, and amendments thereto.

24 (c) State and local law enforcement agencies shall assist with taking
25 fingerprints of individuals as authorized by this section.

26 (d) Any board, commission, committee or other public body shall
27 recess into a closed executive session pursuant to K.S.A. 75-4319, and
28 amendments thereto, to receive and discuss criminal history record
29 information obtained pursuant to this section.

30 (e) The Kansas bureau of investigation may charge a reasonable fee
31 for conducting a criminal history record check.

32 (f) (1) Fingerprints and criminal history record information received
33 pursuant to this section shall be confidential and shall not be subject to the
34 provisions of the Kansas open records act, K.S.A. 45-215 et seq., and
35 amendments thereto. The provisions of this paragraph shall expire on July
36 1, 2029, unless the legislature reviews and reenacts this provision pursuant
37 to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

38 (2) Disclosure or use of any information received pursuant to this
39 section for any purpose other than the purpose described in this section
40 shall be a class A nonperson misdemeanor and shall constitute grounds for
41 removal from office.

42 New Sec. 3. (a) A governmental agency other than a criminal justice
43 agency as defined in K.S.A. 22-4701, and amendments thereto, identified

1 in subsection (b) may require a name-based criminal history record check
2 of a person from the Kansas bureau of investigation from the state
3 database. An agency identified in subsection (b) may use the information
4 obtained from the criminal history record check for the purposes of
5 determining whether the person has a record of criminal history in this
6 state that would prohibit such person from employment, licensure,
7 registration or obtaining a permit.

8 (b) (1) The Kansas bureau of investigation shall release criminal
9 history record information related to adult convictions and adult non-
10 convictions to:

11 (A) The state board of healing arts for determining qualifications for
12 an original application or reinstatement of a license, permit registration or
13 certification as described in K.S.A. 65-2839a, and amendments thereto;
14 and

15 (B) the state lottery for the purpose of awarding major contracts as
16 described in K.S.A. 74-8705, and amendments thereto.

17 (2) The Kansas bureau of investigation shall release criminal history
18 record information related to adult convictions to:

19 (A) the department for aging and disability services for applicants for
20 an adult care home operator license as described in K.S.A. 39-969, and
21 amendments thereto;

22 (B) the joint committee on Kansas security for committee staff
23 members of the office of revisor of statutes and the legislative research
24 department as described in K.S.A. 46-3301, and amendments thereto;

25 (C) the attorney general for applicants for roofing contractors
26 registration as described in K.S.A. 50-6,126, and amendments thereto;

27 (D) the department of health and environment for applicants ~~of~~ **for** a
28 permit to construct, alter or operate a solid waste processing facility as
29 described in K.S.A. 65-3407, and amendments thereto;

30 (E) the Kansas department for aging and disability services for
31 applicants for licensure as an adult care home administrator as described in
32 K.S.A. 65-3503, and amendments thereto;

33 (F) the board of nursing for applicants for a mental health technician
34 license as described in K.S.A. 65-4209, and amendments thereto;

35 (G) the board of nursing for applicants for nurse licensure as
36 described in K.S.A. 65-1120, and amendments thereto;

37 (H) the state lottery for applicants ~~of~~ **for** employment at the lottery as
38 described in K.S.A. 74-8763, and amendments thereto;

39 (I) the state lottery for applicants ~~of~~ **for** employment at the lottery as
40 described in K.S.A. 74-8769, and amendments thereto;

41 (J) the governor and the senate for appointees to the Kansas racing
42 and gaming commission as described in K.S.A. 74-8803, and amendments
43 thereto;

1 (K) the governor and the senate for an appointee as executive director
2 of the Kansas racing and gaming commission as described in K.S.A. 74-
3 8805, and amendments thereto;

4 (L) the Kansas racing and gaming commission for employees who
5 are animal health officers as described in K.S.A. 74-8806, and
6 amendments thereto; and

7 (M) the governor and the senate for an appointee as executive
8 director of the state gaming agency as described in K.S.A. 74-9804, and
9 amendments thereto.

10 (c) The Kansas bureau of investigation may charge a reasonable fee
11 for conducting a criminal history record check.

12 (d) Criminal history record information received pursuant to this
13 section shall be confidential and shall not be subject to the provisions of
14 the Kansas open records act, K.S.A. 45-215 et seq., and amendments
15 thereto. The provisions of this paragraph shall expire on July 1, 2029,
16 unless the legislature reviews and reenacts this provision pursuant to
17 K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

18 Sec. 4. K.S.A. 2-3901 is hereby amended to read as follows: 2-3901.

19 (a) K.S.A. 2-3901 et seq., and amendments thereto, shall be known and
20 may be cited as the commercial industrial hemp act.

21 (b) As used in the commercial industrial hemp act:

22 (1) "Commercial" means the cultivation or production of industrial
23 hemp for any purpose authorized under K.S.A. 2-3906, and amendments
24 thereto.

25 (2) "Delta-9 tetrahydrocannabinol concentration" means the
26 combined percentage of delta-9 tetrahydrocannabinol and its optical
27 isomers, their salts and acids, and salts of their acids, reported as free
28 THC:

29 (A) On a dry weight basis, of any part of the plant *cannabis sativa* L.;
30 or

31 (B) on a percentage by weight basis in hemp products, waste or
32 substances resulting from the production or processing of industrial hemp.

33 (3) "Effective disposal" includes, but is not limited to:

34 (A) Destruction; or

35 (B) any other method of disposing of industrial hemp or hemp
36 products found to be in violation of this act that is permitted under the
37 provisions of 7 U.S.C. § 1621 et seq. and any rules and regulations
38 adopted thereunder.

39 (4) "Hemp products" means all products made from industrial hemp,
40 including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper,
41 particleboard, plastics, seed, seed meal and seed oil for consumption and
42 any extract from industrial hemp intended for further processing. Final
43 "hemp products" may contain a tetrahydrocannabinol concentration of not

1 more than 0.3%. As used in this paragraph, "tetrahydrocannabinol
2 concentration" means the same as in K.S.A. 65-6235(b)(3), and
3 amendments thereto.

4 (5) "Hemp producer" means any individual, licensed or otherwise,
5 engaging in the cultivation or production of industrial hemp for
6 commercial purposes pursuant to K.S.A. 2-3906, and amendments thereto.

7 (6) "Hemp processor" means a person registered under K.S.A. 2-
8 3907, and amendments thereto, to process and manufacture industrial
9 hemp and hemp products.

10 (7) "Industrial hemp" means all parts and varieties of the plant
11 cannabis sativa L., whether growing or not, that contain a delta-9
12 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight
13 basis.

14 (8) "Person" means an individual, corporation, partnership,
15 association, joint stock company, trust, unincorporated organization or any
16 similar entity or any combination of the foregoing acting in concert.

17 (9) "State educational institution" means the university of Kansas,
18 Kansas state university, Wichita state university, Emporia state university,
19 Pittsburg state university, Fort Hays state university, or any other
20 accredited college, university, technical college or community college
21 within Kansas.

22 (10) "Authorized seed or clone plants" means a source of industrial
23 hemp seeds or clone plants that:

24 (A) Has been certified by a certifying agency, as defined by K.S.A. 2-
25 1415, and amendments thereto;

26 (B) has been produced from plants that were tested during the active
27 growing season and were found to produce industrial hemp having a
28 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry
29 weight basis and has been certified in writing by the grower or distributor
30 of such seeds or clone plants to possess such qualities; or

31 (C) meets any other authorized standards approved by the Kansas
32 department of agriculture through rules and regulations, except that no
33 seed or clone plants shall be considered authorized seed or clone plants if
34 they do not meet any standard adopted by the United States department of
35 agriculture pursuant to 7 U.S.C. § 1621 et seq., and amendments thereto.

36 (11) *"Hemp employee" means a person who has applied for*
37 *employment or is currently employed with the Kansas department of*
38 *agriculture who oversees or regulates industrial hemp.*

39 (12) *"Applicant" means a person who has submitted an application*
40 *for licensure as a hemp producer or registration as a hemp processor.*

41 (13) *"Hemp destruction employee" means an employee or agent of*
42 *the Kansas department of agriculture who participates in the effective*
43 *disposal of industrial hemp.*

1 Sec. 5. K.S.A. 2-3902 is hereby amended to read as follows: 2-3902.

2 (a) The Kansas department of agriculture shall, by the adoption of rules
3 and regulations, establish an advisory board within the department to
4 provide input and information regarding the regulation and development of
5 industrial hemp in the state of Kansas and any programs proposed or
6 operated by the department. Such board shall include a minimum of six
7 members, including members that represent the following:

- 8 (1) The Kansas legislature;
- 9 (2) crop research;
- 10 (3) industrial hemp production or processing;
- 11 (4) law enforcement;
- 12 (5) seed certification; and
- 13 (6) the state entity designated to regulate hemp processors.

14 (b) The state advisory board shall meet at least annually. Members
15 shall receive no compensation but shall be paid subsistence allowances,
16 mileage and other expenses as provided in K.S.A. 75-3223, and
17 amendments thereto.

18 (c) ~~The secretary of agriculture may require, as a qualification for~~
19 ~~initial or continuing employment with the Kansas department of~~
20 ~~agriculture, all individuals overseeing or regulating industrial hemp a~~
21 ~~hemp employee to be fingerprinted and to submit to a state and national~~
22 ~~criminal history record check in accordance with section 2, and~~
23 ~~amendments thereto. The fingerprints shall be used to identify the~~
24 ~~individual and to determine whether the individual has a record of criminal~~
25 ~~history in this state or any other jurisdiction. The department is authorized~~
26 ~~to submit the fingerprints to the Kansas bureau of investigation and the~~
27 ~~federal bureau of investigation for a state and national criminal history~~
28 ~~record check. The department may use the information obtained from~~
29 ~~fingerprinting and the criminal history record check for purposes of~~
30 ~~verifying the identification of the individual and for making an official~~
31 ~~determination of the qualifications for initial or continuing employment~~
32 ~~pursuant to this section and rules and regulations promulgated hereunder.~~
33 ~~Disclosure or use of any information received by the department for any~~
34 ~~purpose other than the purposes provided for in this section shall be a class~~
35 ~~A misdemeanor and shall constitute grounds for removal from office or~~
36 ~~termination of employment.~~

37 (2) An individual who has been convicted of a felony violation of
38 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
39 thereto, or a substantially similar offense in another jurisdiction, within the
40 immediately preceding 10 years, shall be disqualified from initial or
41 continuing employment under this section.

42 (3) ~~The Kansas bureau of investigation may charge a reasonable fee~~
43 ~~for conducting a criminal history record check.~~

1 (4) The individual seeking initial or continuing employment under
2 this section shall pay the costs of fingerprinting and the state and national
3 criminal history record checks.

4 Sec. 6. K.S.A. 2-3906 is hereby amended to read as follows: 2-3906.

5 (a) The Kansas department of agriculture, in consultation with the
6 governor and attorney general, shall submit a plan to the United States
7 department of agriculture under which the Kansas department of
8 agriculture will monitor and regulate the commercial production of
9 industrial hemp within the state in accordance with 7 U.S.C. § 1621 et seq.
10 and any rules and regulations adopted thereunder.

11 (b) Such plan shall include the following:

12 (1) A procedure to maintain relevant information regarding land on
13 which industrial hemp is produced, including a legal description of the
14 land, for a period of not less than three calendar years;

15 (2) a procedure for testing, using post-decarboxylation or other
16 similarly reliable methods, the delta-9 tetrahydrocannabinol concentration
17 levels of industrial hemp produced;

18 (3) a procedure for the effective disposal of industrial hemp and hemp
19 products that are found to be in violation of this act;

20 (4) any licensing requirements or other rules and regulations deemed
21 necessary by the Kansas department of agriculture for the proper
22 monitoring and regulation of industrial hemp cultivation and production
23 for commercial purposes, including, but not limited to:

24 (A) Fees for licenses, license renewals and other necessary expenses
25 to defray the cost of implementing and operating the plan on an ongoing
26 basis; and

27 (B) standards for authorized seed or clone plants;

28 (5) a procedure for the creation of documentation that any person in
29 possession of unprocessed industrial hemp may use to prove to any law
30 enforcement officer that such industrial hemp was lawfully grown under
31 this section;

32 (6) a procedure for conducting annual inspections of, at a minimum, a
33 random sample of hemp producers to verify that industrial hemp is not
34 produced in violation of this act; and

35 (7) any other procedures necessary to meet the requirements set forth
36 in 7 U.S.C. § 1621 et seq. and any rules and regulations adopted
37 thereunder.

38 (c) (1) A hemp producer who negligently violates this section or any
39 rules and regulations adopted hereunder shall not be subject to any state or
40 local criminal enforcement action, but shall comply with the following
41 corrective actions as applicable:

42 (A) A reasonable date by which the hemp producer shall correct the
43 negligent violation; and

1 (B) a requirement that the hemp producer shall periodically report to
2 the Kansas department of agriculture on the hemp producer's compliance
3 with this section and rules and regulations adopted hereunder, for a period
4 of not less than the next two calendar years.

5 (2) A hemp producer who negligently violates this section or any
6 rules and regulations adopted hereunder three times in a five-year period
7 shall be ineligible to produce industrial hemp for a period of five years
8 beginning on the date of the third violation.

9 (3) The Kansas department of agriculture shall immediately report
10 any violation by a hemp producer with a greater culpable mental state than
11 negligence to the attorney general and such hemp producer shall not be
12 subject to the exemption in subsection (c)(1).

13 (d) Any individual otherwise eligible to become a licensed hemp
14 producer shall not be eligible to produce industrial hemp if such individual
15 has submitted any materially false information in any application to
16 become a licensed hemp producer.

17 (e) (1) The department shall require, as a qualification for initial or
18 continuing licensure, all individuals seeking a license or license renewal as
19 a hemp producer under this section to be fingerprinted and to submit to a
20 state and national criminal history record check *in accordance with section*
21 *2, and amendments thereto.* ~~The fingerprints shall be used to identify the~~
22 ~~individual and to determine whether the individual has a record of criminal~~
23 ~~history in this state or any other jurisdiction. The department is authorized~~
24 ~~to submit the fingerprints to the Kansas bureau of investigation and the~~
25 ~~federal bureau of investigation for a state and national criminal history~~
26 ~~record check. The department may use the information obtained from~~
27 ~~fingerprinting and the criminal history record check for purposes of~~
28 ~~verifying the identification of the individual and for making an official~~
29 ~~determination of the qualifications for initial or continuing licensure as a~~
30 ~~hemp producer pursuant to this section and rules and regulations~~
31 ~~promulgated hereunder. Disclosure or use of any information received by~~
32 ~~the department for any purpose other than the purposes provided for in the~~
33 ~~commercial industrial hemp act shall be a class A misdemeanor and shall~~
34 ~~constitute grounds for removal from office or termination of employment.~~

35 (2) An individual who has been convicted of a felony violation of
36 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
37 thereto, or a substantially similar offense in another jurisdiction, within the
38 immediately preceding 10 years, shall be disqualified from initial or
39 continuing licensure as a hemp producer under this section.

40 ~~(3) The Kansas bureau of investigation may charge a reasonable fee~~
41 ~~for conducting a criminal history record check.~~

42 ~~(4) The individual seeking a license or license renewal as a hemp~~
43 ~~producer under this section shall pay the costs of fingerprinting and the~~

1 state and national criminal history record checks.

2 (f) The secretary of agriculture shall promulgate rules and regulations
3 to implement the plan submitted to the United States department of
4 agriculture and to otherwise effectuate the provisions of this section.

5 (g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a
6 federal plan by the United States department of agriculture that allows for
7 the cultivation and production of industrial hemp for commercial purposes
8 within the state or upon the adoption of rules and regulations by the
9 Kansas secretary of agriculture that establish the cultivation and
10 production of industrial hemp for commercial purposes within the state,
11 the Kansas department of agriculture may discontinue the industrial hemp
12 research program established pursuant to K.S.A. 2-3902, and amendments
13 thereto.

14 (h) Any modification fee established by the department for any
15 requested change to a license that was previously issued by the department
16 under this section shall not exceed \$50.

17 (i) Any licensing or other fees collected pursuant to this section and
18 any rules and regulations adopted hereunder shall be deposited in the
19 commercial industrial hemp act licensing fee fund established by K.S.A. 2-
20 3903, and amendments thereto, for all costs of the administration of the
21 commercial production of industrial hemp.

22 (j) This section shall be a part of and supplemental to the commercial
23 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

24 Sec. 7. K.S.A. 2-3907 is hereby amended to read as follows: 2-3907.

25 (a) The state fire marshal shall create and maintain a registry of all hemp
26 processors operating within the state of Kansas.

27 (b) Any person engaging in the processing of industrial hemp shall
28 register annually with the state fire marshal prior to processing industrial
29 hemp.

30 (c) Registration shall expire annually on June 30. Registration fees,
31 not to exceed \$1,000, shall be established pursuant to rules and regulations
32 adopted by the state fire marshal.

33 (d) Any person required to register as a hemp processor pursuant to
34 this section shall submit an annual registration application on a form
35 provided by the state fire marshal that shall include, at a minimum:

36 (1) The full legal name, date of birth, address and telephone number
37 of the applicant. If the applicant is not an individual, the same information
38 shall also be provided for all owners and the individual responsible for all
39 industrial hemp processing and related activities performed by the
40 applicant;

41 (2) the physical location of any premises that will serve as a part of
42 the applicant's industrial hemp processing operations;

43 (3) a brief description of the industrial hemp processing methods,

1 activities and products planned for production; and

2 (4) certification that such applicant has fully complied with the
3 fingerprinting and criminal history record check requirements contained in
4 this section, if applicable. Any such applicant who provides a false
5 statement of compliance with such requirements shall be guilty of a class
6 C nonperson misdemeanor.

7 (e) The state fire marshal shall provide an updated list of all hemp
8 processors to the Kansas bureau of investigation and to the county sheriff
9 in each county where a hemp processor is located as often as is reasonably
10 required or requested.

11 (f) Fees collected pursuant to this section shall be remitted to the state
12 treasurer in accordance with the provisions of K.S.A. 75-4215, and
13 amendments thereto. Upon receipt of each such remittance, the state
14 treasurer shall deposit the entire amount in the state treasury to the credit
15 of the fire marshal fee fund.

16 (g) It shall be unlawful for any person to operate as a hemp processor
17 without valid registration. Upon a first conviction for a violation of this
18 subsection, a person shall be guilty of a class A nonperson misdemeanor.
19 On a second or subsequent conviction for a violation of this subsection, a
20 person shall be guilty of a severity level 9, nonperson felony.

21 (h) (1) The state fire marshal shall require all individuals applying for
22 a hemp processor registration who seek to engage in the extraction of
23 cannabinoids from industrial hemp, including the disposal of such
24 cannabinoids, pursuant to the commercial industrial hemp act to be
25 fingerprinted and submit to a state and national criminal history record
26 check *in accordance with section 2, and amendments thereto.* ~~The state
27 fire marshal may require individuals who are current employees or
28 applying to be employees of a hemp processor to be fingerprinted and
29 submit to a state and national criminal history record check. The
30 fingerprints shall be used to identify the individual and to determine
31 whether the individual has a record of criminal history in Kansas or any
32 other jurisdiction. The state fire marshal is authorized to submit the
33 fingerprints to the Kansas bureau of investigation and the federal bureau of
34 investigation for a state and national criminal history record check. The
35 state fire marshal may use the information obtained from fingerprinting
36 and the criminal history record check for purposes of verifying the
37 identification of the individual and for making an official determination of
38 the qualification and fitness of the individual to process industrial hemp
39 pursuant to this act and rules and regulations promulgated hereunder.
40 Disclosure or use of any criminal history information for any purpose
41 other than the purposes provided for in the commercial industrial hemp act
42 shall be a class A nonperson misdemeanor and shall constitute grounds for
43 removal from office or termination of employment.~~

1 (2) An individual who has been convicted of a felony violation of
2 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
3 thereto, or a substantially similar offense in another jurisdiction, within the
4 immediately preceding 10 years, shall be disqualified from processing
5 industrial hemp under this section.

6 (3) The state fire marshal may deny registration to any individual
7 who has violated subsection (g) or any other provision of the commercial
8 industrial hemp act.

9 ~~(4) The Kansas bureau of investigation may charge a reasonable fee
10 for conducting a criminal history record check.~~

11 ~~(5) The individual seeking authorization to extract or dispose of
12 cannabinoids from industrial hemp pursuant to this section shall pay the
13 costs of fingerprinting and the state and national criminal history record
14 check.~~

15 ~~(6)(5) Local and state law enforcement officers and agencies shall
16 assist in taking and processing an individual's fingerprints as authorized by
17 this section.~~

18 (i) (1) The state fire marshal shall promulgate rules and regulations to
19 carry out the provisions of this section, including, but not limited to, rules
20 and regulations on:

21 (A) The denial, conditioning, renewal or revocation of registration;

22 (B) the creation of multiple classes of registrations based upon the
23 scope of hemp processing activities of an applicant;

24 (C) construction and safety standards for processing facilities;

25 (D) security measures;

26 (E) inventory control;

27 (F) maintenance of records;

28 (G) access to and inspection of records and processing facilities by
29 the state fire marshal and law enforcement agencies;

30 (H) the collection and disposal of any cannabinoids extracted during
31 the processing of industrial hemp that cannot be lawfully sold in this state;
32 and

33 (I) the transportation of industrial hemp or hemp products.

34 (2) The state fire marshal may grant an exemption from the
35 application of a specific requirement of rules and regulations promulgated
36 under paragraph (1), unless the state fire marshal determines that the
37 condition, structure or activity that is or would be in noncompliance with
38 such requirement would constitute a distinct hazard to life or property. Any
39 such exemption shall be granted only upon written request of a registrant
40 or applicant for registration that clearly demonstrates that enforcement of a
41 specific requirement of a rule and regulation will cause unnecessary
42 hardship as determined by the state fire marshal.

43 (j) The Kansas department of agriculture and the state fire marshal

1 shall coordinate with one another, including providing any requested
2 information from the other, regarding industrial hemp licensees, hemp
3 processors and hemp processor applicants necessary for the enforcement
4 of any laws or rules and regulations relating to industrial hemp.

5 (k) This section shall be a part of and supplemental to the commercial
6 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

7 Sec. 8. K.S.A. 2-3911 is hereby amended to read as follows: 2-3911.

8 (a) Whenever a person licensed under the commercial industrial hemp act
9 is required to conduct effective disposal of industrial hemp pursuant to
10 standards established by the controlled substances act, 21 U.S.C. 13 et
11 seq., or under regulations adopted by the United States drug enforcement
12 administration, the Kansas department of agriculture shall notify state or
13 local law enforcement agencies with jurisdiction in the area in which the
14 industrial hemp was grown that effective disposal is required.

15 (b) The department shall develop a plan for effective disposal of
16 industrial hemp in coordination with the state or local law enforcement
17 agency notified pursuant to subsection (a).

18 (c) (1) In order to carry out the provisions of this section, the
19 department is authorized to perform any action necessary to ensure that
20 effective disposal of industrial hemp occurs, including, but not limited to:

21 (A) Taking temporary possession of the industrial hemp;

22 (B) destroying the industrial hemp; or

23 (C) supervising and directing any appropriate method of effective
24 disposal.

25 (2) The state or local law enforcement agency shall approve in
26 advance any such action taken by the department or any person under the
27 department's direction or supervision.

28 ~~(d) (1) The secretary may require any employee or agent of the~~
29 ~~department who participates in the effective disposal of industrial~~ a hemp
30 ~~destruction employee~~ to be fingerprinted and to submit to a state and
31 national criminal history record check annually *in accordance with section*
32 *2, and amendments thereto*. The secretary may use the information
33 obtained from fingerprinting and the criminal history record check to
34 verify the identity of the employee or agent and determine whether the
35 employee or agent has been convicted of a felony violation of article 57 of
36 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a
37 substantially similar offense in another jurisdiction, within the 10 years
38 immediately preceding submission of such criminal history record check.
39 ~~The department is authorized to submit the fingerprints to the Kansas~~
40 ~~bureau of investigation and the federal bureau of investigation for a state~~
41 ~~and national criminal history record check.~~

42 ~~(2) Local and state law enforcement officers and agencies shall assist~~
43 ~~in the taking and processing of fingerprints of such employee or agent of~~

1 the department. Local law enforcement officers and agencies may charge a
2 fee as reimbursement for expenses incurred in the taking and processing of
3 fingerprints under this subsection. The department shall pay the costs of
4 fingerprinting and the state and national criminal history record check.

5 (e) The department and the appropriate state or local law enforcement
6 agency may seek reimbursement from any individual licensed under the
7 commercial industrial hemp act for any costs incurred in conducting
8 effective disposal of industrial hemp.

9 (f) The department shall have no authority to conduct effective
10 disposal for any industrial hemp or cannabis plant produced by individuals
11 not licensed under the commercial industrial hemp act.

12 (g) Nothing in this section shall limit the jurisdiction or authority of
13 state or local law enforcement to enforce article 57 of chapter 21 of the
14 Kansas Statutes Annotated, and amendments thereto.

15 (h) This section shall be a part of and supplemental to the commercial
16 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

17 Sec. 9. K.S.A. 7-127 is hereby amended to read as follows: 7-127. (a)
18 ~~(1) Each applicant for admission to practice law in this state, in submitting~~
19 ~~the application, shall provide to the clerk of the supreme court the~~
20 ~~information enumerated in K.S.A. 25-2309(b)(1) through (5), and~~
21 ~~amendments thereto. Whenever any person whose application for~~
22 ~~admission to practice law in this state is pending shall move from the~~
23 ~~residential address listed on such person's application, or when the name of~~
24 ~~any such person is changed by marriage or otherwise, such person, within~~
25 ~~10 days thereafter, shall notify the clerk of the supreme court in writing of~~
26 ~~such person's old and new residential addresses or of such person's former~~
27 ~~and new names.~~

28 *(2) As used in this subsection, "applicant" means a person who has*
29 *submitted an application for admission to practice law in this state.*

30 (b) Any person whose application to practice law in Kansas is
31 pending as of ~~the effective date of this act~~ July 1, 2016, and for whom the
32 information enumerated in K.S.A. 25-2309(b)(1) through (5), and
33 amendments thereto, is not correct on such application as of the effective
34 date of this act, shall provide the information enumerated in K.S.A. 25-
35 2309(b)(1) through (5), and amendments thereto, in writing to ~~the clerk of~~
36 ~~the supreme court~~ within 60 days after the effective date of this act. The
37 ~~clerk of the supreme court~~, within 30 days after the effective date of this
38 act, shall send notice to all persons whose applications to practice law in
39 Kansas are pending as of the effective date of this act, that such persons
40 are required by law to provide the information enumerated in K.S.A. 25-
41 2309(b)(1) through (5), and amendments thereto, in writing to ~~the clerk of~~
42 ~~the supreme court~~ within 60 days after the effective date of this act.

43 (c) The supreme court may require an applicant for admission to

1 practice law in this state to be fingerprinted and submit to a national
2 criminal history record check *in accordance with section 2, and*
3 *amendments thereto.* ~~The fingerprints shall be used to identify the~~
4 ~~applicant and to determine whether the applicant has a record of criminal~~
5 ~~arrests and convictions in this state or other jurisdictions. The supreme~~
6 ~~court and the state board of law examiners are authorized to submit the~~
7 ~~fingerprints to the Kansas bureau of investigation and the federal bureau of~~
8 ~~investigation for a state and national criminal history record check. The~~
9 ~~state board of law examiners and the supreme court may use the~~
10 ~~information obtained from fingerprinting and the applicant's criminal~~
11 ~~history only for purposes of verifying the identification of any applicant~~
12 ~~and in the official determination of character and fitness of the applicant~~
13 ~~for admission to practice law in this state.~~

14 ~~(d) Local and state law enforcement officers and agencies shall assist~~
15 ~~the supreme court in taking and processing of fingerprints of applicants~~
16 ~~seeking admission to practice law in this state and shall release all records~~
17 ~~of an applicant's arrests and convictions to the supreme court and the state~~
18 ~~board of law examiners.~~

19 Sec. 10. K.S.A. 8-2,142 is hereby amended to read as follows: 8-
20 2,142. (a) A person is disqualified from driving a commercial motor
21 vehicle for a period of not less than one year upon a first occurrence of any
22 one of the following:

23 (1) While operating a commercial motor vehicle:

24 (A) The person is convicted of violating K.S.A. 8-2,144, and
25 amendments thereto;

26 (B) the person is convicted of violating K.S.A. 8-2,132(b), and
27 amendments thereto;

28 (C) the person is convicted of causing a fatality through the negligent
29 operation of a commercial motor vehicle;

30 (D) the person's test refusal or test failure, as defined in subsection
31 (m); or

32 (E) the person is convicted of a violation identified in subsection (a)
33 (2)(A); or

34 (2) while operating a noncommercial motor vehicle:

35 (A) The person is convicted of a violation of K.S.A. 8-1567, and
36 amendments thereto, or of a violation of an ordinance of any city in this
37 state, a resolution of any county in this state or any law of another state,
38 which ordinance or law declares to be unlawful the acts prohibited by that
39 statute; or

40 (B) the person's test refusal or test failure, as defined in K.S.A. 8-
41 1013, and amendments thereto; or

42 (3) while operating any motor vehicle:

43 (A) The person is convicted of leaving the scene of an accident; or

1 (B) the person is convicted of a felony, other than a felony described
2 in subsection (e), while using a motor vehicle to commit such felony.

3 (b) If any offenses, test refusal or test failure specified in subsection
4 (a) occurred in a commercial motor vehicle while transporting a hazardous
5 material required to be placarded, the person is disqualified for a period of
6 not less than three years.

7 (c) A person shall be disqualified for life upon the second or a
8 subsequent occurrence of any offense, test refusal or test failure specified
9 in subsection (a), or any combination thereof, arising from two or more
10 separate incidents occurring on or after July 1, 2003.

11 (d) (1) Any person disqualified for life under subsection (c) who
12 seeks to have commercial driving privileges restored after such person has
13 been disqualified for at least 10 years shall apply in writing to the division.

14 (2) The division shall restore a person's commercial driving privileges
15 if the division determines:

16 (A) None of the occurrences that led to the person's lifetime
17 disqualification under subsection (c) included violations described in
18 subsection (a)(1)(A) or (a)(1)(E);

19 (B) the person has had no occurrence of any offense, test refusal or
20 test failure specified in subsection (a) during the 10-year period preceding
21 the application;

22 (C) the person has had no alcohol or drug related convictions as
23 defined in K.S.A. 8-2,128, and amendments thereto, in Kansas or any
24 other jurisdiction during the 10-year period preceding the application;

25 (D) the person has no pending alcohol or drug related criminal
26 charges in Kansas or any other jurisdiction;

27 (E) the person has had no convictions for violations that occurred
28 while operating a commercial motor vehicle in Kansas or any other
29 jurisdiction during the 10-year period preceding the application;

30 (F) the person has successfully completed an alcohol or drug
31 treatment program, or a comparable program, that meets or exceeds the
32 minimum standards approved by the Kansas department for aging and
33 disability services if any of the disqualifying offenses were drug or alcohol
34 related;

35 (G) the person is no longer a threat to the public safety of this state.
36 The division may request, and the person shall provide, any additional
37 information or documentation which the division deems necessary to
38 determine the person's fitness for relicensure;

39 (H) the person is otherwise eligible for licensure; and

40 (I) the person has not previously been restored to commercial motor
41 vehicle privileges following a prior 10-year-minimum disqualification.

42 (3) For purposes of verifying a person's prior 10-year alcohol and
43 drug history, the person shall provide a copy of the person's closed

1 criminal history from any jurisdiction to the division.

2 (4) If the division finds the person is eligible for restoration to
3 commercial driving status, such person shall complete the written and
4 driving skills examinations as specified in K.S.A. 8-2,133, and
5 amendments thereto, before a commercial driver license is issued.

6 (5) If the person is found ineligible for restoration of commercial
7 driving privileges, the division shall notify the person of such findings by
8 certified mail and continue the denial of commercial driving privilege until
9 such ineligibility has been disproven to the division's satisfaction.

10 (6) Any person who previously had such person's commercial motor
11 vehicle privileges restored pursuant to this statute shall not be eligible to
12 apply for restoration if such person receives another lifetime
13 disqualification.

14 (7) Any person who is aggrieved by the decision of the division may
15 appeal for review in accordance with the Kansas judicial review act,
16 K.S.A. 77-601 et seq., and amendments thereto.

17 (8) The secretary of revenue shall adopt rules and regulations
18 necessary to administer the provisions of this subsection prior to March 1,
19 2023.

20 (e) (1) A person is disqualified from driving a commercial motor
21 vehicle for life who uses a commercial motor vehicle or noncommercial
22 motor vehicle in the commission of any felony involving the manufacture,
23 distribution or dispensing of a controlled substance, or possession with
24 intent to manufacture, distribute or dispense a controlled substance.

25 (2) A person is disqualified from driving a commercial motor vehicle
26 for life who uses a commercial motor vehicle in the commission of a
27 felony involving an act or practice of severe forms of trafficking in
28 persons. The term "severe forms of trafficking in persons" means:

29 (A) Sex trafficking in which a commercial sex act is induced by
30 force, fraud or coercion, or in which the person induced to perform such
31 act has not attained 18 years of age; or

32 (B) the recruitment, harboring, transportation, provision or obtaining
33 of a person for labor or services, through the use of force, fraud or
34 coercion for the purpose of subjection to involuntary servitude, peonage,
35 debt bondage or slavery.

36 (f) A person is disqualified from driving a commercial motor vehicle
37 for a period of not less than 60 days if convicted of two serious traffic
38 violations, or 120 days if convicted of three or more serious traffic
39 violations, committed in a commercial motor vehicle arising from separate
40 incidents occurring within a three-year period. Any disqualification period
41 under this paragraph shall be in addition to any other previous period of
42 disqualification. The beginning date for any three-year period within a ten-
43 year period, required by this subsection, shall be the issuance date of the

1 citation which resulted in a conviction.

2 (g) A person is disqualified from driving a commercial motor vehicle
3 for a period of not less than 60 days if convicted of two serious traffic
4 violations, or 120 days if convicted of three or more serious traffic
5 violations, committed in a noncommercial motor vehicle arising from
6 separate incidents occurring within a three-year period, if such convictions
7 result in the revocation, cancellation or suspension of the person's driving
8 privileges.

9 (h) (1) A person who is convicted of operating a commercial motor
10 vehicle in violation of an out-of-service order shall be disqualified from
11 driving a commercial motor vehicle for a period of not less than:

12 (A) One hundred and eighty days nor more than one year, if the
13 driver is convicted of a first violation of an out-of-service order;

14 (B) two years nor more than five years if the person has one prior
15 conviction for violating an out-of-service order in a separate incident and
16 such prior offense was committed within the 10 years immediately
17 preceding the date of the present violation; or

18 (C) three years nor more than five years if the person has two or more
19 prior convictions for violating out-of-service orders in separate incidents
20 and such prior offenses were committed within the 10 years immediately
21 preceding the date of the present violation.

22 (2) A person who is convicted of operating a commercial motor
23 vehicle in violation of an out-of-service order while transporting a
24 hazardous material required to be placarded under 49 U.S.C. § 5101 et seq.
25 or while operating a motor vehicle designed to transport more than 15
26 passengers, including the driver, shall be disqualified from driving a
27 commercial motor vehicle for a period of not less than:

28 (A) One hundred and eighty days nor more than two years if the
29 driver is convicted of a first violation of an out-of-service order; or

30 (B) three years nor more than five years if the person has a prior
31 conviction for violating an out-of-service order in a separate incident and
32 such prior offense was committed within the 10 years immediately
33 preceding the date of the present violation.

34 (i) (1) A person who is convicted of operating a commercial motor
35 vehicle in violation of a federal, state or local law or regulation pertaining
36 to one of the following six offenses at a railroad-highway grade crossing
37 shall be disqualified from driving a commercial motor vehicle for the
38 period of time specified in paragraph (2) for persons:

39 (A) Who are not required to always stop, failing to slow down and
40 check that the tracks are clear of an approaching train;

41 (B) who are not required to always stop, failing to stop before
42 reaching the crossing, if the tracks are not clear;

43 (C) who are always required to stop, failing to stop before driving

1 onto the crossing;

2 (D) failing to have sufficient space to drive completely through the
3 crossing without stopping;

4 (E) failing to obey a traffic control device or the directions of an
5 enforcement official at the crossing; or

6 (F) failing to negotiate a crossing because of insufficient
7 undercarriage clearance.

8 (2) A driver shall be disqualified from driving a commercial motor
9 vehicle for not less than:

10 (A) Sixty days if the driver is convicted of a first violation of a
11 railroad-highway grade crossing violation;

12 (B) one hundred and twenty days if, during any three-year period, the
13 driver is convicted of a second railroad-highway grade crossing violation
14 in separate incidents; or

15 (C) one year if, during any three-year period, the driver is convicted
16 of a third or subsequent railroad-highway grade crossing violation in
17 separate incidents.

18 (j) *The division may require a person applying for a commercial*
19 *driver's license to be fingerprinted and submit to a state and national*
20 *criminal history record check in accordance with section 2, and*
21 *amendments thereto.*

22 (k) After suspending, revoking or canceling a commercial driver's
23 license, the division shall update its records to reflect that action within 10
24 days. After suspending, revoking or canceling a nonresident commercial
25 driver's privileges, the division shall notify the licensing authority of the
26 state which issued the commercial driver's license or nonresident
27 commercial driver's license within 10 days. The notification shall include
28 both the disqualification and the violation that resulted in the
29 disqualification, suspension, revocation or cancellation.

30 ~~(l)~~ Upon receiving notification from the licensing authority of
31 another state, that it has disqualified a commercial driver's license holder
32 licensed by this state, or has suspended, revoked or canceled such
33 commercial driver's license holder's commercial driver's license, the
34 division shall record such notification and the information such
35 notification provides on the driver's record.

36 ~~(m)~~ Upon suspension, revocation, cancellation or disqualification
37 of a commercial driver's license under this act, the license shall be
38 immediately surrendered to the division if still in the licensee's possession.
39 If otherwise eligible, and upon payment of the required fees, the licensee
40 may be issued a noncommercial driver's license for the period of
41 suspension, revocation, cancellation or disqualification of the commercial
42 driver's license under the same identifier number.

43 ~~(n)~~ As used in this section, "test refusal" means a person's refusal

1 to submit to and complete a test requested pursuant to K.S.A. 8-2,145, and
2 amendments thereto; "test failure" means a person's submission to and
3 completion of a test which determines that the person's alcohol
4 concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and
5 amendments thereto.

6 ~~(h)~~(o) If a person is disqualified for life under on subsection (c), and
7 at least one of the disqualifying incidents occurred prior to July 1, 2003,
8 the person may apply to the secretary of revenue for review of the
9 incidents and modification of the disqualification. The secretary shall
10 adopt rules and regulations establishing guidelines, including conditions,
11 to administer this subsection prior to March 1, 2023.

12 Sec. 11. K.S.A. 9-508 is hereby amended to read as follows: 9-508.
13 As used in this act:

14 (a) "Agent" means a person designated by a licensee to receive funds
15 from a Kansas resident in order to forward such funds to the licensee to
16 effectuate money transmission at one or more physical locations
17 throughout the state or through the internet, regardless of whether such
18 person would be exempt from the act by conducting money transmission
19 on such person's own behalf;

20 (b) *"applicant" means any individual, officer, director, partner,*
21 *member or shareholder related to an application for a license under this*
22 *act;*

23 (c) "commissioner" means the state bank commissioner;

24 ~~(e)~~(d) "control" means the power directly or indirectly to direct
25 management or policies of a person engaged in money transmission or to
26 vote 25% or more of any class of voting shares of a person engaged in
27 money transmission;

28 ~~(d)~~(e) "electronic instrument" means a card or other tangible object
29 for the transmission or payment of money, including a prepaid access card
30 or device which contains a microprocessor chip, magnetic stripe or other
31 means for the storage of information, that is prefunded and for which the
32 value is decremented upon each use, but does not include a card or other
33 tangible object that is redeemable by the issuer in goods or services;

34 ~~(e)~~(f) *"executive" means an executive officer or director of a*
35 *licensee;*

36 (g) "licensee" means a person licensed under this act;

37 ~~(f)~~(h) "nationwide multi-state licensing system and registry" means a
38 licensing system developed and maintained by the conference of state
39 bank supervisors, or its successors and assigns, for the licensing and
40 reporting of those persons engaging in the money transmission;

41 ~~(g)~~(i) "monetary value" means a medium of exchange, whether or not
42 redeemable in money;

43 ~~(h)~~(j) "money transmission" means to engage in the business of the

1 sale or issuance of payment instruments or of receiving money or
2 monetary value for transmission to a location within or outside the United
3 States by wire, facsimile, electronic means or any other means, except that
4 money transmission does not include currency exchange where no
5 transmission of money occurs;

6 ~~(j)~~(k) "outstanding payment liability" means:

7 (1) With respect to a payment instrument, any payment instrument
8 issued or sold by the licensee which has been sold in the United States
9 directly by the licensee, or any payment instrument that has been sold by
10 an agent of the licensee in the United States, which has been reported to
11 the licensee as having been sold and which has not yet been paid by or for
12 the licensee; or

13 (2) with respect to the transmission of money or monetary value, any
14 money or monetary value the licensee or an agent of the licensee has
15 received from a customer in the United States for transmission which has
16 not yet been delivered to the recipient or otherwise paid by the licensee;

17 ~~(j)~~(l) "payment instrument" means any electronic or written check,
18 draft, money order, travelers check or other electronic or written
19 instrument or order for the transmission or payment of money, sold or
20 issued to one or more persons, whether or not such instrument is
21 negotiable. The term "payment instrument" does not include any credit
22 card voucher, any letter of credit or any instrument which is redeemable by
23 the issuer in goods or services;

24 ~~(k)~~(m) "permissible investments" means:

25 (1) Cash;

26 (2) deposits in a demand or interest bearing account with a domestic
27 federally insured depository institution, including certificates of deposit;

28 (3) debt obligations of a domestic federally insured depository
29 institution;

30 (4) any investment bearing a rating of one of the three highest grades
31 as defined by a nationally recognized organization that rates such
32 securities;

33 (5) investment grade bonds and other legally created general
34 obligations of a state, an agency or political subdivision of a state, the
35 United States or an instrumentality of the United States;

36 (6) obligations that a state, an agency or political subdivision of a
37 state, the United States or an instrumentality of the United States has
38 unconditionally agreed to purchase, insure or guarantee and that bear a
39 rating of one of the three highest grades as defined by a nationally
40 recognized organization that rates securities;

41 (7) shares in a money market mutual fund, interest-bearing bills or
42 notes or bonds, debentures or stock traded on any national securities
43 exchange or on a national over-the-counter market, or mutual funds

1 primarily composed of such securities or a fund composed of one or more
2 permissible investments as set forth herein;

3 (8) receivables that are payable to a licensee, in the ordinary course of
4 business, pursuant to contracts which are not past due and which do not
5 exceed in the aggregate 40% of the total required permissible investments
6 pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past
7 due if not remitted to the licensee within 10 business days; or

8 (9) any other investment or security device approved by the
9 commissioner;

10 ~~(h)~~(n) "person" means any individual, partnership, association, joint-
11 stock association, trust, corporation or any other form of business
12 enterprise;

13 ~~(m)~~(o) "resident" means any natural person or business entity located
14 in this state;

15 ~~(n)~~(p) "service provider" means any person that provides services as
16 described in K.S.A. 9-511(a)(2)(A), and amendments thereto, that are used
17 by an exempt entity or its agent to provide money transmission services to
18 the exempt entity's customers. A service provider does not contract with
19 the customers of an exempt entity on its own or on behalf of an exempt
20 entity or the exempt entity's agent; and

21 ~~(o)~~(q) "tangible net worth" means the physical worth of a licensee,
22 calculated by taking a licensee's assets and subtracting its liabilities and its
23 intangible assets, such as copyrights, patents, intellectual property and
24 goodwill.

25 Sec. 12. K.S.A. 9-509 is hereby amended to read as follows: 9-509.

26 (a) No person shall engage in the business of selling, issuing or delivering
27 its payment instrument, check, draft, money order, personal money order,
28 bill of exchange, evidence of indebtedness or other instrument for the
29 transmission or payment of money or otherwise engage in the business of
30 money transmission with a resident of this state, or, except as provided in
31 K.S.A. 9-510, and amendments thereto, act as agent for another in the
32 transmission of money as a service or for a fee or other consideration,
33 unless such person files a complete application and obtains a license from
34 the commissioner.

35 (b) Each license shall expire December 31 of each year. A license
36 shall be renewed by filing with the commissioner a complete application
37 and nonrefundable application fee at least 30 days prior to expiration of
38 the license. Renewal applications received between December 1 and
39 December 31 of each year and incomplete renewal applications as of
40 December 1 of each year shall be assessed a late fee. Expired licenses may
41 be reinstated through the last day of February of each year by filing a
42 reinstatement application and paying the appropriate application and late
43 fees.

1 (c) It shall be unlawful for a person, acting directly or indirectly or
2 through concert with one or more persons, to acquire control of any person
3 engaged in money transmission through purchase, assignment, pledge or
4 other disposition of voting shares of such money transmitter, except with
5 the prior approval of the commissioner. Request for approval of the
6 proposed acquisition shall be made by filing a complete application with
7 the commissioner at least 60 days prior to the acquisition.

8 (d) All applications shall be submitted in the form and manner
9 prescribed by the commissioner. Additionally, the following shall apply to
10 all applications:

11 (1) The commissioner may use a nationwide multi-state licensing
12 system and registry for processing applications, renewals, amendments,
13 surrenders, and any other activity the commissioner deems appropriate.
14 The commissioner may also use a nationwide multi-state licensing system
15 and registry for requesting and distributing any information regarding
16 money transmitter licensing to and from any source so directed by the
17 commissioner. The commissioner may establish relationships or contracts
18 with the nationwide multi-state licensing system and registry or other
19 entities to collect and maintain records and process transaction fees or
20 other fees related to applicants, licensees, as may be reasonably necessary
21 to participate in the nationwide multi-state licensing system and registry.
22 The commissioner may report violations of the law, as well as enforcement
23 actions and other relevant information to the nationwide multi-state
24 licensing system and registry. The commissioner may require any
25 applicant or licensee to file reports with the nationwide multi-state
26 licensing system and registry in the form prescribed by the commissioner.

27 (2) An application shall be accompanied by nonrefundable fees
28 established by the commissioner for the license. The commissioner shall
29 determine the amount of such fees to provide sufficient funds to meet the
30 budget requirements of administering and enforcing the act for each fiscal
31 year. Any person using the multi-state licensing system shall pay all
32 associated costs.

33 (3) (A) ~~The commissioner may require fingerprinting of any~~
34 ~~individual, officer, director, partner, member, shareholder or any other~~
35 ~~person related to the application deemed necessary by the commissioner~~
36 ~~an applicant in accordance with section 2, and amendments thereto.~~ If the
37 applicant is a publicly traded corporation or a subsidiary of a publicly
38 traded corporation, no fingerprint check shall be required. ~~Fingerprints~~
39 ~~may be submitted to the Kansas bureau of investigation and the federal~~
40 ~~bureau of investigation for a state and national criminal history record~~
41 ~~check. The fingerprints shall be used to identify the person and to~~
42 ~~determine whether the person has a record of arrests and convictions in~~
43 ~~this state or other jurisdiction.~~

1 ~~(B) The commissioner may use information obtained from~~
2 ~~fingerprinting and the criminal history for purposes of verifying the~~
3 ~~identification of the person and in the official determination of the~~
4 ~~qualifications and fitness of the person, or in the case of an applicant~~
5 ~~company, the persons associated with the company.~~

6 ~~(C)~~ For purposes of this section and in order to reduce the points of
7 contact which the federal bureau of investigation may have with the
8 individual states, the commissioner may use a nationwide multi-state
9 licensing system and registry for requesting information from and
10 distributing information to the department of justice or any governmental
11 agency.

12 ~~(D) Whenever the commissioner requires fingerprinting, any~~
13 ~~associated costs shall be paid by the applicant or the parties to the~~
14 ~~application.~~

15 (4) Each application shall include audited financial statements for
16 each of the two fiscal years immediately preceding the date of the
17 application and an interim financial statement, as of a date not more than
18 90 days prior to the date of the filing of an application. The audited and
19 interim financial statements shall be prepared in accordance with United
20 States generally accepted accounting principles or in any other form or
21 manner approved by the commissioner. Any person not in business two
22 years prior to the filing of the application shall submit a statement in the
23 form and manner prescribed by the commissioner sufficient to demonstrate
24 compliance with subsection (e).

25 (e) In addition, each person submitting an application shall meet the
26 following requirements:

27 (1) The tangible net worth of such person shall be at all times not less
28 than \$250,000, as shown by an audited financial statement and certified to
29 by an owner, a partner or officer of the corporation or other entity filed in
30 the form and manner prescribed by the commissioner. A consolidated
31 financial statement from an applicant's holding company may be accepted
32 by the commissioner. The commissioner may require any person to file a
33 statement at any other time upon request;

34 (2) such person shall deposit and at all times keep on deposit with a
35 bank in this state approved by the commissioner, cash or securities
36 satisfactory to the commissioner in an amount not less than \$200,000. The
37 commissioner may increase the amount of cash or securities required up to
38 a maximum of \$1,000,000 upon the basis of:

39 (A) The volume of money transmission business transacted in this
40 state by such person; or

41 (B) the impaired financial condition of a licensee, as evidenced by a
42 reduction in net worth or financial losses;

43 (3) in lieu of the deposit of cash or securities required by this

1 subsection, such person may give a surety bond in an amount equal to that
2 required for the deposit of cash or securities, in a form satisfactory to the
3 commissioner and issued by a company authorized to do business in this
4 state, which bond shall be payable to the office of the state bank
5 commissioner and be filed with the commissioner; and

6 (4) such person shall submit a list to the commissioner of the names
7 and addresses of other persons who are authorized to act as agents for
8 transactions with Kansas residents.

9 (f) The commissioner has the discretion to determine the
10 completeness of any application submitted pursuant to this act. In making
11 the determination, the commissioner shall take into consideration
12 compliance with all requirements set out in this section and any other facts
13 and circumstances that the commissioner deems appropriate.

14 (1) If the applicant fails to complete the application for a new license
15 or for a change of control of a license within 60 days after the
16 commissioner provides written notice of the incomplete application, the
17 application will be considered abandoned and the application fee will not
18 be refunded. An applicant whose application is abandoned under this
19 section may reapply to obtain a license.

20 (2) If the applicant fails to file a complete renewal application on or
21 before December 31 of the year, the license will be deemed to expire on
22 December 31 of the year.

23 (g) The deposit of cash, securities or surety bond required by this
24 section shall be subject to:

25 (1) Payment to the commissioner for the protection and benefit of
26 purchasers of money transmission services, purchasers or holders of
27 payment instruments furnished by such person, and those for whom such
28 person has agreed to act as agent in transmission of monetary value and to
29 secure the faithful performance of the obligations of such person in respect
30 to the receipt, handling, transmission and payment of monetary value; and

31 (2) payment to the commissioner for satisfaction of any expenses,
32 fines, fees or refunds due pursuant to this act, levied by the commissioner
33 or that become lawfully due pursuant to a final judgment or order.

34 (h) The aggregate liability of the surety for all breaches of the
35 conditions of the bond, in no event, shall exceed the amount of such bond.
36 The surety on the bond shall have the right to cancel such bond upon
37 giving 30 days' notice to the commissioner and thereafter shall be relieved
38 of liability for any breach of condition occurring after the effective date of
39 the cancellation. The commissioner or any aggrieved party may enforce
40 claims against such deposit of cash or securities or surety bond. So long as
41 the depositing person is not in violation of this act, such person shall be
42 permitted to receive all interest and dividends on the deposit and shall
43 have the right to substitute other securities satisfactory to the

1 commissioner. If the deposit is made with a bank, any custodial fees shall
2 be paid by such person.

3 (i) (1) The commissioner shall have the authority to examine the
4 books and records of any person operating in accordance with the
5 provisions of this act, at such person's expense, to verify compliance with
6 state and federal law.

7 (2) The commissioner may require any person operating in
8 accordance with the provisions of this act to maintain such documents and
9 records as necessary to verify compliance with this act, or any other
10 applicable state or federal law or regulation.

11 (3) For purposes of investigation, examination or other proceeding
12 under this act, the commissioner may administer or cause to be
13 administered oaths, subpoena witnesses and documents, compel the
14 attendance of witnesses, take evidence and require the production of any
15 document that the commissioner determines to be relevant to the inquiry.

16 (j) Except as authorized with regard to the appointment of agents, a
17 licensee is prohibited from transferring, assigning, allowing another person
18 to use the licensee's license, or aiding any person who does not hold a
19 valid license under this act in engaging in the business of money
20 transmission.

21 Sec. 13. K.S.A. 9-513e is hereby amended to read as follows: 9-513e.

22 (a) Each licensee under this act shall within 30 days report to the
23 commissioner any change, for whatever reason, in the executive officers or
24 directors, including in its report a statement of the past and current
25 business and professional affiliations of the new executive officers or
26 directors.

27 (b) ~~The commissioner may require fingerprinting of any new~~
28 ~~executive officer or director, deemed necessary by the commissioner in~~
29 ~~accordance with section 2, and amendments thereto. Such fingerprints~~
30 ~~may be submitted to the Kansas bureau of investigation and the federal~~
31 ~~bureau of investigation for a state and national criminal history record~~
32 ~~check. The fingerprints shall be used to identify the person and to~~
33 ~~determine whether the person has a record of arrests and convictions in~~
34 ~~this state or other jurisdiction.~~

35 (c) ~~The commissioner may use information obtained from~~
36 ~~fingerprinting and the criminal history for purposes of verifying the~~
37 ~~identification of the person and in the official determination of the~~
38 ~~qualifications and fitness of the person.~~

39 (d) For purposes of this section and in order to reduce the points of
40 contact which the federal bureau of investigation may have with the
41 individual states, the commissioner may use a nationwide multi-state
42 licensing system and registry for requesting information from and
43 distributing information to the department of justice or any governmental

1 agency.

2 ~~(e) Whenever the commissioner requires fingerprinting, any~~
3 ~~associated costs shall be paid by the applicant or the parties to the~~
4 ~~application. If the applicant is a publicly traded corporation or a subsidiary~~
5 ~~of a publicly traded corporation, no fingerprint check shall be required.~~

6 ~~(f)(d)~~ The provisions of this section shall be part of and supplemental
7 to the Kansas money transmitter act.

8 Sec. 14. K.S.A. 9-1719 is hereby amended to read as follows: 9-1719.
9 As used in K.S.A. 9-1719 to 9-1722, inclusive, and amendments thereto:

10 (a) *"Applicant" means a person who has submitted a change of*
11 *control application pursuant to K.S.A. 9-1721, and amendments thereto.*

12 (b) "Control" means the power to:

- 13 (1) Vote 25% or more of any class of voting shares;
14 (2) direct, in any manner, the election of a majority of the directors;

15 or

16 (3) direct or exercise a controlling influence over the management or
17 policies.

18 ~~(b)(c)~~ "Person" means an individual or a corporation, partnership,
19 trust, association, joint venture, pool, syndicate, sole proprietorship,
20 unincorporated organization or any other form of entity not specifically
21 listed in this subsection.

22 Sec. 15. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722.

23 (a) A change of control application filed pursuant to K.S.A. 9-1721, and
24 amendments thereto, shall contain the following information:

25 (1) The identity, personal history, business background and
26 experience of each person by or for whom the change of control is to be
27 made, including the material business activities and affiliations during the
28 past five years and a description of any material pending legal or
29 administrative proceedings in which the person is a party and any criminal
30 indictment or conviction of such person by a state or federal court;

31 (2) a statement of the assets and liabilities of each person by or for
32 whom the change of control is to be made, along with any related
33 statements of income and source and application of funds, as of a date not
34 more than 90 days prior to the date of the application. Individuals who
35 own 10% or more shares in a bank holding company, as defined in K.S.A.
36 9-519, and amendments thereto, shall file the financial information
37 required by this paragraph;

38 (3) the terms and conditions of the proposed change of control and
39 the manner in which such change of control is to be made;

40 (4) the identity, source and amount of the funds or other
41 considerations used or to be used in making the change of control and, if
42 any part of these funds or other considerations has been or is to be
43 borrowed or otherwise obtained for such purpose, a description of the

1 transaction, the names of the parties, and any arrangements, agreements or
2 understandings with such persons;

3 (5) any plans or proposals which any applicant may have to liquidate
4 the bank or trust company or to make any other major change in the bank's
5 or trust company's business or corporate structure or management;

6 (6) the identification of any person employed, retained or to be
7 compensated by any party or by any person on such person's behalf to
8 make solicitations or recommendations to stockholders for the purpose of
9 assisting in the change of control and a brief description of the terms of
10 such employment, retainer or arrangement for compensation;

11 (7) copies of all invitations or tenders or advertisements making a
12 tender offer to stockholders for purchase of their stock to be used in
13 connection with the proposed change of control;

14 (8) when applicable, the certified copies of the stockholder
15 proceedings showing a majority of the outstanding voting stock was voted
16 in favor of the change of control; and

17 (9) any additional relevant information in the form and manner
18 prescribed by the commissioner.

19 (b) A merger transaction application filed pursuant to K.S.A. 9-1721,
20 and amendments thereto, shall contain the following information:

21 (1) The structure, terms and conditions and financing arrangements of
22 the proposed merger transaction;

23 (2) a complete and final copy of the merger transaction agreement;

24 (3) certified copies of the stockholder proceedings showing a
25 majority of the outstanding voting stock of the banks or trust companies in
26 the merger transaction was voted in favor of the merger transaction;

27 (4) a list of directors and senior executive officers of the resulting
28 bank or trust company;

29 (5) one year pro forma statements of financial conditions and future
30 prospects of the resulting bank or trust company, including capital
31 positions;

32 (6) how the merger transaction will meet the convenience and needs
33 of the community; and

34 (7) any other relevant information in the form and manner prescribed
35 by the commissioner.

36 (c) With regard to any trust company which files a notice pursuant to
37 this section, the commissioner may require fingerprinting of ~~any proposed~~
38 ~~officer, director, shareholder or any other person deemed necessary by the~~
39 ~~commissioner~~ *an applicant in accordance with section 2, and amendments*
40 *thereto.* ~~Such fingerprints may be submitted to the Kansas bureau of~~
41 ~~investigation and the federal bureau of investigation for a state and~~
42 ~~national criminal history record check. The fingerprints shall be used to~~
43 ~~identify the person and to determine whether the person has a record of~~

1 ~~arrests and convictions in this state or any other jurisdiction. The~~
2 ~~commissioner may use information obtained from fingerprinting and the~~
3 ~~criminal history for purposes of verifying the identification of the person~~
4 ~~and in the official determination of the qualifications and fitness of the~~
5 ~~persons proposing to acquire the trust company. Whenever the~~
6 ~~commissioner requires fingerprinting, any associated costs shall be paid by~~
7 ~~the applicant or the parties to the application.~~

8 (d) The commissioner may accept an application filed with the
9 federal reserve bank or federal deposit insurance corporation in lieu of an
10 application filed pursuant to subsection (a). The commissioner may, in
11 addition to such application, request additional relevant information.

12 (e) At the time of filing an application pursuant to K.S.A. 9-1721, and
13 amendments thereto, or an application filed pursuant to subsection (d), the
14 applicant shall pay to the commissioner a fee in an amount established
15 pursuant to K.S.A. 9-1726, and amendments thereto, to defray the
16 expenses of the commissioner in the examination and investigation of the
17 application. The commissioner shall remit all moneys received under this
18 section to the state treasurer in accordance with the provisions of K.S.A.
19 75-4215, and amendments thereto. Upon receipt of each such remittance,
20 the state treasurer shall deposit the entire amount in the state treasury to
21 the credit of the bank investigation fund. The moneys in the bank
22 investigation fund shall be used to pay the expenses of the commissioner
23 in the examination and investigation of such applications and any unused
24 balance shall be transferred to the bank commissioner fee fund.

25 Sec. 16. K.S.A. 9-2201 is hereby amended to read as follows: 9-2201.
26 As used in this act:

27 (a) *"Applicant"* means a person who has submitted an application for
28 a license to engage in mortgage business or a person who has submitted
29 an application for registration to conduct mortgage business in this state
30 as a loan originator.

31 (b) *"Branch office"* means a place of business, other than a principal
32 place of business, where the mortgage company maintains a physical
33 location for the purpose of conducting mortgage business with the public.

34 ~~(b)~~(c) *"Commissioner"* means the state bank commissioner or
35 designee, who shall be the deputy commissioner of the consumer and
36 mortgage lending division of the office of the state bank commissioner.

37 ~~(e)~~(d) *"Individual"* means a human being.

38 ~~(d)~~(e) *"License"* means a license issued by the commissioner to
39 engage in mortgage business as a mortgage company.

40 ~~(e)~~(f) *"Licensee"* means a person who is licensed by the
41 commissioner as a mortgage company.

42 ~~(f)~~(g) *"Loan originator"* means an individual:

43 (1) Who engages in mortgage business on behalf of a single mortgage

1 company;

2 (2) whose conduct of mortgage business is the responsibility of the
3 licensee;

4 (3) who takes a residential mortgage loan application or offers or
5 negotiates terms of a residential mortgage loan for compensation or gain or
6 in the expectation of compensation or gain; and

7 (4) whose job responsibilities include contact with borrowers during
8 the loan origination process, which can include soliciting, negotiating,
9 acquiring, arranging or making mortgage loans for others, obtaining
10 personal or financial information, assisting with the preparation of
11 mortgage loan applications or other documents, quoting loan rates or terms
12 or providing required disclosures. It does not include any individual
13 engaged solely as a loan processor or underwriter.

14 ~~(g)~~(h) "Loan processor or underwriter" means an individual who
15 performs clerical or support duties as an employee at the direction and
16 subject to the supervision and instruction of a person registered or exempt
17 from registration under this act.

18 (1) For purposes of this subsection, the term "clerical or support
19 duties" may include subsequent to the receipt of a mortgage loan
20 application:

21 (A) The receipt, collection, distribution and analysis of information
22 common for the processing or underwriting of a residential mortgage loan;
23 and

24 (B) communicating with a consumer to obtain the information
25 necessary for the processing or underwriting of a loan, to the extent that
26 such communication does not include offering or negotiating loan rates or
27 terms or counseling consumers about residential mortgage loan rates or
28 terms.

29 (2) An individual engaging solely in loan processor or underwriter
30 activities shall not represent to the public, through advertising or other
31 means of communicating or providing information including the use of
32 business cards, stationery, brochures, signs, rate lists or other promotional
33 items, that such individual can or will perform any of the activities of a
34 loan originator.

35 ~~(h)~~(i) "Mortgage business" means engaging in, or holding out to the
36 public as willing to engage in, for compensation or gain, or in the
37 expectation of compensation or gain, directly or indirectly, the business of
38 making, originating, servicing, soliciting, placing, negotiating, acquiring,
39 selling, arranging for others, or holding the rights to or offering to solicit,
40 place, negotiate, acquire, sell or arrange for others, mortgage loans in the
41 primary market.

42 ~~(i)~~(j) "Mortgage company" means a person engaged in mortgage
43 business.

1 ~~(j)~~(k) "Mortgage loan" means a loan or agreement to extend credit
2 made to one or more individuals which is secured by a first or subordinate
3 mortgage, deed of trust, contract for deed or other similar instrument or
4 document representing a security interest or lien, except as provided for in
5 K.S.A. 60-1101 through 60-1110, and amendments thereto, upon any lot
6 intended for residential purposes or a one-to-four family dwelling as
7 defined in 15 U.S.C. § 1602(w), located in this state, occupied or intended
8 to be occupied for residential purposes by the owner, including the renewal
9 or refinancing of any such loan.

10 ~~(k)~~(l) "Mortgage loan application" means the submission of a
11 consumer's financial information, including, but not limited to, the
12 consumer's name, income and social security number, to obtain a credit
13 report, the property address, an estimate of the value of the property and
14 the mortgage loan amount sought for the purpose of obtaining an extension
15 of credit.

16 ~~(l)~~(m) "Mortgage servicer" means any person engaged in mortgage
17 servicing.

18 ~~(m)~~(n) "Mortgage servicing" means collecting payment, remitting
19 payment for another or the right to collect or remit payment of any of the
20 following: Principal; interest; tax; insurance; or other payment under a
21 mortgage loan.

22 ~~(n)~~(o) "Nationwide mortgage licensing system and registry" means a
23 mortgage licensing system developed and maintained by the conference of
24 state bank supervisors and the American association of residential
25 mortgage regulators for the licensing and registration of mortgage loan
26 originators.

27 ~~(o)~~(p) "Not-for-profit" means a business entity that is granted tax
28 exempt status by the internal revenue service.

29 ~~(p)~~(q) "Person" means any individual, sole proprietorship,
30 corporation, partnership, trust, association, joint venture, pool syndicate,
31 unincorporated organization or other form of entity, however organized.

32 ~~(q)~~(r) "Primary market" means the market wherein mortgage business
33 is conducted including activities conducted by any person who assumes or
34 accepts any mortgage business responsibilities of the original parties to the
35 transaction.

36 ~~(r)~~(s) "Principal place of business" means a place of business where
37 mortgage business is conducted, which has been designated by a licensee
38 as the primary headquarters from which all mortgage business and
39 administrative activities are managed and directed.

40 ~~(s)~~(t) "Promotional items" means pens, pencils, hats and other such
41 novelty items.

42 ~~(t)~~(u) "Registrant" means any individual who holds a valid
43 registration to conduct mortgage business in this state as a loan originator.

1 ~~(t)~~(v) "Remote location" means a location other than the principal
2 place of business or a branch office where a licensed mortgage company's
3 employee or independent contractor is authorized by such company to
4 engage in mortgage business. A remote location is not considered a branch
5 office.

6 ~~(v)~~(w) "Unique identifier" means a number or other identifier
7 assigned by protocols established by the nationwide mortgage licensing
8 system and registry.

9 Sec. 17. K.S.A. 9-2209 is hereby amended to read as follows: 9-2209.

10 (a) The commissioner may exercise the following powers:

11 (1) Adopt rules and regulations as necessary to carry out the intent
12 and purpose of this act and to implement the requirements of applicable
13 federal law;

14 (2) make investigations and examinations of the licensee's or
15 registrant's operations, books and records as the commissioner deems
16 necessary for the protection of the public and control access to any
17 documents and records of the licensee or registrant under examination or
18 investigation;

19 (3) charge reasonable costs of investigation, examination and
20 administration of this act, to be paid by the applicant, licensee or
21 registrant. The commissioner shall establish such fees in such amounts as
22 the commissioner may determine to be sufficient to meet the budget
23 requirements of the commissioner for each fiscal year. Charges for
24 administration of this act shall be based on the licensee's loan volume;

25 (4) order any licensee or registrant to cease any activity or practice
26 that the commissioner deems to be deceptive, dishonest, violative of state
27 or federal law or unduly harmful to the interests of the public;

28 (5) exchange any information regarding the administration of this act
29 with any agency of the United States or any state that regulates the
30 licensee or registrant or administers statutes, rules and regulations or
31 programs related to mortgage business and to enter into information
32 sharing arrangements with other governmental agencies or associations
33 representing governmental agencies that are deemed necessary or
34 beneficial to the administration of this act;

35 (6) disclose to any person or entity that an applicant's, licensee's or
36 registrant's application, license or registration has been denied, suspended,
37 revoked or refused renewal;

38 (7) require or permit any person to file a written statement, under oath
39 or otherwise as the commissioner may direct, setting forth all the facts and
40 circumstances concerning any apparent violation of this act, or any rule
41 and regulation promulgated thereunder or any order issued pursuant to this
42 act;

43 (8) receive, as a condition in settlement of any investigation or

1 examination, a payment designated for consumer education to be
2 expended for such purpose as directed by the commissioner;

3 (9) require that any applicant, registrant, licensee or other person
4 successfully passes a standardized examination designed to establish such
5 person's knowledge of mortgage business transactions and all applicable
6 state and federal law. Such examinations shall be created and administered
7 by the commissioner or the commissioner's designee, and may be made a
8 condition of application approval or application renewal;

9 (10) require that any applicant, licensee, registrant or other person
10 complete a minimum number of prelicensing education hours and
11 complete continuing education hours on an annual basis. Prelicensing and
12 continuing education courses shall be approved by the commissioner, or
13 the commissioner's designee, and may be made a condition of application
14 approval and renewal;

15 (11) require fingerprinting of any applicant, registrant, ~~or licensee,~~
16 ~~members thereof if a copartnership or association, or officers and directors~~
17 ~~thereof if a corporation, or any agent acting on their behalf, or other person~~
18 ~~as deemed appropriate by the commissioner in accordance with section 2,~~
19 ~~and amendments thereto.~~ The commissioner or the commissioner's
20 designee, may submit such fingerprints to the Kansas bureau of
21 investigation, federal bureau of investigation or other law enforcement
22 agency for the purposes of verifying the identity of such persons and
23 obtaining records of their criminal arrests and convictions. For the
24 purposes of this section and in order to reduce the points of contact that the
25 federal bureau of investigation may have to maintain with the individual
26 states, the commissioner may use the nationwide mortgage licensing
27 system and registry as a channeling agent for requesting information from
28 and distributing information to the department of justice or any
29 governmental agency;

30 (12) refer such evidence as may be available concerning any violation
31 of this act or of any rule and regulation or order hereunder to the attorney
32 general, or in consultation with the attorney general to the proper county or
33 district attorney, who may in such prosecutor's discretion, with or without
34 such a referral, institute the appropriate criminal proceedings under the
35 laws of this state;

36 (13) issue and apply to enforce subpoenas in this state at the request
37 of a comparable official of another state if the activities constituting an
38 alleged violation for which the information is sought would be a violation
39 of the Kansas mortgage business act if the activities had occurred in this
40 state;

41 (14) use the nationwide mortgage licensing system and registry as a
42 channeling agent for requesting and distributing any information regarding
43 loan originator or mortgage company licensing to and from any source so

1 directed by the commissioner;

2 (15) establish relationships or contracts with the nationwide mortgage
3 licensing system and registry or other entities to collect and maintain
4 records and process transaction fees or other fees related to applicants,
5 licensees, registrants or other persons subject to this act and to take such
6 other actions as may be reasonably necessary to participate in the
7 nationwide mortgage licensing system and registry. The commissioner
8 shall regularly report violations of law, as well as enforcement actions and
9 other relevant information to the nationwide mortgage licensing system
10 and registry;

11 (16) require any licensee or registrant to file reports with the
12 nationwide mortgage licensing system and registry in the form prescribed
13 by the commissioner or the commissioner's designee;

14 (17) receive and act on complaints, take action designed to obtain
15 voluntary compliance with the provisions of the Kansas mortgage business
16 act or commence proceedings on the commissioner's own initiative;

17 (18) provide guidance to persons and groups on their rights and duties
18 under the Kansas mortgage business act;

19 (19) enter into any informal agreement with any mortgage company
20 for a plan of action to address violations of law. The adoption of an
21 informal agreement authorized by this paragraph shall not be subject to the
22 provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A.
23 77-601 et seq., and amendments thereto. Any informal agreement
24 authorized by this paragraph shall not be considered an order or other
25 agency action, and shall be considered confidential examination material
26 pursuant to K.S.A. 9-2217, and amendments thereto. All such examination
27 material shall also be confidential by law and privileged, shall not be
28 subject to the open records act, K.S.A. 45-215 et seq., and amendments
29 thereto, shall not be subject to subpoena and shall not be subject to
30 discovery or admissible in evidence in any private civil action; and

31 (20) issue, amend and revoke written administrative guidance
32 documents in accordance with the applicable provisions of the Kansas
33 administrative procedure act.

34 (b) For the purpose of any examination, investigation or proceeding
35 under this act, the commissioner or any officer designated by the
36 commissioner may administer oaths and affirmations, subpoena witnesses,
37 compel such witnesses' attendance, adduce evidence and require the
38 production of any matter that is relevant to the examination or
39 investigation, including the existence, description, nature, custody,
40 condition and location of any books, documents or other tangible things
41 and the identity and location of persons having knowledge of relevant
42 facts, or any other matter reasonably calculated to lead to the discovery of
43 relevant information or items.

1 (c) In case of contumacy by, or refusal to obey a subpoena issued to
2 any person, any court of competent jurisdiction, upon application by the
3 commissioner, may issue to that person an order requiring the person to
4 appear before the commissioner, or the officer designated by the
5 commissioner, there, to produce documentary evidence if so ordered or to
6 give evidence touching the matter under investigation or in question. Any
7 failure to obey the order of the court may be punished by the court as a
8 contempt of court.

9 (d) No person is excused from attending and testifying or from
10 producing any document or record before the commissioner or in
11 obedience to the subpoena of the commissioner or any officer designated
12 by the commissioner or in any proceeding instituted by the commissioner,
13 on the ground that the testimony or evidence, documentary or otherwise,
14 required of the person may tend to incriminate the person or subject the
15 person to a penalty or forfeiture. No individual may be prosecuted or
16 subjected to any penalty or forfeiture for or on account of any transaction,
17 matter or thing concerning which such person is compelled, after claiming
18 privilege against self-incrimination, to testify or produce evidence,
19 documentary or otherwise, except that the individual so testifying shall not
20 be exempt from prosecution and punishment for perjury committed in so
21 testifying.

22 (e) Except for refund of an excess charge, no liability is imposed
23 under the Kansas mortgage business act for an act done or omitted in
24 conformity with a rule and regulation or written administrative
25 interpretation of the commissioner in effect at the time of the act or
26 omission, notwithstanding that after the act or omission, the rule and
27 regulation or written administrative interpretation may be determined by
28 judicial or other authority to be invalid for any reason.

29 Sec. 18. K.S.A. 9-2301 is hereby amended to read as follows: 9-2301.

30 (a) The provisions of K.S.A. 9-2301 through 9-2327, and amendments
31 thereto, shall be known and may be cited as the technology-enabled
32 fiduciary financial institutions act. The technology-enabled fiduciary
33 financial institutions act shall be a part of and supplemental to chapter 9 of
34 the Kansas Statutes Annotated, and amendments thereto.

35 (b) For purposes of the technology-enabled fiduciary financial
36 institutions act:

37 (1) "Act" means the technology-enabled fiduciary financial
38 institutions act;

39 (2) "alternative asset" means professionally managed investment
40 assets that are not publicly traded, including, but not limited to, private
41 equity, venture capital, leveraged buyouts, special situations, structured
42 credit, private debt, private real estate funds and natural resources,
43 including any economic or beneficial interest therein;

1 (3) "alternative asset custody account" means an account created by
2 the owner of an alternative asset that designates a fiduciary financial
3 institution as custodian or agent and into which the owner transfers,
4 electronically or otherwise, content, materials, data, information,
5 documents, reports and contracts in any form, including, without
6 limitation, evidence of ownership, subscription agreements, private
7 placement memoranda, limited partnership agreements, operating
8 agreements, financial statements, annual and quarterly reports, capital
9 account statements, tax statements, correspondence from the general
10 partner, manager or investment advisor of the alternative asset, an
11 investment contract as defined in K.S.A. 17-12a102(28)(E), and
12 amendments thereto, and any digital asset as defined in K.S.A. 58-4802,
13 and amendments thereto, whether such information is in hard copy form or
14 a representation of such information that is stored in a computer readable
15 format;

16 (4) "charitable beneficiaries" means one or more charities,
17 contributions to which are allowable as a deduction pursuant to section
18 170 of the federal internal revenue code that are designated as
19 beneficiaries of a fidfin trust;

20 (5) "custodial services" means the safekeeping and management of an
21 alternative asset custody account, including the execution of customer
22 instructions, serving as agent, fund administrative services and overall
23 decision-making and management of the account by a fiduciary financial
24 institution and "custodial services" shall be deemed to involve the exercise
25 of fiduciary and trust powers;

26 (6) *"director" means a person designated as a member of the board*
27 *of directors pursuant to K.S.A. 9-2306, and amendments thereto;*

28 (7) "economic growth zone" means an incorporated community with
29 a population of not more than 5,000 people located within one of the
30 following counties: Allen, Anderson, Barber, Bourbon, Brown, Chase,
31 Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche,
32 Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray,
33 Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman,
34 Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn,
35 Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton,
36 Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt,
37 Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman,
38 Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee,
39 Wallace, Washington, Wichita, Wilson or Woodson;

40 ~~(7)~~(8) "excluded fiduciary" means a fiduciary financial institution in
41 its capacity as trustee of a fidfin trust, provided that a fiduciary financial
42 institution shall only be deemed an "excluded fiduciary" to the extent the
43 fiduciary financial institution is excluded from exercising certain powers

1 under the instrument that may be exercised by the trust advisor or other
2 persons designated in the instrument;

3 ~~(8)~~(9) "fidfin," "fidfin services" or "fidfin transactions" means the
4 financing of a fidfin trust or the acquisition of alternative assets on behalf
5 of and through a fidfin trust, or both, as provided in K.S.A. 9-2311, and
6 amendments thereto, including loans, extensions of credit and direct
7 investments;

8 ~~(9)~~(10) "fidfin trust" means a trust created to facilitate the delivery of
9 fidfin services by a fiduciary financial institution;

10 ~~(10)~~(11) "fiduciary" means a trustee, a trust advisor or a custodian of
11 an alternative asset custody account appointed under an instrument that is
12 acting in a fiduciary capacity for any person, trust or estate;

13 ~~(11)~~(12) "instrument" means any document creating a fidfin trust or
14 alternative asset custody account;

15 ~~(12)~~(13) *"officer" means a person who participates or has authority*
16 *to participate, other than in the capacity of a director, in major*
17 *policymaking functions of a bank, trust company or fiduciary financial*
18 *institution, whether or not the officer has an official title or if the officer is*
19 *servicing without salary or other compensation. "Officer" includes the*
20 *chairperson of the board, president, vice president, cashier, secretary and*
21 *treasurer of a bank, trust company or fiduciary financial institution;*

22 (14) *"organizer" means a person who filed the fiduciary financial*
23 *institution formation documents;*

24 (15) "out-of-state bank" means a national or state bank, savings and
25 loan association or savings bank not incorporated under the laws of
26 Kansas;

27 ~~(13)~~(16) "out-of-state financial institution" means an out-of-state
28 bank or an out-of-state trust company;

29 ~~(14)~~(17) "out-of-state trust company" means a national or state trust
30 company not incorporated under the laws of Kansas;

31 ~~(15)~~(18) (A) "qualified investment" means the purchase or
32 development, in the aggregate, of at least 10,000 square feet of
33 commercial, industrial, multiuse or multifamily real estate in the economic
34 growth zone where the fiduciary financial institution maintains its
35 principal office pursuant to K.S.A. 9-2309, and amendments thereto,
36 provided that such community has committed to develop the necessary
37 infrastructure to support a "qualified investment." A "qualified
38 investment":

39 (i) May include, as part of satisfying the square footage requirements,
40 the suitable office space of such fiduciary financial institution, as provided
41 in K.S.A. 9-2309, and amendments thereto, if owned by the fiduciary
42 financial institution;

43 (ii) shall be exempt from the provisions and limitations of K.S.A. 9-

1 1102, and amendments thereto;

2 (iii) may be retained by a fiduciary financial institution for as long as
3 the fiduciary financial institution operates in this state; and

4 (iv) may be sold, transferred or otherwise disposed of, including a
5 sale or transfer to an affiliate of the fiduciary financial institution, if the
6 fiduciary financial institution continues to maintain its principal office in
7 an economic growth zone pursuant to K.S.A. 9-2309, and amendments
8 thereto;

9 (B) notwithstanding the foregoing provisions, if a fiduciary financial
10 institution leases any portion of a qualified investment made by another
11 fiduciary financial institution as the lessee fiduciary financial institution's
12 suitable office space:

13 (i) The lessee fiduciary financial institution shall make, or cause to be
14 made, a qualified investment in an economic growth zone other than the
15 economic growth zone where such fiduciary financial institution maintains
16 its principal office;

17 (ii) the leased square footage shall count toward the square footage
18 requirement applicable to a qualified investment under this section, if such
19 lease has an initial term of not less than five years; and

20 (iii) the square footage requirement otherwise applicable to a
21 qualified investment of the lessee fiduciary financial institution shall be
22 reduced from 10,000 square feet to 5,000 square feet;

23 ~~(16)~~(19) "technology-enabled fiduciary financial institution" or
24 "fiduciary financial institution" means any limited liability company,
25 limited partnership or corporation that:

26 (A) Is organized to perform any one or more of the activities and
27 services authorized by this act;

28 (B) has been authorized to conduct business as a fiduciary financial
29 institution under this chapter pursuant to the provisions of K.S.A. 9-2302,
30 and amendments thereto;

31 (C) has made, committed to make or caused to be made a qualified
32 investment; and

33 (D) has committed, in or as a part of the application provided in
34 K.S.A. 9-2302, and amendments thereto, to conduct any fidfin transactions
35 in accordance with K.S.A. 9-2311, and amendments thereto, including the
36 distributions required therein;

37 ~~(17)~~(20) "trust" means a trust created pursuant to the Kansas uniform
38 trust code, K.S.A. 58a-101 et seq., and amendments thereto, or created
39 pursuant to the Kansas business trust act of 1961, K.S.A. 17-2707 et seq.,
40 and amendments thereto;

41 ~~(18)~~(21) "trust advisor" means a fiduciary granted authority by an
42 instrument to exercise, consent, direct, including the power to direct as
43 provided in K.S.A. 58a-808, and amendments thereto, or approve all or

1 any portion of the powers and discretion conferred upon the trustee of a
2 fidfin trust, including the power to invest the assets of a fidfin trust or
3 make or cause distributions to be made from such fidfin trust; and

4 ~~(19)~~(22) the definitions of K.S.A. 9-701, and amendments thereto,
5 apply to fiduciary financial institutions except as otherwise provided in
6 this act.

7 Sec. 19. K.S.A. 9-2302 is hereby amended to read as follows: 9-2302.

8 (a) No fiduciary financial institution shall be organized under the laws of
9 this state nor engage in fidfin transactions, custodial services or trust
10 business in this state until the application for such fiduciary financial
11 institution's organization and the application for certificate of authority
12 have been submitted to and approved by the state banking board. The form
13 for making any such application shall be prescribed by the state banking
14 board and any application made to the state banking board shall contain
15 such information as the state banking board shall require. Except as
16 provided in K.S.A. 9-2325, and amendments thereto, the state banking
17 board shall not approve any application until the Beneficient conditional
18 charter has been converted to a full charter and the commissioner has
19 completed a regulatory examination.

20 (b) (1) No Kansas-chartered state bank, Kansas-chartered state trust
21 company or fiduciary financial institution shall engage in fidfin
22 transactions in this state unless an application has been submitted under
23 this act and approved by the state banking board.

24 (2) Except as otherwise provided by this subsection, any trust
25 company whose application has been approved in accordance with this
26 section and any out-of-state trust company engaging in fidfin transactions
27 in this state shall be considered a fiduciary financial institution for the
28 purposes of this act, shall have all rights and powers granted to a fiduciary
29 financial institution under this act and shall owe all duties and obligations
30 imposed on fiduciary financial institutions under this act, including, but
31 not limited to, the fiduciary duties imposed under K.S.A. 9-2311 and 9-
32 2313, and amendments thereto, and the requirements of K.S.A. 9-2302(c)
33 (5) and (6), and amendments thereto.

34 (3) Any bank whose application has been approved in accordance
35 with this section and any out-of-state bank that engages in fidfin
36 transactions in this state shall have a separate department for handling
37 fidfin transactions. Except as otherwise provided by this subsection, such
38 separate department shall be considered a fiduciary financial institution for
39 the purposes of this act, shall have all rights and powers granted to a
40 fiduciary financial institution under this act and shall owe all duties and
41 obligations imposed on fiduciary financial institutions under this act,
42 including, but not limited to, the fiduciary duties imposed under K.S.A. 9-
43 2311 and 9-2313, and amendments thereto, and the requirements of K.S.A.

1 9-2302(c)(5) and (6), and amendments thereto.

2 (4) Notwithstanding the provisions of paragraphs (2) and (3):

3 (A) A bank or trust company whose application has been approved in
4 accordance with this section or an out-of-state financial institution that
5 engages in fidfin transactions in this state shall not be subject to the
6 provisions of K.S.A. 9-2305, 9-2306 or 9-2308, and amendments thereto;
7 and

8 (B) the commissioner shall not examine or require applications,
9 reports or other filings from an out-of-state financial institution that is
10 subject to oversight of such financial institution's fidfin transactions by a
11 governmental agency of the jurisdiction that chartered the out-of-state
12 financial institution.

13 (c) The state banking board shall not accept an application for a
14 fiduciary financial institution unless the:

15 (1) Fiduciary financial institution is organized by at least one person;

16 (2) name selected for the fiduciary financial institution is different or
17 substantially dissimilar from any other bank, trust company or fiduciary
18 financial institution doing business in this state;

19 (3) fiduciary financial institutions' articles of organization contain the
20 names and addresses of the fiduciary financial institution's members and
21 the number of units subscribed by each. The articles of organization may
22 contain such other provisions as are consistent with the Kansas revised
23 limited liability company act, Kansas revised uniform limited partnership
24 act or Kansas general corporation code;

25 (4) fiduciary financial institution has made, committed to make or
26 caused to be made a qualified investment as defined in K.S.A. 9-2301, and
27 amendments thereto;

28 (5) fiduciary financial institution has committed to structure any
29 fidfin transactions to ensure that qualified charitable distributions, as
30 defined in K.S.A. 2023 Supp. 79-32,283, and amendments thereto, are
31 made each calendar year that the fiduciary financial institution conducts
32 fidfin transactions; and

33 (6) fiduciary financial institution has consulted or agrees to consult
34 with the department of commerce regarding the economic growth zones to
35 be selected for purposes of paragraphs (4) and (5).

36 (d) The state banking board may deny the application if the state
37 banking board makes an unfavorable determination with regard to the:

38 (1) Financial standing, general business experience and character of
39 the organizers; or

40 (2) character, qualifications and experience of the officers of the
41 proposed fiduciary financial institution.

42 (e) The state banking board shall not make membership in any federal
43 government agency a condition precedent to the granting of the authority

1 to do business.

2 (f) The state banking board may require fingerprinting of any officer,
3 director or organizer of the proposed fiduciary financial institution *in*
4 *accordance with section 2, and amendments thereto.* ~~Such fingerprints~~
5 ~~may be submitted to the Kansas bureau of investigation and the federal~~
6 ~~bureau of investigation for a state and national criminal history record~~
7 ~~check. The fingerprints shall be used to identify the person and to~~
8 ~~determine whether the person has a record of arrests and convictions in~~
9 ~~this state or other jurisdictions. The state banking board may use~~
10 ~~information obtained from fingerprinting and the criminal history for~~
11 ~~purposes of verifying the identification of the person and in the official~~
12 ~~determination of the qualifications and fitness of the persons associated~~
13 ~~with the applicant fiduciary financial institution to be issued a charter.~~
14 ~~Whenever the state banking board requires fingerprinting, any associated~~
15 ~~costs shall be paid by the applicant or the parties to the application.~~

16 (g) The state banking board or the commissioner shall notify a
17 fiduciary financial institution of the approval or disapproval of an
18 application. Any final action of the state banking board approving or
19 disapproving an application shall be subject to review in accordance with
20 the Kansas judicial review act.

21 (h) (1) In the event such application is approved, the fiduciary
22 financial institution shall be issued a charter upon compliance with any
23 requirements of this act and upon demonstrating to the satisfaction of the
24 commissioner that an applicable distribution has been made. For purposes
25 of this section, "applicable distribution" means a distribution of cash,
26 beneficial interests or other assets having an aggregate value equal to the
27 greater of:

28 (A) 2.5% of the aggregate financing balances to be held by the
29 fiduciary financial institution immediately upon issuance of the fiduciary
30 financial institution's charter, as reflected in the fiduciary financial
31 institution's application filed pursuant to this section; or

32 (B) \$5,000,000 in accordance with subsection (i), except that if a
33 fiduciary financial institution is chartered to provide only custodial
34 services, the applicable distribution amount shall be \$500,000.

35 (2) If the amount provided in paragraph (1)(B) exceeds the amount
36 provided in paragraph (1)(A), the fiduciary financial institution shall be
37 entitled to a credit against the amount distributable under K.S.A. 9-
38 2311(f), and amendments thereto, in an amount equal to such excess.

39 (i) The applicable distribution required under subsection (h) shall be
40 distributed as follows:

41 (1) (A) To the department of commerce:

42 Applicable distribution amount Percentage to department of commerce
43 \$0 to \$500,000 90%

| | | |
|---|--------------------------|-----|
| 1 | \$500,001 to \$1,000,000 | 50% |
| 2 | Above \$1,000,000 | 10% |

3 (B) the amounts specified in subparagraph (A) shall apply to
 4 fiduciary financial institutions chartered prior to January 1, 2023. For
 5 fiduciary financial institutions chartered after such date, the department of
 6 commerce may publish one or more schedules in the Kansas register as the
 7 department of commerce deems reasonably necessary to facilitate
 8 economic growth and development in one or more economic growth
 9 zones. No such schedule shall be effective until after its publication in the
 10 Kansas register. The department of commerce shall timely submit to the
 11 commissioner any schedule published under this section. The
 12 commissioner shall provide a copy of such schedule to any applicant for a
 13 fiduciary financial institution charter prior to the issuance of such charter.
 14 A fiduciary financial institution shall be subject to the schedule in
 15 existence on the date such fiduciary financial institution's charter is issued
 16 and shall not be subject to any schedules published after such date;

17 (C) the department of commerce shall remit all distributions under
 18 this subsection to the state treasurer in accordance with the provisions of
 19 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
 20 remittance, the state treasurer shall deposit the entire amount in the state
 21 treasury to the credit of the technology-enabled fiduciary financial
 22 institutions development and expansion fund established in K.S.A. 9-2324,
 23 and amendments thereto; and

24 (2) the balance of the applicable distribution required under
 25 subsection (h) shall be distributed to one or more qualified charities as
 26 defined in K.S.A. 2023 Supp. 79-32,283, and amendments thereto, as shall
 27 be selected by the fiduciary financial institution. Nothing in this section
 28 shall preclude a distribution to one or more qualified charities in excess of
 29 the amounts provided in this section. An economic growth zone or
 30 qualified charity shall have no obligation to repay any distributions
 31 received under this act or to make any contributions to a fiduciary
 32 financial institution.

33 Sec. 20. K.S.A. 12-1,120 is hereby amended to read as follows: 12-
 34 1,120. (a) Each person holding office as chief of police of any city in this
 35 state shall be fingerprinted as provided by this section *and section 1, and*
 36 *amendments thereto.*

37 (b) Before assuming the office of chief of police of any city in this
 38 state, a person shall be fingerprinted as provided by this section, *and*
 39 *section 1, and amendments thereto.*

40 (c) Fingerprinting pursuant to this section shall be done by the law
 41 enforcement agency of the city in the presence of the city clerk. ~~The city~~
 42 ~~clerk shall forthwith forward the fingerprints to the Kansas bureau of~~
 43 ~~investigation for a search of state and national fingerprint files to~~

1 ~~determine whether the person qualifies for admission to the law~~
2 ~~enforcement training center pursuant to subsection (f) of K.S.A. 74-5607,~~
3 ~~and amendments thereto. The Kansas bureau of investigation shall certify~~
4 ~~any conviction record of the person, or lack thereof, found as a result of~~
5 ~~such search to the city clerk and, if such a record is found, to the attorney~~
6 ~~general.~~

7 ~~(d) Fingerprints taken and submitted pursuant to this section shall be~~
8 ~~on forms approved by the attorney general.~~

9 ~~(e) The cost of a search of fingerprint files pursuant to this section~~
10 ~~shall be paid by the person being fingerprinted.~~

11 Sec. 21. K.S.A. 12-1679 is hereby amended to read as follows: 12-
12 1679. (a) As used in this act: (1) "Municipality" shall mean any
13 incorporated city or county of this state;

14 (2) "Merchants or security policeman" or "merchants or security
15 police force or agency" shall mean any person engaged for hire in the
16 business of guarding, watching, patrolling or otherwise attempting to
17 provide security for the real or personal property of another person; and

18 (3) "Person" shall mean any individual, partnership, association, firm,
19 corporation or other business entity.

20 (b) Every municipality which requires a license pursuant to this act
21 shall acquire or collect the fingerprints of any person who applies for a
22 merchants or security policeman's license from such municipality *in*
23 *accordance with section 2, and amendments thereto.* ~~The municipality~~
24 ~~shall submit the applicant's fingerprints to the Kansas bureau of~~
25 ~~investigation and to the federal bureau of investigation for the purpose of~~
26 ~~determining whether the applicant has a criminal record.~~

27 (c) No municipality shall license, permit or otherwise authorize or
28 allow any person to do business within such municipality as a merchants
29 or security policeman or as a merchants or security police force or agency,
30 unless every motor vehicle, as defined by K.S.A. 8-1437, and amendments
31 thereto, which is used in any way by such person while doing business as a
32 merchants or security policeman or police force or agency is properly
33 registered.

34 Sec. 22. K.S.A. 16a-6-104 is hereby amended to read as follows: 16a-
35 6-104. This act shall be administered by the ~~consumer credit commissioner~~
36 ~~of Kansas deputy commissioner for consumer and mortgage lending~~ who
37 is also referred to as the administrator.

38 (1) In addition to other powers granted by this act, the administrator
39 within the limitations provided by law may:

40 (a) Receive and act on complaints, take action designed to obtain
41 voluntary compliance with the provisions of K.S.A. 16a-1-101 to 16a-9-
42 102, inclusive, and amendments thereto, or commence proceedings on the
43 administrator's own initiative;

1 (b) counsel persons and groups on their rights and duties under
2 K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto;

3 (c) establish programs for the education of consumers with respect to
4 credit practices and problems and as a condition in settlements of
5 investigations or examinations, the administrator may receive a payment
6 designated for consumer education to be expended as directed by the
7 administrator for such purpose;

8 (d) make studies appropriate to effectuate the purposes and policies of
9 K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto;

10 (e) adopt, amend and revoke rules and regulations to carry out the
11 specific provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and
12 amendments thereto, and to implement the requirements of the secure and
13 fair enforcement for mortgage licensing act of 2008 (P.L. 110-289);

14 (f) issue, amend and revoke written administrative interpretations.
15 Such written administrative interpretations shall be approved by the
16 attorney general and published in the Kansas register within 15 days of
17 issuance. The administrator shall annually publish all written
18 administrative interpretations in effect;

19 (g) maintain offices within this state; ~~and~~

20 (h) appoint any necessary attorneys, hearing examiners, clerks, and
21 other employees and agents and fix their compensation, and authorize
22 attorneys appointed under this section to appear for and represent the
23 administrator in court;

24 (i) examine periodically at intervals the administrator deems
25 appropriate the loans, business and records of every licensee, registrant or
26 person filing notification pursuant to K.S.A. 16a-6-201 through 16a-6-203,
27 and amendments thereto, except licensees which are supervised financial
28 organizations. The official or agency responsible for the supervision of
29 each supervised financial organization shall examine the loans, business
30 and records of each such organization in the manner and periodically at
31 intervals prescribed by the administrator. In addition, for the purpose of
32 discovering violations of K.S.A. 16a-1-101 through 16a-9-102, and
33 amendments thereto, or securing information lawfully required, the
34 administrator or the official or agency to whose supervision the
35 organization is subject to K.S.A. 16a-6-105, and amendments thereto, may
36 at any time investigate the loans, business and records of any supervised
37 lender. For examination purposes the administrator shall have free and
38 reasonable access to the offices, places of business and records of the
39 lender, registrant or person filing notification and the administrator may
40 control access to any documents and records of a licensee, registrant or
41 person filing notification under examination;

42 (j) refer such evidence as may be available concerning violations of
43 this act or of any rule and regulation or order to the attorney general or the

1 proper county or district attorney, who may in the prosecutor's discretion,
2 with or without such a reference, institute the appropriate criminal
3 proceedings under this act. Upon receipt of such reference, the attorney
4 general or the county attorney or district attorney may request that a duly
5 employed attorney of the administrator prosecute or assist in the
6 prosecution of such violation on behalf of the state. Upon approval of the
7 administrator, such employee shall be appointed special prosecutor for the
8 attorney general or the county attorney or district attorney to serve without
9 compensation from the attorney general or the county attorney or district
10 attorney. Such special prosecutor shall have all the powers and duties
11 prescribed by law for assistant attorneys general or assistant county or
12 district attorneys, and such other powers and duties as are lawfully
13 delegated to such special prosecutors by the attorney general or the county
14 attorney or district attorney;

15 (k) if deemed necessary by the administrator, require fingerprinting of
16 any applicant, ~~licensee, members thereof if a copartnership or association,~~
17 ~~or officers and directors thereof if a corporation, or any agent or other~~
18 ~~person acting on their behalf. The administrator, or the administrator's~~
19 ~~designee, may submit such fingerprints to the Kansas bureau of~~
20 ~~investigation, federal bureau of investigation, or other law enforcement~~
21 ~~agency for the purposes of verifying the identity of such persons and~~
22 ~~obtaining records of their criminal arrests and convictions in accordance~~
23 ~~with section 2, and amendments thereto.~~ For purposes of this section and
24 in order to reduce the points of contact which the federal bureau of
25 investigation may have to maintain with the individual states, the
26 administrator may use the nationwide mortgage licensing system and
27 registry as a channeling agent for requesting information from and
28 distributing information to the department of justice or any governmental
29 agency. *As used in this paragraph, "applicant" means a licensee, a*
30 *member of a licensee if such licensee is a copartnership or association, an*
31 *officer or director if such licensee is a corporation or an agent or other*
32 *person acting on behalf of a licensee;*

33 (l) exchange information regarding the administration of this act with
34 any agency of the United States or any state which regulates the licensee,
35 registrant or person required to file notification, or who administers
36 statutes, rules and regulations or other programs related to consumer credit
37 and to enter into information sharing arrangements with other
38 governmental agencies or associations representing governmental agencies
39 which are deemed necessary or beneficial to the administration of this act;

40 (m) require that any applicant, licensee, registrant or other person
41 complete a minimum number of prelicensing education hours and
42 complete continuing education hours on an annual basis. Prelicensing and
43 continuing education courses shall be approved by the administrator or the

1 administrator's designee and may be made a condition of the application
2 approval and renewal;

3 (n) require that any applicant, licensee, registrant or other person
4 successfully pass a standardized examination designed to establish such
5 person's knowledge of residential mortgage loan origination transactions
6 and all applicable state and federal law. Such examinations shall be created
7 and administered by the administrator or the administrator's designee and
8 may be made a condition of application approval;

9 (o) use the nationwide mortgage licensing system and registry as a
10 channeling agent for requesting and distributing any information regarding
11 residential mortgage loan originator registration or supervised lender
12 licensing to and from any source so directed by the administrator;

13 (p) establish relationships or contracts with the nationwide mortgage
14 licensing system and registry or other entities to collect and maintain
15 records and process transaction fees or other fees related to applicants,
16 licensees, registrants or other persons subject to the act and to take such
17 other actions as may be reasonably necessary to participate in the
18 nationwide mortgage licensing system and registry. The administrator shall
19 regularly report violations of law, as well as enforcement actions and other
20 relevant information, to the nationwide mortgage licensing system and
21 registry, and make publicly available the proposed budget, fees, and
22 audited financial statements of the nationwide mortgage licensing system
23 and registry as may be prepared by the nationwide mortgage licensing
24 system and registry and provided to the administrator;

25 (q) require that any residential mortgage loan originator applicant,
26 registrant or other person successfully pass a standardized examination
27 designed to establish such person's knowledge of mortgage transactions
28 and all applicable state and federal law. Such examinations shall be created
29 and administered by the administrator or the administrator's designee, and
30 may be made a condition of application approval or application renewal;

31 (r) require that any mortgage loan originator applicant, registrant or
32 other person complete a minimum number of preclicensing education hours
33 and complete continuing education hours on an annual or biannual basis.
34 Preclicensing and continuing education courses shall be approved by the
35 administrator or the administrator's designee and may be made a condition
36 of application approval and renewal; and

37 (s) require any licensee or registrant to file reports with the
38 nationwide mortgage licensing system and registry in the form prescribed
39 by the administrator or the administrator's designee.

40 (2) The administrator shall enforce the provisions of this act and the
41 rules and regulations and interpretations adopted thereunder with respect
42 to a creditor, unless the creditor's compliance is regulated exclusively or
43 primarily by another state or federal agency.

1 (3) To keep the administrator's rules and regulations in harmony with
2 the rules of administrators in other jurisdictions which enact the revised
3 uniform consumer credit code, the administrator, so far as is consistent
4 with the purposes, policies and provisions of K.S.A. 16a-1-101 to 16a-9-
5 102, inclusive, and amendments thereto, may:

6 (a) Before adopting, amending and revoking rules and regulations,
7 advise and consult with administrators in other jurisdictions which enact
8 the uniform consumer credit code; and

9 (b) in adopting, amending and revoking rules and regulations, take
10 into consideration the rules of administrators in other jurisdictions which
11 enact the revised uniform consumer credit code.

12 (4) Except for refund of an excess charge, no liability is imposed
13 under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto,
14 for an act done or omitted in conformity with a rule and regulation or
15 written administrative interpretation of the administrator in effect at the
16 time of the act or omission notwithstanding that after the act or omission
17 the rule and regulation or written administrative interpretation may be
18 determined by judicial or other authority to be invalid for any reason.

19 (5) The administrator prior to December 1 of each year shall establish
20 such fees as are authorized under the provisions of K.S.A. 16a-1-101 to
21 16a-9-102, inclusive, and amendments thereto, for the ensuing calendar
22 year in such amounts as the administrator may determine to be sufficient to
23 meet the budget requirements of the administrator for each fiscal year.

24 Sec. 23. K.S.A. 17-2234 is hereby amended to read as follows: 17-
25 2234. (a) (1) There is hereby established the state department of credit
26 unions, which shall be under the administrative supervision of the
27 administrator as directed by law. The administrator may appoint or employ
28 an attorney to assist the department in its functions under this act, and in
29 accordance with the civil service law, such special assistants, deputies or
30 examiners, and other employees, as may be necessary for the purpose of
31 administering and enforcing the provisions of this act.

32 (2) The administrator is hereby authorized to appoint financial
33 examiners and other staff who shall be in the unclassified service under the
34 Kansas civil service act. The administrator's salary schedule for
35 unclassified positions shall be reported to the credit union council
36 annually.

37 (b) Nothing in subsection (a) shall affect the classified status of any
38 person employed with the department of credit unions on the day
39 immediately preceding the effective day of this act.

40 (c) ~~Each special assistant, deputy, examiner and other such employees~~
41 ~~as may be necessary for the purpose of administering and enforcing the~~
42 ~~provisions of this act~~ *employee* shall submit to a ~~security state and~~
43 *national criminal* background check prior to being employed in such

1 position *in accordance with section 2, and amendments thereto.* Upon the
2 commencement of the interview process, every candidate shall be given a
3 written notice that a security background check is required. The security
4 background check shall be limited to criminal history record information
5 as provided by K.S.A. 22-4701 et seq., and amendments thereto. If the
6 criminal history record information reveals any conviction of crimes of
7 dishonesty, such conviction may be used to disqualify a candidate for any
8 position within the office of the department of credit unions. If the
9 criminal history record information is used to disqualify a candidate, the
10 candidate shall be informed in writing of that decision. Upon determining
11 whether to hire or disqualify a candidate, the candidate's criminal history
12 record information report shall be destroyed. The candidate's personnel file
13 shall only contain a statement that a security background check was
14 performed and the date thereof.

15 (d) The state department of credit unions shall submit an employment
16 candidate's fingerprints to the Kansas bureau of investigation and to the
17 federal bureau of investigation for the purpose of determining whether the
18 applicant has a criminal record. *As used in this section, "candidate" means*
19 *a person who has applied for a position with or is currently employed by*
20 *the state department of credit unions as a deputy or an examiner.*

21 Sec. 24. K.S.A. 19-826 is hereby amended to read as follows: 19-826.

22 (a) Before January 1, 1988, each person holding office as sheriff of any
23 county in this state on the effective date of this act shall be fingerprinted as
24 provided by this section.

25 (b) Before assuming the office of sheriff of any county in this state, a
26 person, other than an undersheriff or county clerk temporarily serving as
27 sheriff pursuant to K.S.A. 19-804 or 19-804a, and amendments thereto,
28 shall be fingerprinted as provided by this section *and section 1, and*
29 *amendments thereto.* If the person is a candidate for the office of sheriff,
30 such person shall be fingerprinted at the time of the filing of:

31 (1) Nomination papers or a declaration of intent to become such a
32 candidate;

33 (2) a certificate of nomination as such a candidate of a political party;
34 or

35 (3) a certificate of election to fill a vacancy in such a candidacy.

36 (c) (1) Fingerprinting pursuant to this section shall be done by the law
37 enforcement agency of the county in the presence of the county election
38 officer. ~~The county election officer shall forthwith forward the fingerprints~~
39 ~~to the Kansas bureau of investigation for a search of state and national~~
40 ~~fingerprint files to determine whether the person qualifies for the office of~~
41 ~~sheriff pursuant to subsection (a)(3) of K.S.A. 19-801b, and amendments~~
42 ~~thereto. The Kansas bureau of investigation shall certify any conviction~~
43 ~~record of the person, or lack thereof, found as a result of such search to the~~

1 ~~county election officer and, if such a record is found, to the attorney~~
2 ~~general.~~

3 (2) If the person is a candidate for the office of sheriff and is found,
4 as a result of the search, to be unqualified for such office, the county
5 election officer shall notify the person within three days. Such person
6 found to be unqualified for such office shall have five days from the date
7 of the notice given by the Kansas bureau of investigation to:

8 ~~(1)-(A)~~ Present evidence to the county election officer showing error
9 in the conviction record certified by the Kansas bureau of investigation;
10 and

11 ~~(2)-(B)~~ seek correction of any such error by the Kansas bureau of
12 investigation.

13 (3) If there is no error in such conviction record, the county election
14 officer shall terminate the person's candidacy and remove the person's
15 name from the ballot.

16 (d) Fingerprints taken and submitted pursuant to this section shall be
17 on forms approved by the attorney general.

18 (e) The cost of a search of fingerprint files pursuant to this section
19 shall be paid by the person being fingerprinted.

20 Sec. 25. K.S.A. 39-969 is hereby amended to read as follows: 39-969.

21 (a) The secretary for aging and disability services shall upon request
22 receive from the Kansas bureau of investigation *in accordance with*
23 *section 3, and amendments thereto*, without charge, such criminal history
24 record information relating to criminal convictions as necessary for the
25 purpose of determining initial and continuing qualifications of an operator.

26 (b) This section shall be *a* part of and supplemental to the adult care
27 home licensure act.

28 Sec. 26. K.S.A. 39-970 is hereby amended to read as follows: 39-970.

29 (a) As used in this section:

30 (1) "Adult care home" means any nursing facility, nursing facility for
31 mental health, intermediate care facility for people with intellectual
32 disability, assisted living facility, residential health care facility, home plus,
33 boarding care home or adult day care facility that is required to be licensed
34 to operate by the secretary for aging and disability services.

35 (2) "Applicant" means an individual who applies for employment
36 with an adult care home or applies to work for an employment agency or
37 as an independent contractor who provides staff to an adult care home.

38 (3) "Completion of the sentence" means the last day of the entire term
39 of incarceration imposed by a sentence, including any term that is
40 deferred, suspended or subject to parole, probation, diversion, community
41 corrections, fines, fees, restitution or any other imposed sentencing
42 requirements.

43 (4) "Department" means the Kansas department for aging and

1 disability services.

2 (5) "Direct access" means work that involves an actual or reasonable
3 expectation of one-on-one interaction with a consumer or a consumer's
4 property, personally identifiable information, medical records, treatment
5 information or financial information.

6 (6) "Direct supervision" means that a supervisor is physically present
7 within an immediate distance to a supervisee and is available to provide
8 constant direction, feedback and assistance to a client and the supervisee.

9 (7) "Employment agency" means an organization or entity that has a
10 contracted relationship with an adult care home to provide staff with direct
11 access to consumers.

12 (8) "Independent contractor" means an organization, entity, agency or
13 individual that provides contracted workers or services to an adult care
14 home.

15 (9) "Secretary" means the secretary for aging and disability services.

16 (b) (1) No person shall knowingly operate an adult care home if, in
17 the adult care home, there works any person who has adverse findings on
18 any state or national registry, as defined in rules and regulations adopted
19 by the secretary for aging and disability services, or has been convicted of
20 or has been adjudicated a juvenile offender because of having committed
21 an act that if done by an adult would constitute the commission of capital
22 murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401,
23 and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401,
24 prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second
25 degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or
26 K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter,
27 pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and
28 amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior
29 to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of
30 a dependent adult or mistreatment of an elder person, pursuant to K.S.A.
31 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto,
32 human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or
33 K.S.A. 21-5426(a), and amendments thereto, aggravated human
34 trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-
35 5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior
36 to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent
37 liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or
38 K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties
39 with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-
40 5506(b), and amendments thereto, aggravated criminal sodomy, pursuant
41 to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and
42 amendments thereto, indecent solicitation of a child, pursuant to K.S.A.
43 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments

1 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
2 3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto,
3 sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its
4 repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery,
5 pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and
6 amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-
7 3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto,
8 commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and
9 amendments thereto, an attempt to commit any of the crimes listed in this
10 paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-
11 5301, and amendments thereto, a conspiracy to commit any of the crimes
12 listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or
13 K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of
14 the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its
15 repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of
16 other states or the federal government. The provisions of subsection (b)(2)
17 (C) shall not apply to any person who is employed by an adult care home
18 on or before July 1, 2010, and while continuously employed by the same
19 adult care home or to any person during or upon successful completion of
20 a diversion agreement.

21 (2) A person operating an adult care home may employ an applicant
22 who has been convicted of any of the following if six or more years have
23 elapsed since completion of the sentence imposed or the applicant was
24 discharged from probation, a community correctional services program,
25 parole, postrelease supervision, conditional release or a suspended
26 sentence; if six or more years have elapsed since the applicant has been
27 finally discharged from the custody of the commissioner of juvenile justice
28 or from probation or has been adjudicated a juvenile offender, whichever
29 time is longer; or if the applicant has been granted a waiver of such six-
30 year disqualification: A felony conviction for a crime that is described in:
31 (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to
32 their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated,
33 and amendments thereto, except those crimes listed in subsection (b)(1);
34 (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior
35 to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
36 Annotated, or K.S.A. 21-6420, and amendments thereto, except those
37 crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior to its repeal,
38 or K.S.A. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to
39 its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to
40 commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-
41 3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a
42 conspiracy to commit any of the crimes listed in this paragraph, pursuant
43 to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments

1 thereto; (F) criminal solicitation of any of the crimes listed in this
2 paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-
3 5303, and amendments thereto; or (G) similar statutes of other states or the
4 federal government.

5 An individual who has been disqualified for employment due to
6 conviction or adjudication of an offense listed in this paragraph (2) may
7 apply to the secretary for aging and disability services for a waiver of such
8 disqualification if five years have elapsed since completion of the sentence
9 for such conviction. The secretary shall adopt rules and regulations
10 establishing the waiver process and criteria to be considered by the
11 secretary in evaluating any such waiver request.

12 (3) A person operating an adult care home may employ an applicant
13 who has been convicted of any of the following if six or more years have
14 elapsed since completion of the sentence imposed or the applicant was
15 discharged from probation, a community correctional services program,
16 parole, postrelease supervision, conditional release or a suspended
17 sentence; if six or more years have elapsed since the applicant has been
18 finally discharged from the custody of the commissioner of juvenile justice
19 or from probation or has been adjudicated a juvenile offender, whichever
20 time is longer; or if the applicant has been granted a waiver of such six-
21 year disqualification:

22 (i) Interference with custody of a committed person pursuant to
23 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
24 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,
25 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
26 administration of a substance pursuant to K.S.A. 21-3445, prior to its
27 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a
28 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
29 21-5924, and amendments thereto; promoting obscenity or promoting
30 obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their
31 repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals
32 pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or
33 K.S.A. 21-6412, and amendments thereto; or

34 (ii) any felony conviction of: Unlawful manufacture of a controlled
35 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
36 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
37 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
38 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
39 unlawful manufacture, distribution, cultivation or possession of a
40 controlled substance using a communication facility pursuant to K.S.A.
41 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
42 amendments thereto; unlawful obtainment or sale of a prescription-only
43 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.

1 21-5708, and amendments thereto; unlawful distribution of drug
2 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
3 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
4 distribution or possession of a simulated controlled substance pursuant to
5 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
6 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
7 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
8 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
9 5828, and amendments thereto; any violation of the Kansas medicaid fraud
10 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
11 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
12 statement or representation to the medicaid program pursuant to K.S.A.
13 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
14 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
15 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
16 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,
17 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
18 theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its
19 repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare
20 fraud pursuant to K.S.A. 39-720, and amendments thereto.

21 The provisions of this paragraph (3) shall not apply to any person who
22 is employed by an adult care home on or before July 1, 2018, and is
23 continuously employed by the same adult care home or to any person
24 during or upon successful completion of a diversion agreement.

25 An individual who has been disqualified for employment due to
26 conviction or adjudication of an offense listed in this paragraph (3) may
27 apply to the secretary for aging and disability services for a waiver of such
28 disqualification if five years have elapsed since completion of the sentence
29 for such conviction. The secretary shall adopt rules and regulations
30 establishing the waiver process and criteria to be considered by the
31 secretary in evaluating any such waiver request.

32 (c) No person shall operate an adult care home if such person has
33 been found to be in need of a guardian or conservator, or both as provided
34 in the act for obtaining a guardian or a conservator, or both. The provisions
35 of this subsection shall not apply to an individual who, as a minor, was
36 found to be in need of a guardian or conservator for reasons other than
37 impairment.

38 (d) (1) The Kansas bureau of investigation shall release all records of
39 adult and juvenile convictions and adjudications and adult and juvenile
40 convictions and adjudications of any other state or country concerning
41 persons working in an adult care home to the secretary for aging and
42 disability services *in accordance with section 2, and amendments thereto.*
43 ~~The Kansas bureau of investigation may charge to the Kansas department~~

1 ~~for aging and disability services a reasonable fee for providing criminal~~
2 ~~history record information under this subsection.~~

3 (2) ~~The department shall~~ *may* require an applicant to be fingerprinted
4 and to submit to a state and national criminal history record check *in*
5 *accordance with section 2, and amendments thereto.* ~~The fingerprints shall~~
6 ~~be used to identify the individual and to determine whether the individual~~
7 ~~has a record of criminal history in this state or other jurisdiction. The~~
8 ~~department is authorized to submit the fingerprints to the Kansas bureau of~~
9 ~~investigation and the federal bureau of investigation for a state and~~
10 ~~national criminal history record check. The department may use the~~
11 ~~information obtained from fingerprinting and the criminal history record~~
12 ~~check for purposes of verifying the identification of the person and for~~
13 ~~making an official determination of the qualifications and fitness of the~~
14 ~~person to work in the adult care home.~~

15 (3) An applicant for employment in an adult care home shall have 20
16 calendar days after receipt of authorization to submit the applicant's
17 fingerprints through an authorized collection site in order to be eligible for
18 provisional employment or the applicant's application shall be deemed
19 withdrawn.

20 (4) (A) The current or prospective employer of an applicant shall pay
21 a *reasonable* fee ~~not to exceed \$19 of the total cost~~ for criminal history
22 record information to the department for each applicant submitted.

23 (B) The prospective employer, employee or independent contractor
24 shall pay the fingerprint collection fee at the time of fingerprinting to the
25 authorized collection site.

26 (5) If an applicant disputes the contents of a criminal history record
27 check, then the applicant may file an appeal with the Kansas bureau of
28 investigation.

29 (6) Individuals who have been disqualified for employment by reason
30 of their criminal history records and who have met the requirements of this
31 subsection may apply for a waiver with the department within 30 days of
32 the receipt of the notice of employment prohibition.

33 (7) The department shall adopt rules and regulations specifying the
34 criteria and procedure for issuing a waiver of the employment prohibition.
35 The secretary shall consider the following criteria when rendering a
36 decision on such a waiver request: Passage of time; extenuating
37 circumstances; demonstration of rehabilitation; and relevancy of the
38 criminal history record information to the position for which the applicant
39 is applying. Any employment prohibition issued shall remain in effect
40 unless or until a waiver is granted.

41 (e) For the purpose of complying with this section, the operator of an
42 adult care home shall request from the Kansas department for aging and
43 disability services an eligibility determination regarding adult and juvenile

1 convictions and adjudications. For the purpose of complying with this
2 section, the operator of an adult care home shall receive from any
3 employment agency or independent contractor that provides employees to
4 work in the adult care home written certification that such employees are
5 not prohibited from working in the adult care home under this section. For
6 the purpose of complying with this section, a person who operates an adult
7 care home may hire an applicant for provisional employment on a one-
8 time basis of 60 calendar days pending the results from the Kansas
9 department for aging and disability services of a request for information
10 under this subsection. A provisional employee may only be supervised by
11 an employee that has completed all training required by federal
12 regulations, rules and regulations of the department and the adult care
13 home's policies and procedures. No adult care home, the operator or
14 employees of an adult care home or an employment agency or an
15 independent contractor shall be liable for civil damages resulting from any
16 decision to employ, to refuse to employ or to discharge from employment
17 any person based on such adult care home's compliance with the
18 provisions of this section if such adult care home or employment agency
19 acts in good faith to comply with this section.

20 (f) The secretary for aging and disability services shall provide each
21 operator requesting information under this section with a pass or fail
22 determination after review of any criminal history record information in
23 writing and within three working days of receipt of such information from
24 the Kansas bureau of investigation or the federal bureau of investigation.

25 (g) A person who volunteers in an adult care home shall not be
26 subject to the provisions of this section unless the volunteer performs
27 equivalent functions to those performed by direct access employees.

28 (h) No person who has been continuously employed by the same
29 adult care home since July 1, 1992, shall be subject to the provisions of
30 this section while employed by such adult care home.

31 (i) The operator of an adult care home shall not be required under this
32 section to conduct a criminal history record check on an applicant for
33 employment with the adult care home if the applicant has been the subject
34 of a criminal history record check under this act within one year prior to
35 the application for employment with the adult care home.

36 (j) 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 (k) (1) All fees charged by the secretary for criminal history record
42 checks conducted pursuant to this section shall be established by rules and
43 regulations of the secretary.

1 (2) All moneys collected and remitted to the Kansas department for
2 aging and disability services for fees charged for criminal history record
3 checks conducted pursuant to this section shall be remitted to the state
4 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.
5 Upon receipt of each such remittance, the state treasurer shall deposit the
6 entire amount into the state treasury to the credit of the state licensure fee
7 fund created by K.S.A. 39-930, and amendments thereto.

8 (l) The Kansas department for aging and disability services may
9 implement the amendments made to this section by this act in phases for
10 different categories of employers. The department shall adopt rules and
11 regulations establishing dates and procedures for the implementation of the
12 criminal history record checks required by this section, and such dates may
13 be staggered to facilitate implementation of the criminal history record
14 checks required by this section.

15 (m) Upon authorization by the secretary for aging and disability
16 services, other state agencies may access an internet-based application
17 portal that is operated and maintained by the Kansas department for aging
18 and disability services for purposes of processing criminal history record
19 information requests in accordance with this section. Agencies may not
20 share criminal history record information or the resulting pass or fail
21 determinations with any other agency. The secretary for aging and
22 disability services may charge an authorized agency the amount of \$1 per
23 request made pursuant to this subsection.

24 (n) This section shall be *a* part of and supplemental to the adult care
25 home licensure act.

26 Sec. 27. K.S.A. 39-2009 is hereby amended to read as follows: 39-
27 2009. (a) As used in this section:

28 (1) "Applicant" means an individual who applies for employment
29 with a center, facility, hospital or a provider of services or applies to work
30 for an employment agency or as an independent contractor that provides
31 staff to a center, facility, hospital or a provider of services.

32 (2) "Completion of the sentence" means the last day of the entire term
33 of incarceration imposed by a sentence, including any term that is
34 deferred, suspended or subject to parole, probation, diversion, community
35 corrections, fines, fees, restitution or any other imposed sentencing
36 requirements.

37 (3) "Department" means the Kansas department for aging and
38 disability services.

39 (4) "Direct access" means work that involves an actual or reasonable
40 expectation of one-on-one interaction with a consumer or a consumer's
41 property, personally identifiable information, medical records, treatment
42 information or financial information.

43 (5) "Direct supervision" means that a supervisor is physically present

1 within an immediate distance to a supervisee and is available to provide
2 constant direction, feedback and assistance to a client and the supervisee.

3 (6) "Employment agency" means an organization or entity that has a
4 contracted relationship with a center, hospital, facility or provider of
5 services to provide staff with direct access to consumers.

6 (7) "Independent contractor" means an organization, entity, agency or
7 individual that provides contracted workers or services to a center, facility,
8 hospital or provider of services.

9 (b) (1) No licensee shall knowingly operate a center, facility, hospital
10 or be a provider of services if any person who works in the center, facility,
11 hospital or for a provider of services has adverse findings on any state or
12 national registry, as defined in rules and regulations adopted by the
13 secretary for aging and disability services, or has been convicted of or has
14 been adjudicated a juvenile offender because of having ~~committing~~
15 *committed* an act that if done by an adult would constitute the commission
16 of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or
17 K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to
18 K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments
19 thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its
20 repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary
21 manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A.
22 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A.
23 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto,
24 mistreatment of a dependent adult or mistreatment of an elder person,
25 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and
26 amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior
27 to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated
28 human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or
29 K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-
30 3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto,
31 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
32 repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated
33 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
34 repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated
35 criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A.
36 21-5504(b), and amendments thereto, indecent solicitation of a child,
37 pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and
38 amendments thereto, aggravated indecent solicitation of a child, pursuant
39 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and
40 amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-
41 3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto,
42 sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A.
43 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant

1 to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and
2 amendments thereto, commercial sexual exploitation of a child, pursuant
3 to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of
4 the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its
5 repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to
6 commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-
7 3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or
8 criminal solicitation of any of the crimes listed in this paragraph, pursuant
9 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments
10 thereto, or similar statutes of other states or the federal government.

11 (2) A licensee operating a center, facility or hospital or as a provider
12 of services may employ an applicant who has been convicted of any of the
13 following if six or more years have elapsed since completion of the
14 sentence imposed or the applicant was discharged from probation, a
15 community correctional services program, parole, postrelease supervision,
16 conditional release or a suspended sentence; if six or more years have
17 elapsed since a community correctional services program, parole,
18 postrelease supervision, conditional release or a suspended sentence; or if
19 the applicant has been granted a waiver of such six-year disqualification: A
20 felony conviction for a crime that is described in: (A) Article 34 of chapter
21 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of
22 chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
23 except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter
24 21 of the Kansas Statutes Annotated, and amendments thereto, prior to
25 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes
26 Annotated or K.S.A. 21-6420, and amendments thereto, except those
27 crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its repeal, or
28 K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of
29 the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its
30 repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to
31 commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-
32 3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F)
33 criminal solicitation of any of the crimes listed in this paragraph pursuant
34 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments
35 thereto; or (G) similar statutes of other states or the federal government.

36 An individual who has been disqualified for employment due to
37 conviction or adjudication of an offense listed in this paragraph (2) may
38 apply to the secretary for aging and disability services for a waiver of such
39 disqualification if five years have elapsed since completion of the sentence
40 for such conviction. The secretary shall adopt rules and regulations
41 establishing the waiver process and the criteria to be utilized by the
42 secretary in evaluating any such waiver request.

43 (3) A licensee operating a center, facility, hospital or as a provider of

1 services may employ an applicant who has been convicted of any of the
2 following if six or more years have elapsed since completion of the
3 sentence imposed or the applicant was discharged from probation, a
4 community correctional services program, parole, postrelease supervision,
5 conditional release or a suspended sentence; if six or more years have
6 elapsed since the applicant has been finally discharged from the custody of
7 the commissioner of juvenile justice or from probation or has been
8 adjudicated a juvenile offender, whichever time is longer; or if the
9 applicant has been granted a waiver of such six-year disqualification:

10 (i) Interference with custody of a committed person pursuant to
11 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
12 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,
13 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
14 administration of a substance pursuant to K.S.A. 21-3445, prior to its
15 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a
16 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
17 21-5924; promoting obscenity or promoting obscenity to minors pursuant
18 to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401,
19 and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-
20 3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and
21 amendments thereto; or

22 (ii) any felony conviction of: Unlawful manufacture of a controlled
23 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
24 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
25 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
26 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
27 unlawful manufacture, distribution, cultivation or possession of a
28 controlled substance using a communication facility pursuant to K.S.A.
29 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
30 amendments thereto; unlawful obtainment or sale of a prescription-only
31 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.
32 21-5708, and amendments thereto; unlawful distribution of drug
33 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
34 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
35 distribution or possession of a simulated controlled substance pursuant to
36 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
37 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
38 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
39 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
40 5828, and amendments thereto; any violation of the Kansas medicaid fraud
41 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
42 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
43 statement or representation to the medicaid program pursuant to K.S.A.

1 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
2 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
3 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
4 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,
5 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
6 theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its
7 repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare
8 fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions
9 of this paragraph shall not apply to any person who is employed by a
10 center, facility, hospital or provider of services on or before July 1, 2018,
11 and is continuously employed by the same center, facility, hospital or
12 provider of services or to any person during or upon successful completion
13 of a diversion agreement.

14 An individual who has been disqualified for employment due to
15 conviction or adjudication of an offense listed in this paragraph (3) may
16 apply to the secretary for aging and disability services for a waiver of such
17 disqualification if five years have elapsed since completion of the sentence
18 for such conviction. The secretary shall adopt rules and regulations
19 establishing the waiver process and criteria to be considered by the
20 secretary in evaluating any such waiver request.

21 (c) No licensee shall operate a center, facility, hospital or be a
22 provider of services if such person has been found to be an adult with an
23 impairment in need of a guardian or a conservator, or both, as provided in
24 the act for obtaining a guardian or conservator, or both. The provisions of
25 this subsection shall not apply to an individual who, as a minor, was found
26 to be in need of a guardian or conservator for reasons other than
27 impairment.

28 (d) (1) The Kansas bureau of investigation shall release all records of
29 adult and juvenile convictions and adjudications and adult and juvenile
30 convictions and adjudications of any other state or country concerning
31 persons working in a center, facility, hospital or for a provider of services
32 to the secretary for aging and disability services *in accordance with*
33 *section 2, and amendments thereto.* ~~The Kansas bureau of investigation~~
34 ~~may charge to the Kansas department for aging and disability services a~~
35 ~~reasonable fee for providing criminal history record information under this~~
36 ~~subsection.~~

37 (2) ~~The department shall~~ *may* require an applicant to be fingerprinted
38 and to submit to a state and national criminal history record check *in*
39 *accordance with section 2, and amendments thereto.* ~~The fingerprints shall~~
40 ~~be used to identify the individual and to determine whether the individual~~
41 ~~has a record of criminal history in this state or other jurisdiction. The~~
42 ~~department is authorized to submit the fingerprints to the Kansas bureau of~~
43 ~~investigation and the federal bureau of investigation for a state and~~

1 ~~national criminal history record check. The department may use the~~
2 ~~information obtained from fingerprinting and the criminal history record~~
3 ~~check for purposes of verifying the identification of the person and for~~
4 ~~making an official determination of the qualifications and fitness of the~~
5 ~~person to work in the center, facility, hospital or for a provider of services.~~

6 (3) An applicant for employment in ~~an~~ a center, facility, hospital or
7 for a provider of services shall have 20 calendar days after receipt of
8 authorization to submit the applicant's fingerprints through an authorized
9 collection site in order to be eligible for provisional employment or the
10 applicant's application shall be deemed withdrawn.

11 (4) (A) The current or prospective employer of an applicant shall pay
12 a *reasonable* fee ~~not to exceed \$19 of the total cost~~ for criminal history
13 record information to the department for each applicant submitted.

14 (B) The prospective employer, employee or independent contractor
15 shall pay the fingerprint collection fee at the time of fingerprinting to the
16 authorized collection site.

17 (5) If an applicant disputes the contents of a criminal history record
18 check, then the applicant may file an appeal with the Kansas bureau of
19 investigation.

20 (6) Individuals who have been disqualified for employment by reason
21 of their criminal history records and who have met the requirements of this
22 subsection may apply for a waiver with the department within 30 days of
23 the receipt of the notice of employment prohibition.

24 (7) The department shall adopt rules and regulations specifying the
25 criteria and procedure for issuing a waiver of the employment prohibition.
26 The secretary shall consider the following criteria when rendering a
27 decision on such a waiver request: Passage of time; extenuating
28 circumstances; demonstration of rehabilitation; and relevancy of the
29 criminal history record information to the position for which the applicant
30 is applying. Any employment prohibition issued shall remain in effect
31 unless or until a waiver is granted.

32 (d) The secretary shall provide each licensee requesting information
33 under this section with a pass or fail determination after review of any
34 criminal history record information in writing and within three working
35 days of receipt of such information from the Kansas bureau of
36 investigation or the federal bureau of investigation.

37 (e) Any licensee or member of the staff who receives information
38 concerning the fitness or unfitness of any person shall keep such
39 information confidential, except that the staff person may disclose such
40 information to the person who is the subject of the request for information.
41 A violation of this subsection shall be an unclassified misdemeanor
42 punishable by a fine of \$100.

43 (f) For the purpose of complying with this section, the licensee

1 operating a center, facility, hospital or a provider of services shall request
2 from the Kansas department for aging and disability services an eligibility
3 determination regarding adult and juvenile convictions and adjudications.
4 For the purpose of complying with this section, the licensee operating a
5 center, facility, hospital or a provider of services shall receive from any
6 employment agency or independent contractor that provides employees to
7 work in the center, facility, hospital or for the provider of services written
8 certification that such employees are not prohibited from working in the
9 center, facility, hospital or for the provider of services under this section.
10 For the purpose of complying with this section, a licensee may hire an
11 applicant for provisional employment on a one-time basis of 60 calendar
12 days pending the results from the Kansas department for aging and
13 disability services of an eligibility determination under this subsection. A
14 provisional employee may only be supervised by an employee who has
15 completed all training required by federal regulations, department rules
16 and regulations and the center's, facility's, hospital's or provider of
17 services' policies and procedures. No licensee, its contractors or
18 employees, shall be liable for civil damages to any person refused
19 employment or discharged from employment by reason of such licensee's
20 compliance with the provisions of this section if such licensee acts in good
21 faith to comply with this section.

22 (g) The licensee operating a center, facility, hospital or a provider of
23 services shall not require an applicant under this section to be
24 fingerprinted, if the applicant has been the subject of a criminal history
25 record check under this act within one year prior to the application for
26 employment with the licensee operating a center, facility, hospital or a
27 provider of services and has maintained a record of continuous
28 employment, with no lapse of employment of over 90 days in any center,
29 facility, hospital or a provider of services covered by this act.

30 Sec. 28. K.S.A. 2023 Supp. 40-4905 is hereby amended to read as
31 follows: 40-4905. (a) Subject to the provisions of K.S.A. 40-4904, and
32 amendments thereto, it shall be unlawful for any person to sell, solicit or
33 negotiate any insurance within this state unless such person has been
34 issued a license as an insurance agent in accordance with this act.

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

41 (1) Is at least 18 years of age;

42 (2) has not committed any act that is grounds for denial pursuant to
43 this section or suspension or revocation pursuant to K.S.A. 40-4909, and

1 amendments thereto;

2 (3) has paid a nonrefundable fee set by the commissioner in an
3 amount not to exceed \$30; and

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

6 (c) If the applicant is a business entity, then, in addition to the
7 requirements of subsection (a), the commissioner shall also determine the
8 name and address of a licensed agent who shall be responsible for the
9 business entity's compliance with the insurance laws of this state and the
10 rules and regulations promulgated thereunder.

11 (d) The commissioner may require the applicant to furnish any
12 document or other material reasonably necessary to verify the information
13 contained in an application.

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

19 (f) (1) Each person or entity licensed in this state as an insurance
20 agent shall report the following to the commissioner within 30 calendar
21 days of occurrence:

22 (A) Each disciplinary action on the agent's license or licenses by the
23 insurance regulatory agency of any other state or territory of the United
24 States;

25 (B) each disciplinary action on an occupational license held by the
26 licensee, other than an insurance agent's license, by the appropriate
27 regulatory authority of this or any other jurisdiction;

28 (C) each judgment or injunction entered against the licensee on the
29 basis of a violation of any insurance law or conduct involving fraud, deceit
30 or misrepresentation;

31 (D) all details of any conviction of a misdemeanor or felony other
32 than minor traffic violations. The details shall include the name of the
33 arresting agency, the location and date of the arrest, the nature of the
34 charge or charges, the court in which the case was tried and the disposition
35 rendered by the court;

36 (E) each change of name. If the change of name is effected by court
37 order, a copy of the court order shall be furnished to the commissioner;

38 (F) each change in residence or mailing address, email address or
39 telephone number;

40 (G) each change in the name or address of the agency with which the
41 agent is associated; and

42 (H) each termination of a business relationship with an insurer if the
43 termination is for cause, including the reason for the termination of the

1 business relationship with such insurer.

2 (2) Each person or entity licensed in this state as an insurance agent
3 shall provide to the commissioner, upon request, a current listing of
4 company affiliations and affiliated insurance agents.

5 (3) Each business entity licensed in this state as an insurance agent
6 shall report each change in legal or mailing address, email address and
7 telephone number to the commissioner within 30 days of occurrence.

8 (4) Each business entity licensed in this state as an insurance agent
9 shall report each change in the name and address of the licensed agent who
10 shall be responsible for the business entity's compliance with the insurance
11 laws of this state to the commissioner within 30 days of occurrence.

12 (g) Any applicant whose application for a license is denied shall be
13 given an opportunity for a hearing in accordance with the provisions of the
14 Kansas administrative procedure act.

15 (h) (1) The commissioner may require a person applying for a
16 resident insurance agent license to be fingerprinted and submit to a state
17 and national criminal history record check *in accordance with section 2,*
18 *and amendments thereto.* ~~The fingerprints shall be used to identify the~~
19 ~~applicant and to determine whether the applicant has a record of criminal~~
20 ~~arrests and convictions in this state or other jurisdictions. The~~
21 ~~commissioner is authorized to submit the fingerprints to the Kansas bureau~~
22 ~~of investigation and the federal bureau of investigation for a state and~~
23 ~~national criminal history record check. Local and state law enforcement~~
24 ~~officers and agencies shall assist the commissioner in the taking and~~
25 ~~processing of fingerprints of applicants and shall release all records of an~~
26 ~~applicant's arrests and convictions to the commissioner.~~

27 ~~(2) The commissioner may conduct, or have a third party conduct, a~~
28 ~~background check on a person applying for a resident insurance agent~~
29 ~~license.~~

30 ~~(3) Whenever the commissioner requires fingerprinting, a~~
31 ~~background check, or both, any associated costs shall be paid by the~~
32 ~~applicant.~~

33 ~~(4) The commissioner shall use the information obtained from a~~
34 ~~background check, fingerprinting and the applicant's criminal history only~~
35 ~~for purposes of verifying the identification of any applicant and in the~~
36 ~~official determination of the fitness of the applicant to be issued a license~~
37 ~~as an insurance agent in accordance with this act.~~

38 ~~(5)(2) *Whenever the commissioner requires fingerprinting, a*~~
39 ~~*background check, or both, any associated costs shall be paid by the*~~
40 ~~*applicant.*~~

41 (3) A person applying for a resident insurance agent license who has
42 been fingerprinted and has submitted to a state and national criminal
43 history record check within the past 12 months in connection with the

1 successful issuance or renewal of any other state-issued license may
2 submit proof of such good standing to the commissioner in lieu of
3 submitting to the fingerprinting and criminal history record checks
4 described in ~~subsections (h)(1) and (h)(2)~~ *this subsection*.

5 (i) Not later than December 1 of each year, the commissioner shall set
6 and publish in the Kansas register the application fee required pursuant to
7 subsection (b) for the next calendar year.

8 Sec. 29. K.S.A. 40-5502 is hereby amended to read as follows: 40-
9 5502. As used in K.S.A. 40-5501 through 40-5519, and amendments
10 thereto:

11 (a) *"Applicant" means a person who has submitted an application to*
12 *become a licensed public adjuster in accordance with this act.*

13 (b) *"Business entity" means a corporation, association, partnership,*
14 *limited liability company, limited liability partnership or other legal entity.*

15 ~~(b)(c)~~ *"Catastrophic disaster" means, according to the federal*
16 *response plan, an event:*

17 (1) Declared by the president of the United States or governor of
18 Kansas;

19 (2) results in large numbers of deaths and injuries;

20 (3) causes extensive damage or destruction of facilities that provide
21 and sustain human needs;

22 (4) produces an overwhelming demand on state and local response
23 resources and mechanisms;

24 (5) causes a severe long-term effect on general economic activity; and

25 (6) severely affects state, local and private sector capabilities to begin
26 and sustain response activities.

27 ~~(d)~~ *"Commissioner" means the state commissioner of insurance.*

28 ~~(d)~~ *"FBI" means the federal bureau of investigation.*

29 ~~(e)~~ *"Fingerprint" means an impression of the lines on a finger taken*
30 *for purpose of identification. The impression may be electronic or in ink*
31 *converted to electronic format.*

32 ~~(f)~~ *"Home state" means the District of Columbia and any state or*
33 *territory of the United States in which a public adjuster's principal place of*
34 *residence or principal place of business is located. If neither the state in*
35 *which the public adjuster maintains the principal place of residence nor the*
36 *state in which the public adjuster maintains the principal place of business*
37 *has a law governing public adjusters substantially similar to this act, the*
38 *public adjuster may declare another state in which it becomes licensed and*
39 *acts as a public adjuster to be the home state.*

40 ~~(g)~~ *"KBI" means the Kansas bureau of investigation.*

41 ~~(h)~~ *"Licensed public adjuster" means a public adjuster licensed in*
42 *accordance with this act.*

43 ~~(i)~~ *"NAIC" means the national association of insurance*

1 commissioners and its affiliates and subsidiaries.

2 ~~(j)~~(k) "Person" means an individual or a business entity.

3 ~~(k)~~(l) "Public adjuster" means any individual who:

4 (1) For compensation or any other thing of value, and solely in
5 relation to first party claims arising under insurance claims or contracts
6 that insure the real or personal property of the insured, aids or acts on
7 behalf of an insured in negotiating for, or effecting the settlement of, a
8 claim for loss or damage covered by and limited to commercial lines
9 insurance contracts;

10 (2) advertises for employment as a public adjuster of insurance claims
11 or directly or indirectly solicits business or represents to the public that
12 such person is a public adjuster of first party insurance claims for losses or
13 damages to real or personal property covered by and limited to commercial
14 lines insurance contracts; or

15 (3) for compensation or any other thing of value, investigates or
16 adjusts losses or advises an insured about first party claims for losses or
17 damages to real or personal property of the insured covered by and limited
18 to commercial lines insurance contracts, for another person engaged in the
19 business of adjusting losses or damages covered by and limited to
20 commercial lines insurance contracts.

21 ~~(l)~~(m) "Uniform individual application" means the current version of
22 the NAIC uniform individual application for resident and nonresident
23 individuals.

24 ~~(m)~~(n) "Uniform business entity application" means the current
25 version of the NAIC uniform business entity application for resident and
26 nonresident business entities.

27 Sec. 30. K.S.A. 40-5504 is hereby amended to read as follows: 40-
28 5504. (a) An individual applying for a public adjuster license shall make
29 application to the commissioner on the appropriate uniform application or
30 other application prescribed by the commissioner.

31 (b) The applicant shall declare under penalty of perjury and under
32 penalty of refusal, suspension or revocation of the license, that the
33 statements made in the application are true, correct and complete to the
34 best of the applicant's knowledge and belief.

35 (c) In order to make a determination of license eligibility, the
36 commissioner shall require a criminal history record check *in accordance*
37 *with section 2, and amendments thereto*, on each applicant who is not
38 exempt from pre-licensing examination pursuant to K.S.A. 40-5507, and
39 amendments thereto.

40 Sec. 31. K.S.A. 2023 Supp. 40-5505 is hereby amended to read as
41 follows: 40-5505. (a) Before issuing a public adjuster license to an
42 applicant under the public adjusters licensing act, the commissioner shall
43 find that the applicant:

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

4 (2) has not committed any act that is a ground for denial, suspension
5 or revocation of a license as set forth in K.S.A. 40-5510, and amendments
6 thereto;

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

9 (4) is financially responsible to exercise the rights and privileges
10 under the license and has provided proof of financial responsibility as
11 required in K.S.A. 40-5511, and amendments thereto;

12 (5) has paid an application fee not to exceed \$100; and

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

15 (b) In addition to satisfying the requirements of subsection (a), an
16 applicant shall:

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

18 (2) have successfully passed the public adjuster examination.

19 (c) The commissioner may require any documents reasonably
20 necessary to verify the information contained in the application.

21 ~~(d)-(1) (1) The commissioner may require a person applying for a~~
22 ~~public adjuster license an applicant to be fingerprinted and submit to a~~
23 ~~state and national criminal history record check in accordance with section~~
24 ~~2, and amendments thereto, or to submit to a background check, or both.~~

25 ***(2) Whenever the commissioner requires fingerprinting, a***
26 ***background check, or both, any associated costs shall be paid by the***
27 ***applicant.***

28 ~~(A) The fingerprints shall be used to identify the applicant and to~~
29 ~~determine whether the applicant has a record of criminal history in this~~
30 ~~state or another jurisdiction. The commissioner shall submit the~~
31 ~~fingerprints to the Kansas bureau of investigation and the federal bureau of~~
32 ~~investigation for a state and national criminal history record check. Local~~
33 ~~and state law enforcement officers and agencies shall assist the~~
34 ~~commissioner in the taking and processing of fingerprints of applicants~~
35 ~~and shall release all records of an applicant's arrests and convictions to the~~
36 ~~commissioner.~~

37 ~~(B) The commissioner may conduct or have a third party conduct a~~
38 ~~background check on a person applying for a public adjuster license.~~

39 ~~(2) Whenever the commissioner requires fingerprinting or a~~
40 ~~background check, or both, any associated costs shall be paid by the~~
41 ~~applicant.~~

42 ~~(3) The commissioner may use the information obtained from a~~
43 ~~background check, fingerprinting and the applicant's criminal history only~~

1 ~~for purposes of verifying the identity of the applicant and in the official~~
2 ~~determination of the fitness of the applicant to be issued a license as a~~
3 ~~public adjuster in accordance with the public adjusters licensing act.~~

4 (e) Not later than December 1 of each year, the commissioner shall
5 set and publish in the Kansas register the application fees required
6 pursuant to subsection (a) for the next calendar year.

7 Sec. 32. K.S.A. 2023 Supp. 41-102 is hereby amended to read as
8 follows: 41-102. As used in this act, unless the context clearly requires
9 otherwise:

10 (a) "Alcohol" means the product of distillation of any fermented
11 liquid, whether rectified or diluted, whatever its origin, and includes
12 synthetic ethyl alcohol but does not include denatured alcohol or wood
13 alcohol.

14 (b) "Alcoholic candy" means:

15 (1) For purposes of manufacturing, any candy or other confectionery
16 product with an alcohol content greater than 0.5% alcohol by volume; and

17 (2) for purposes of sale at retail, any candy or other confectionery
18 product with an alcohol content greater than 1% alcohol by volume.

19 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic
20 candy and every liquid or solid, patented or not, containing alcohol, spirits,
21 wine or beer and capable of being consumed by a human being, but shall
22 not include any cereal malt beverage.

23 (d) *"Applicant" means a person who has submitted an application for*
24 *licensure under this act.*

25 (e) "Beer" means a beverage, containing more than 3.2% alcohol by
26 weight, obtained by alcoholic fermentation of an infusion or concoction of
27 barley, or other grain, malt and hops in water and includes beer, ale, stout,
28 lager beer, porter and similar beverages having such alcoholic content.

29 ~~(e)~~(f) "Caterer" means the same as defined by K.S.A. 41-2601, and
30 amendments thereto.

31 ~~(f)~~(g) "Cereal malt beverage" means the same as defined by K.S.A.
32 41-2701, and amendments thereto.

33 ~~(g)~~(h) "Club" means the same as defined by K.S.A. 41-2601, and
34 amendments thereto.

35 ~~(h)~~(i) "Director" means the director of alcoholic beverage control of
36 the department of revenue.

37 ~~(i)~~(j) "Distributor" means the person importing or causing to be
38 imported into the state, or purchasing or causing to be purchased within
39 the state, alcoholic liquor for sale or resale to retailers licensed under this
40 act or cereal malt beverage for sale or resale to retailers licensed under
41 K.S.A. 41-2702, and amendments thereto.

42 ~~(j)~~(k) "Domestic beer" means beer which contains not more than 15%
43 alcohol by weight and which is manufactured in this state.

- 1 ~~(k)~~(l) "Domestic fortified wine" means wine which contains more
2 than 16%, but not more than 20% alcohol by volume and which is
3 manufactured in this state.
- 4 ~~(l)~~(m) "Domestic table wine" means wine which contains not more
5 than 16% alcohol by volume and which is manufactured without
6 rectification or fortification in this state.
- 7 ~~(m)~~(n) "Drinking establishment" means the same as defined by
8 K.S.A. 41-2601, and amendments thereto.
- 9 ~~(n)~~(o) "Farm winery" means a winery licensed by the director to
10 manufacture, store and sell domestic table wine and domestic fortified
11 wine.
- 12 ~~(o)~~(p) "Fulfillment house" means any location or facility for any in-
13 state or out-of-state entity that handles logistics, including warehousing,
14 packaging, order fulfillment or shipping services on behalf of the holder of
15 a special order shipping license issued pursuant to K.S.A. 41-350, and
16 amendments thereto.
- 17 ~~(p)~~(q) "Hard cider" means any alcoholic beverage that:
18 (1) Contains less than 8.5% alcohol by volume;
19 (2) has a carbonation level that does not exceed 6.4 grams per liter;
20 and
21 (3) is obtained by the normal alcoholic fermentation of the juice of
22 sound, ripe apples or pears, including such beverages containing sugar
23 added for the purpose of correcting natural deficiencies.
- 24 ~~(q)~~(r) "Manufacture" means to distill, rectify, ferment, brew, make,
25 mix, concoct, process, blend, bottle or fill an original package with any
26 alcoholic liquor, beer or cereal malt beverage.
- 27 ~~(r)~~(s) (1) "Manufacturer" means every brewer, fermenter, distiller,
28 rectifier, wine maker, blender, processor, bottler or person who fills or
29 refills an original package and others engaged in brewing, fermenting,
30 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
31 beverage.
- 32 (2) "Manufacturer" does not include a microbrewery, microdistillery
33 or a farm winery.
- 34 ~~(s)~~(t) "Microbrewery" means a brewery licensed by the director to
35 manufacture, store and sell domestic beer and hard cider.
- 36 ~~(t)~~(u) "Microdistillery" means a facility which produces spirits from
37 any source or substance that is licensed by the director to manufacture,
38 store and sell spirits.
- 39 ~~(u)~~(v) "Minor" means any person under 21 years of age.
- 40 ~~(v)~~(w) "Nonbeverage user" means any manufacturer of any of the
41 products set forth and described in K.S.A. 41-501, and amendments
42 thereto, when the products contain alcohol or wine, and all laboratories
43 using alcohol for nonbeverage purposes.

- 1 ~~(w)~~(x) "Original package" means any bottle, flask, jug, can, cask,
2 barrel, keg, hogshead or other receptacle or container whatsoever, used,
3 corked or capped, sealed and labeled by the manufacturer of alcoholic
4 liquor, to contain and to convey any alcoholic liquor. Original container
5 does not include a sleeve.
- 6 ~~(x)~~(y) "Person" means any natural person, corporation, partnership,
7 trust or association.
- 8 ~~(y)~~(z) "Powdered alcohol" means alcohol that is prepared in a
9 powdered or crystal form for either direct use or for reconstitution in a
10 nonalcoholic liquid.
- 11 ~~(z)~~(aa) "Primary American source of supply" means the
12 manufacturer, the owner of alcoholic liquor at the time it becomes a
13 marketable product or the manufacturer's or owner's exclusive agent who,
14 if the alcoholic liquor cannot be secured directly from such manufacturer
15 or owner by American wholesalers, is the source closest to such
16 manufacturer or owner in the channel of commerce from which the
17 product can be secured by American wholesalers.
- 18 ~~(aa)~~(bb) (1) "Retailer" means a person who is licensed under the
19 Kansas liquor control act and sells at retail, or offers for sale at retail,
20 alcoholic liquors or cereal malt beverages.
- 21 (2) "Retailer" does not include a microbrewery, microdistillery or a
22 farm winery.
- 23 ~~(bb)~~(cc) "Sale" means any transfer, exchange or barter in any manner
24 or by any means whatsoever for a consideration and includes all sales
25 made by any person, whether principal, proprietor, agent, servant or
26 employee.
- 27 ~~(cc)~~(dd) "Salesperson" means any natural person who:
28 (1) Procures or seeks to procure an order, bargain, contract or
29 agreement for the sale of alcoholic liquor or cereal malt beverage; or
30 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
31 beverage, or in promoting the business of any person, firm or corporation
32 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
33 beverage, whether the seller resides within the state of Kansas and sells to
34 licensed buyers within the state of Kansas, or whether the seller resides
35 without the state of Kansas and sells to licensed buyers within the state of
36 Kansas.
- 37 ~~(dd)~~(ee) "Sample" means a serving of alcoholic liquor that contains
38 not more than: (1) One-half ounce of distilled spirits; (2) one ounce of
39 wine; or (3) two ounces of beer or cereal malt beverage. A "sample" of a
40 mixed alcoholic beverage shall contain not more than ½ ounce of distilled
41 spirits.
- 42 ~~(ee)~~(ff) "Secretary" means the secretary of revenue.
- 43 ~~(ff)~~(gg) (1) "Sell at retail" and "sale at retail" refer to and mean sales

1 for use or consumption and not for resale in any form and sales to clubs,
2 licensed drinking establishments, licensed caterers or holders of temporary
3 permits.

4 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
5 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
6 drinking establishment, a licensed caterer or a holder of a temporary
7 permit.

8 ~~(gg)~~(hh) "To sell" includes to solicit or receive an order for, to keep or
9 expose for sale and to keep with intent to sell.

10 ~~(hh)~~(ii) "Sleeve" means a package of two or more 50-milliliter or 3.2-
11 fluid-ounce containers of spirits.

12 ~~(ii)~~(jj) "Spirits" means any beverage which contains alcohol obtained
13 by distillation, mixed with water or other substance in solution, and
14 includes brandy, rum, whiskey, gin or other spirituous liquors, and such
15 liquors when rectified, blended or otherwise mixed with alcohol or other
16 substances.

17 ~~(jj)~~(kk) "Supplier" means a manufacturer of alcoholic liquor or cereal
18 malt beverage or an agent of such manufacturer, other than a salesperson.

19 ~~(kk)~~(ll) "Temporary permit" means the same as defined by K.S.A. 41-
20 2601, and amendments thereto.

21 ~~(ll)~~(mm) "Wine" means any alcoholic beverage obtained by the
22 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,
23 berries or other agricultural products, including such beverages containing
24 added alcohol or spirits or containing sugar added for the purpose of
25 correcting natural deficiencies. "Wine" includes hard cider and any other
26 product that is commonly known as a subset of wine.

27 Sec. 33. K.S.A. 41-311b is hereby amended to read as follows: 41-
28 311b. (a) If an applicant for licensure is not a resident of the state of
29 Kansas on the date of submission of such application, the director may
30 require the individual applicant, or if the applicant is a corporation,
31 partnership or trust, each individual officer, director, stockholder, copartner
32 or trustee to:

33 (1) Submit to a national criminal history record check and provide the
34 director with a legible set of fingerprints *in accordance with section 2, and*
35 *amendments thereto*;

36 (2) disclose to the director any substantial financial interest the
37 applicant owns in any entity that receives proceeds from the sale of
38 alcoholic beverages; and

39 (3) submit a release allowing the director to have access to and
40 review of the applicant's financial records to verify ownership and to
41 ensure applicant is not an agent of another person. This release shall
42 remain in effect after the license has been issued until the license is
43 canceled or revoked.

1 ~~(b) The director shall submit the fingerprints provided under~~
2 ~~subsection (a) to the Kansas bureau of investigation and to the federal~~
3 ~~bureau of investigation and receive a reply to enable the director to verify~~
4 ~~the identity of such applicant or such individuals specified in subsection~~
5 ~~(a) and whether such applicant or such individuals have been convicted of~~
6 ~~any crimes that would disqualify the applicant or such individuals from~~
7 ~~holding a license under the liquor control act. The director is authorized to~~
8 ~~use the information obtained from the national criminal history record~~
9 ~~check to determine such applicant's or individual's eligibility to hold a~~
10 ~~license under the liquor control act.~~

11 ~~(e) All costs incurred pursuant to this section to ensure that the~~
12 ~~applicant is qualified for licensure shall be paid by the applicant.~~

13 Sec. 34. K.S.A. 46-1103 is hereby amended to read as follows: 46-
14 1103. (a) There is hereby established the division of post audit within the
15 legislative branch of the government. The division of post audit shall be
16 under the direct supervision of the post auditor in accordance with policies
17 adopted by the legislative post audit committee.

18 (b) (1) Employees in the division of post audit shall be in the
19 unclassified service, shall receive such compensation as is provided under
20 this act and shall be covered by the state group health plan and Kansas
21 public employees retirement system to the same extent as other state
22 employees.

23 (2) Employees of the division of post audit shall receive travel
24 expenses and subsistence expenses and allowances as provided for other
25 state employees.

26 (3) Employees in the division of post audit shall be employed by and
27 be responsible to the post auditor who shall fix the compensation of each
28 such employee subject to approval of the legislative post audit committee
29 and within budget and appropriations therefor.

30 (c) (1) ~~The post auditor may require employees of the division of post~~
31 ~~audit and other persons who contract to work with or work under the~~
32 ~~direction of the post auditor to be fingerprinted and submit to a state and~~
33 ~~national criminal history record check in accordance with section 2, and~~
34 ~~amendments thereto. The fingerprints shall be used to identify the~~
35 ~~employee and to determine whether the employee has a record of criminal~~
36 ~~history in this state or another jurisdiction. The post auditor shall submit~~
37 ~~the fingerprints to the Kansas bureau of investigation and the federal~~
38 ~~bureau of investigation for a state and national criminal history record~~
39 ~~check. Local and state law enforcement officers and agencies shall assist~~
40 ~~the post auditor in the taking and processing of fingerprints of employees~~
41 ~~or other such persons. Local law enforcement officers and agencies may~~
42 ~~charge a fee as reimbursement for expenses incurred in taking and~~
43 ~~processing fingerprints under this section. The post auditor may use the~~

1 information obtained from fingerprinting and the criminal history for
2 purposes of verifying the identification of the employee or other such
3 person and in the official determination of the qualifications and fitness of
4 the employee or other such person to work with the division of post audit
5 in any capacity.

6 (2) If any person offered a position of employment in the division of
7 post audit, including any person who contracts to work with the division of
8 post audit is subject to a criminal history records check, such person shall
9 be given a written notice that a criminal history records check is required.
10 The post auditor may require such person to be fingerprinted and submit to
11 a state and national criminal history record check *in accordance with*
12 *section 2, and amendments thereto.* ~~The fingerprints shall be used to~~
13 ~~identify the person and to determine whether the person has a record of~~
14 ~~criminal history in this state or another jurisdiction. The post auditor shall~~
15 ~~submit the fingerprints to the Kansas bureau of investigation and the~~
16 ~~federal bureau of investigation for a state and national criminal history~~
17 ~~record check. Local and state law enforcement officers and agencies shall~~
18 ~~assist the post auditor in the taking and processing of fingerprints of each~~
19 ~~such person. Local law enforcement officers and agencies may charge a~~
20 ~~fee as reimbursement for expenses incurred in taking and processing~~
21 ~~fingerprints under this section. The post auditor may use the information~~
22 ~~obtained from fingerprinting and the criminal history for purposes of~~
23 ~~verifying the identification of the person and in the official determination~~
24 ~~of the eligibility of the person to perform appropriate tasks for the division~~
25 ~~of post audit. If the criminal history record information is used to~~
26 ~~disqualify a person from employment or a contract offer, such person shall~~
27 ~~be informed in writing of that decision.~~

28 (3) *For the purposes of this subsection, "employee" means a person*
29 *with a position of employment within the division of post audit or a person*
30 *who contracts to work with or under the direction of the post auditor.*

31 (d) The annual budget request of the division shall be prepared by the
32 post auditor and the post auditor shall present it to the legislative post audit
33 committee. The committee shall make any changes it desires in said
34 budget request and then shall transmit it to the legislative coordinating
35 council. Such council shall make any changes it desires in such budget
36 request and upon approval of the budget request by the council, the post
37 auditor shall submit it to the director of the budget as other budget requests
38 are submitted.

39 Sec. 35. K.S.A. 46-3301 is hereby amended to read as follows: 46-
40 3301. (a) There is hereby established a joint committee on Kansas security
41 which shall consist of five members of the house of representatives and
42 five members of the senate. Three of the members who are representatives
43 shall be appointed by the speaker of the house of representatives, three

1 members who are senators shall be appointed by the president of the
2 senate, two members who are representatives shall be appointed by the
3 minority leader of the house of representatives and two members who are
4 senators shall be appointed by the minority leader of the senate. The
5 speaker of the house of representatives shall designate a representative
6 member to be chairperson or vice-chairperson of the committee as
7 provided by this section. The president of the senate shall designate a
8 senator member to be chairperson or vice-chairperson of the joint
9 committee as provided by this section.

10 (b) The Kansas bureau of investigation shall conduct a criminal
11 history record check and background investigation of all committee staff
12 members of the legislative research department and the office of ~~the~~
13 revisor of statutes *in accordance with section 3, and amendments thereto.*

14 (c) A quorum of the joint committee on Kansas security shall be six.
15 All actions of the committee may be taken by a majority of those present
16 when there is a quorum. In odd-numbered years the chairperson of the
17 joint committee shall be the designated member of the house of
18 representatives from the convening of the regular session in that year until
19 the convening of the regular session in the next ensuing year. In even-
20 numbered years the chairperson of the joint committee shall be the
21 designated member of the senate from the convening of the regular session
22 of that year until the convening of the regular session of the next ensuing
23 year. ~~The vice-chairperson~~ *vice chairperson* shall exercise all of the
24 powers of the chairperson in the absence of the chairperson.

25 (d) The joint committee on Kansas security may meet at any time and
26 at any place within the state on call of the chairperson. Members of the
27 joint committee shall receive compensation and travel expenses and
28 subsistence expenses or allowances as provided in K.S.A. 75-3212, and
29 amendments thereto, when attending meetings of such committee
30 authorized by the legislative coordinating council.

31 (e) Amounts paid under authority of this section shall be paid from
32 appropriations for legislative expense and vouchers therefor shall be
33 prepared by the director of legislative administrative services and
34 approved by the chairperson or vice-chairperson of the legislative
35 coordinating council.

36 (f) The joint committee on Kansas security may introduce such
37 legislation as deemed necessary in performing such committee's functions.

38 (g) The joint committee on Kansas security shall have the services of
39 the legislative research department, the office of ~~the~~ revisor of statutes and
40 other central legislative staff service agencies.

41 (h) The joint committee on Kansas security shall study, monitor,
42 review and make recommendations for the following:

- 43 (1) Matters relating to the security of state officers or employees;

1 (2) security of buildings and property under the ownership or control
2 of the state of Kansas;

3 (3) matters relating to the security of a public body or agency, public
4 building or facility;

5 (4) matters relating to the security of the infrastructure of Kansas,
6 including any information system; and

7 (5) measures for the improvement of security for the state of Kansas.

8 (i) The joint committee on Kansas security shall review and monitor
9 federal moneys received by the state for the purposes of homeland security
10 and other related security matters.

11 (j) The joint committee on Kansas security shall report to the
12 legislature on or before December 31 each year any findings and
13 recommendations concerning Kansas security which the joint committee
14 deems appropriate.

15 Sec. 36. K.S.A. 2023 Supp. 50-6,126 is hereby amended to read as
16 follows: 50-6,126. (a) There shall be a question on all application and
17 renewal forms requiring the applicant to answer under oath whether or not
18 the applicant has been convicted of a felony offense in this state, another
19 state, or any other place, and the nature of that offense upon which a
20 conviction was imposed.

21 (b) Conviction of an offense shall not disqualify a person from
22 registration as a roofing contractor under this act, provided the applicant
23 has truthfully disclosed the conviction and nature of the offense.

24 (c) When deemed appropriate, the attorney general may conduct a
25 criminal history records search or background check *in accordance with*
26 *section 3, and amendments thereto*, on any applicant or registered roofing
27 contractor and may investigate the information submitted on a roofing
28 contractor application or renewal form, provided no adverse action may be
29 taken against the person until the person has been notified and given an
30 opportunity to respond in writing.

31 Sec. 37. K.S.A. 2023 Supp. 50-1128 is hereby amended to read as
32 follows: 50-1128. This act shall be administered by the commissioner. In
33 addition to other powers granted by this act, the commissioner, within the
34 limitations provided by law, may exercise the following powers:

35 (a) Adopt, amend and revoke rules and regulations as necessary to
36 carry out the intent and purpose of this act.

37 (b) Make any investigation and examination of the operations, books
38 and records of a credit services organization, as the commissioner deems
39 necessary to aid in the enforcement of this act.

40 (1) The commissioner, or the commissioner's designee, shall have
41 free and reasonable access to the offices, places of business and all records
42 of the licensee that relate to the debt management or credit services
43 organization business. The commissioner may designate persons,

1 including comparable officials of the state in which the records are located,
2 to inspect the records on the commissioner's behalf.

3 (2) The commissioner may charge reasonable costs of investigation,
4 examination and administration of this act, to be paid by the applicant or
5 licensee, in such amounts as the commissioner may determine to be
6 sufficient to meet the budget requirements of the commissioner for each
7 fiscal year. The commissioner may maintain an action in any court to
8 recover such costs.

9 (c) To order any licensee or person to cease any activity or practice
10 which the commissioner deems to be deceptive, dishonest, or a violation of
11 this act, or of other state or federal law, or unduly harmful to the interests
12 of the public.

13 (d) (1) Exchange any information regarding the administration of this
14 act with any agency of the United States or any state which regulates the
15 applicant or licensee or administers statutes, rules and regulations or
16 programs related to debt management or credit services organization laws.

17 (2) Examination reports and correspondence regarding such reports
18 made by the commissioner or the commissioner's designees shall be
19 confidential. The commissioner may release examination reports and
20 correspondence regarding the reports in connection with a disciplinary
21 proceeding conducted by the commissioner, a liquidation proceeding or a
22 criminal investigation or proceeding. Additionally, the commissioner may
23 furnish to federal or other state regulatory agencies or any officer or
24 examiner thereof, a copy of any or all examination reports and
25 correspondence regarding the reports made by the commissioner or the
26 commissioner's designees.

27 (e) Disclose to any person or entity that an applicant's or licensee's
28 application or license has been denied, suspended, revoked or refused
29 renewal.

30 (f) Require or permit any person to file a written statement, under
31 oath or otherwise as the commissioner may direct, setting forth all the facts
32 and circumstances concerning any apparent violation of this act, any rule
33 and regulation promulgated hereunder, or any order issued pursuant to this
34 act.

35 (g) Receive, as a condition in settlement of any investigation or
36 examination, a payment designated for consumer education to be
37 expended for such purpose as directed by the commissioner.

38 (h) Delegate the authority to sign any orders, official documents or
39 papers issued under or related to this act to the deputy of consumer and
40 mortgage lending in the office of the state bank commissioner.

41 (i) Require fingerprinting of any licensee, ~~agent acting on behalf of a~~
42 ~~licensee or other person as deemed appropriate by the commissioner, or~~
43 ~~the commissioner's designee in accordance with section 2, and~~

1 ~~amendments thereto. The commissioner, or commissioner's designee, may~~
2 ~~submit such fingerprints to the Kansas bureau of investigation, federal~~
3 ~~bureau of investigation or other law enforcement agency for the purposes~~
4 ~~of verifying the identity of such persons and obtaining records of their~~
5 ~~criminal arrests and convictions.~~ For purposes of this section and in order
6 to reduce the points of contact that the federal bureau of investigation may
7 have to maintain with the individual states, the commissioner may use the
8 nationwide mortgage licensing system and registry as a channeling agent
9 for requesting information from and distributing information to the
10 department of justice or any governmental agency.

11 (j) Use the nationwide mortgage licensing system and registry as a
12 channeling agent for requesting and distributing information regarding
13 credit services organization licensing to and from any source so directed
14 by the commissioner.

15 (k) Establish relationships or contracts with the nationwide mortgage
16 licensing system and registry or other entities to collect and maintain
17 records and process transaction fees or other fees related to applicants,
18 licensees or other persons subject to this act, and to take other such actions
19 as may be reasonably necessary to participate in the nationwide mortgage
20 licensing system and registry.

21 (l) Charge, establish and collect from licensees such fees as are
22 necessary and in such amounts as the commissioner may determine to be
23 sufficient to meet the expense requirements of the commissioner in
24 administering this act.

25 (m) Seize and distribute a licensee's trust account funds to protect
26 consumers and the public interest.

27 (n) For the purpose of any examination, investigation or proceeding
28 under this act, the commissioner or the commissioner's designee may
29 administer oaths and affirmations, subpoena witnesses, compel such
30 witnesses' attendance, adduce evidence and require the production of any
31 matter which is relevant to the examination or investigation, including the
32 existence, description, nature, custody, condition and location of any
33 books, documents or other tangible things and the identity and location of
34 persons having knowledge of relevant facts, or any other matter reasonably
35 calculated to lead to the discovery of relevant information or items.

36 (o) To enter into any informal agreement with any person for a plan
37 of action to address violations of this act. The adoption of an informal
38 agreement authorized by this subsection shall not be subject to the
39 provisions of the Kansas administrative procedure act or the Kansas
40 judicial review act. Any informal agreement authorized by this subsection
41 shall not be considered an order or other agency action, and shall be
42 considered confidential examination material pursuant to K.S.A. 50-
43 1128(d), and amendments thereto. All such examination material shall be

1 confidential by law and privileged, shall not be subject to the open records
2 act, shall not be subject to subpoena and shall not be subject to discovery
3 or admissible in evidence in any private civil action.

4 (p) Issue, amend and revoke written administrative guidance
5 documents in accordance with the applicable provisions of the Kansas
6 administrative procedure act.

7 Sec. 38. K.S.A. 2023 Supp. 58-3035 is hereby amended to read as
8 follows: 58-3035. As used in this act, unless the context otherwise
9 requires:

10 (a) "Act" means the real estate brokers' and salespersons' license act.

11 (b) "Advance listing fee" means any fee charged for services related
12 to promoting the sale or lease of real estate and paid in advance of the
13 rendering of such services, including any fees charged for listing,
14 advertising or offering for sale or lease any real estate, but excluding any
15 fees paid solely for advertisement or for listing in a publication issued for
16 the sole purpose of promoting the sale or lease of real estate wherein
17 inquiries are directed to the owner of the real estate or to real estate
18 brokers and not to unlicensed persons who publish the listing.

19 (c) "Associate broker" means an individual who has a broker's license
20 and who is employed by another broker or is associated with another
21 broker as an independent contractor and participates in any activity
22 described in subsection (f).

23 (d) "Branch broker" means an individual who has a broker's license
24 and who has been designated to supervise a branch office and the activities
25 of salespersons and associate brokers assigned to the branch office.

26 (e) "Branch office" means a place of business other than the principal
27 place of business of a broker.

28 (f) "Broker" means an individual, other than a salesperson, who
29 advertises or represents that such individual engages in the business of
30 buying, selling, exchanging or leasing real estate or who, for
31 compensation, engages in any of the following activities as an employee
32 of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:

33 (1) Sells, exchanges, purchases or leases real estate.

34 (2) Offers to sell, exchange, purchase or lease real estate.

35 (3) Negotiates or offers, attempts or agrees to negotiate the sale,
36 exchange, purchase or leasing of real estate.

37 (4) Lists or offers, attempts or agrees to list real estate for sale, lease
38 or exchange.

39 (5) Auctions or offers, attempts or agrees to auction real estate or
40 assists an auctioneer by procuring bids at a real estate auction.

41 (6) Buys, sells, offers to buy or sell or otherwise deals in options on
42 real estate.

43 (7) Assists or directs in the procuring of prospects calculated to result

1 in the sale, exchange or lease of real estate.

2 (8) Assists in or directs the negotiation of any transaction calculated
3 or intended to result in the sale, exchange or lease of real estate.

4 (9) Engages in the business of charging an advance listing fee.

5 (10) Provides lists of real estate as being available for sale or lease,
6 other than lists provided for the sole purpose of promoting the sale or lease
7 of real estate wherein inquiries are directed to the owner of the real estate
8 or to real estate brokers and not to unlicensed persons who publish the list.

9 (g) "Commission" means the Kansas real estate commission.

10 (h) "Exchange" means a type of sale or purchase of real estate.

11 (i) "Interest" means: (1) Having any type of ownership in the real
12 estate involved in the transaction; or (2) an officer, member, partner or
13 shareholder of any entity that owns such real estate excluding an
14 ownership interest of less than 5% in a publicly traded entity.

15 (j) "Lease" means rent or lease for nonresidential use.

16 (k) "Licensee" means any person licensed under this act as a broker
17 or salesperson.

18 (l) (1) "Office" means any permanent location where one or more
19 licensees regularly conduct real estate business as described in subsection
20 (f) or a location that is held out as an office.

21 (2) "Office" does not mean a model home office in a new home
22 subdivision if the real estate transaction files are maintained in the primary
23 office or branch office.

24 (m) "Primary office" means a supervising broker's principal place of
25 business for each company created or established by the broker.

26 (n) "Real estate" means any interest or estate in land, including any
27 leasehold or condominium, whether corporeal, incorporeal, freehold or
28 nonfreehold and whether the real estate is situated in this state or
29 elsewhere, but does not include oil and gas leases, royalties and other
30 mineral interests, and rights of way and easements acquired for the
31 purpose of constructing roadways, pipelines, conduits, wires and facilities
32 related to these types of improvement projects for private and public
33 utilities, municipalities, federal and state governments, or any political
34 subdivision. For purpose of this act, any rights of redemption are
35 considered to be an interest in real estate.

36 (o) "Salesperson" means an individual, other than an associate broker,
37 who is employed by a broker or is associated with a broker as an
38 independent contractor and participates in any activity described in
39 subsection (f).

40 (p) "Supervising broker" means an individual, other than a branch
41 broker, who has a broker's license and who has been designated as the
42 broker who is responsible for the supervision of the primary office of a
43 broker and the activities of salespersons and associate brokers who are

1 assigned to such office and all of whom are licensed pursuant to ~~subsection~~
2 ~~(b) of~~ K.S.A. 58-3042~~(b)~~, and amendments thereto. "Supervising broker"
3 ~~also means~~ *includes* a broker who operates a sole proprietorship and with
4 whom associate brokers or salespersons are affiliated as employees or
5 independent contractors.

6 *(q) "Applicant" means an individual who has applied or intends to*
7 *apply for licensure under this act as a broker or salesperson.*

8 Sec. 39. K.S.A. 2023 Supp. 58-3039 is hereby amended to read as
9 follows: 58-3039. (a) Any person desiring to act as a broker or salesperson
10 ~~must shall~~ file an application for a license with the commission or, if
11 required by the commission, with the testing service designated by the
12 commission. The application shall be in such form and detail as the
13 commission shall prescribe. The commission may require any portion of
14 the application to be submitted electronically.

15 (1) Any applicant who qualifies for licensure as a salesperson shall
16 submit the application accompanied by evidence of compliance with
17 K.S.A. 58-3046a(a) and (c), and amendments thereto.

18 (2) Any applicant who qualifies for licensure as a broker shall submit
19 the application accompanied by evidence of compliance with K.S.A. 58-
20 3046a(b) and (d), and amendments thereto.

21 (3) All applicants shall submit the application and license fees as
22 prescribed by K.S.A. 58-3063, and amendments thereto.

23 (b) (1) As part of an application for an original license or in
24 connection with any investigation of any holder of a license, the
25 commission shall require a person to be fingerprinted and submit to a state
26 and national criminal history record check *in accordance with section 2,*
27 *and amendments thereto.* ~~The fingerprints shall be used to identify the~~
28 ~~person and to determine whether the person has a record of criminal~~
29 ~~history in this state or other jurisdiction. The commission shall require the~~
30 ~~applicant to submit the fingerprints to the Kansas bureau of investigation~~
31 ~~and the federal bureau of investigation for a state and national criminal~~
32 ~~history record check in the manner designated by the Kansas bureau of~~
33 ~~investigation. The commission shall use the information obtained from~~
34 ~~fingerprinting and the criminal history for purposes of verifying the~~
35 ~~identification of the person and in the official determination of the~~
36 ~~qualifications and fitness of the person to be issued or to maintain a~~
37 ~~license.~~

38 ~~(2) Local and state law enforcement officers and agencies shall assist~~
39 ~~the commission in taking and processing fingerprints of applicants for and~~
40 ~~holders of any license and shall release all records of adult convictions to~~
41 ~~the commission.~~

42 (3) The commission may fix and collect a fee in an amount necessary
43 to reimburse the commission for the cost of fingerprinting and the criminal

1 history record check. Such fee shall be established by rule and regulation
2 in accordance with K.S.A. 58-3063, and amendments thereto. Any moneys
3 collected under this subsection shall be deposited in the state treasury and
4 credited to the background investigation fee fund.

5 (c) A license to engage in business as a broker or salesperson shall be
6 granted only to a person who is 18 or more years of age and who has a
7 high school diploma or its equivalent.

8 (d) (1) In addition to the requirements of subsection (c), except as
9 provided in subsection (e), each applicant for an original license as a
10 broker shall have been licensed as a salesperson in this state or as a
11 salesperson or broker in another state, and shall have been actively
12 engaged in any of the activities described in K.S.A. 58-3035(f), and
13 amendments thereto, for a period of at least two years during the three
14 years immediately preceding the date of the application for a license.

15 (2) The commission may adopt rules and regulations to implement
16 the provisions of this subsection.

17 (e) The commission may accept proof of experience in the real estate
18 or a related business or a combination of such experience and education
19 which the commission believes qualifies the applicant to act as a broker as
20 being equivalent to all or part of the experience required by subsection (d).

21 (f) Each applicant for an original license shall be required to pass an
22 examination covering the subject matter which brokers or salespersons
23 generally confront while conducting activities that require a real estate
24 license. The examination shall consist of a general portion that tests the
25 applicant's knowledge of real estate matters that have general application.
26 The state portion of the examination shall test the applicant's knowledge of
27 real estate subject matter applicable to a specific jurisdiction.

28 (1) Except as provided in K.S.A. 58-3040, and amendments thereto,
29 each applicant for an original license shall be required to pass the general
30 or national portion of the examination.

31 (2) Each applicant for an original license shall be required to pass the
32 Kansas state portion of the examination.

33 (3) No license shall be issued on the basis of an examination if either
34 or both portions of the examination were administered more than six
35 months prior to the date that the applicant's application is received by the
36 commission. The examination may be given by the commission or testing
37 service designated by the commission. Each person taking the examination
38 shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and
39 amendments thereto, which fee the commission may require to be paid to
40 it or directly to the testing service designated by the commission. The
41 examination for a broker's license shall be different from or in addition to
42 that for a salesperson's license.

43 (g) The commission, prior to granting an original license, shall

1 require proof that the applicant has a good reputation for honesty,
2 trustworthiness, integrity and competence to transact the business of a
3 broker or salesperson in such manner as to safeguard the public interest.

4 (h) An application for an original license as a salesperson or associate
5 broker shall be accompanied by the recommendation of the supervising
6 broker or branch broker with whom the salesperson or associate broker is
7 to be associated, or by whom the salesperson or associate broker is to be
8 employed, certifying that the applicant is honest, trustworthy and of good
9 reputation.

10 Sec. 40. K.S.A. 2023 Supp. 58-4102 is hereby amended to read as
11 follows: 58-4102. As used in this act:

12 (a) "Appraisal" or "real estate appraisal" means an analysis, opinion
13 or conclusion prepared by a real estate appraiser relating to the nature,
14 quality, value or utility of specified interests in, or aspects of, identified
15 real estate. An appraisal may be classified by subject matter into either a
16 valuation or an analysis. A valuation is an estimate of the value of real
17 estate or real property. An analysis is a study of real estate or real property
18 other than estimating value.

19 (b) "Appraisal assignment" means an engagement for which an
20 appraiser is employed or retained to act, or would be perceived by third
21 parties or the public as acting, as a disinterested party in rendering an
22 unbiased analysis, opinion or conclusion relating to the nature, quality,
23 value or utility of specified interests in, or aspects of, identified real estate.

24 (c) "Broker's price opinion" and "comparative market analysis"
25 means an analysis, opinion or conclusion prepared by an individual
26 licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034
27 et seq., and amendments thereto, relating to the price of specified interests
28 in or aspects of identified real estate property that is provided to a potential
29 customer, client or third party in the ordinary course of business.

30 (d) "Board" means the real estate appraisal board established pursuant
31 to the provisions of this act.

32 (e) "Federal law" means title XI of the financial institutions reform,
33 recovery and enforcement act of 1989 (12 U.S.C. § 3331 et seq.) and any
34 other federal law, and any regulations adopted pursuant thereto.

35 (f) "Federally related transaction" means any real estate-related
36 financial transaction which: (1) A federal financial institutions regulatory
37 agency or the resolution trust corporation engages in, contracts for or
38 regulates; and (2) requires the services of an appraiser.

39 (g) *"Licensee" means an individual who has submitted an application*
40 *for an original license or certificate, licensure by reciprocity or*
41 *endorsement or renewal of a license or certification or a person who is*
42 *currently licensed or certified under this act.*

43 (h) "Real estate" means an identified parcel or tract of land, including

1 improvements, if any.

2 ~~(h)~~(i) "Real estate appraisal organization" means any nationally
3 recognized organization of professional appraisers.

4 ~~(i)~~(j) "Real estate-related financial transaction" means any transaction
5 involving: (1) The sale, lease, purchase, investment in or exchange of real
6 property, including interests in property or the financing thereof; (2) the
7 refinancing of real property or interests in real property; (3) the use of real
8 property or interests in property as security for a loan or investment,
9 including mortgage-backed securities; or (4) a federally related
10 transaction.

11 ~~(j)~~(k) "Real property" means one or more defined interests, benefits
12 and rights inherent in the ownership of real estate.

13 ~~(k)~~(l) "Specialized services" means those appraisal services which do
14 not fall within the definition of appraisal assignment. Specified services
15 may include valuation work and analysis work. Regardless of the intention
16 of the client or employer, if the appraiser would be perceived by third
17 parties or the public as acting as a disinterested party in rendering an
18 unbiased analysis, opinion or conclusion, the work is classified as an
19 appraisal assignment and not specialized services.

20 ~~(l)~~(m) A "state certified appraiser" means a person who develops and
21 communicates real estate appraisals and who holds a current, valid
22 certificate issued to such person under the provisions of this act.

23 ~~(m)~~(n) A "state licensed appraiser" means a person who develops and
24 communicates real estate appraisals and holds a current, valid license
25 issued to such person under the provisions of this act.

26 ~~(n)~~(o) "Written appraisal" means a written statement used in
27 connection with a real estate-related financial transaction that is
28 independently and impartially prepared by a licensed or certified appraiser
29 setting forth an opinion of defined value of an adequately described
30 property as of a specific date, supported by presentation and analysis of
31 relevant market information.

32 ~~(o)~~(p) "Appraiser" means a person who develops and communicates
33 real estate appraisals for real estate-related financial transactions and holds
34 a current valid certification or license issued to such person under the
35 provisions of K.S.A. 58-4101 et seq., and amendments thereto.

36 Sec. 41. K.S.A. 2023 Supp. 58-4127 is hereby amended to read as
37 follows: 58-4127. (a) The real estate appraisal board may require ~~the~~
38 ~~following individuals~~ a licensee to be fingerprinted and submit to a state
39 and national criminal history record check:

40 ~~(1) An individual applying for: (A) An original license or~~
41 ~~certification; (B) licensure by reciprocity or endorsement; or (C) renewal~~
42 ~~of a license or certification; or~~

43 ~~(2) a currently licensed or certified individual, if necessary, to~~

1 investigate a complaint or if required by the appraisal subcommittee in
2 accordance with section 2, and amendments thereto.

3 ~~(b) The fingerprints shall be used to identify the individual and to~~
4 ~~determine whether the individual has a record of criminal history in this~~
5 ~~state or other jurisdiction. The board is authorized to submit the~~
6 ~~fingerprints to the Kansas bureau of investigation and the federal bureau of~~
7 ~~investigation for a state and national criminal history record check. The~~
8 ~~board may use the information obtained from the fingerprinting and the~~
9 ~~individual's criminal history for purposes of verifying the identification of~~
10 ~~any individual and in the official determination of the qualifications and~~
11 ~~fitness of the individual to be issued, to maintain or to renew a license or~~
12 ~~certification.~~

13 ~~(e) Local and state law enforcement officers and agencies shall assist~~
14 ~~the board in taking and processing fingerprints of individuals as required~~
15 ~~by this section and shall release all records of adult convictions to the~~
16 ~~board. Local law enforcement officers and agencies may charge a fee as~~
17 ~~reimbursement for expenses incurred in taking and processing fingerprints~~
18 ~~under this section.~~

19 ~~(d) The board may fix and collect a fee in an amount necessary to~~
20 ~~reimburse the board for the cost of fingerprinting and the criminal history~~
21 ~~record check. The board is hereby authorized to adopt rules and~~
22 ~~regulations pertaining to such fee.~~

23 ~~(e)(c) This section shall be a part of and supplemental to the state~~
24 ~~certified and licensed real property appraisers act.~~

25 Sec. 42. K.S.A. 2023 Supp. 58-4703 is hereby amended to read as
26 follows: 58-4703. As used in this act:

27 (a) "Applicant" means a person who has submitted an original
28 application for or an application for renewal of a credential under this
29 act.

30 (b) "Appraisal" has the meaning specified in K.S.A. 58-4102, and
31 amendments thereto.

32 ~~(b)(c) "Appraisal management company" or "AMC" means an~~
33 ~~individual, firm, partnership, association, corporation, limited liability~~
34 ~~company or any other business entity acting as an external third party~~
35 ~~authorized either by a creditor of a consumer credit transaction secured by~~
36 ~~a consumer's principal dwelling or by an underwriter of or other principal~~
37 ~~in the secondary mortgage markets:~~

38 (1) That performs appraisal management services, regardless of the
39 use of any of the following terms: Appraisal management company,
40 mortgage technology provider, mortgage services provider, lender
41 processing services provider, loan processor, real estate closing services
42 provider, vendor management company or any other like term; and

43 (2) such entity oversees an appraiser panel of:

1 (A) More than 15 appraisers who are certified or licensed in Kansas;
2 or

3 (B) a total of more than 25 appraisers who are certified or licensed in
4 Kansas and in any other jurisdiction.

5 ~~(e)~~(d) "Appraisal management services" means to perform or attempt
6 to perform, directly or indirectly, any one or more of the following
7 functions on behalf of a lender, financial institution, client, or any other
8 person:

9 (1) Administer an appraiser panel;

10 (2) recruit, qualify, verify licensing or certification and negotiate fees
11 and service level expectations with any person who is part of an appraiser
12 panel;

13 (3) receive an order for an appraisal from one entity and deliver the
14 order for the appraisal to an appraiser that is part of an appraiser panel for
15 completion;

16 (4) track and determine the status of orders for appraisals;

17 (5) conduct quality control of a completed appraisal prior to the
18 delivery of such appraisal to the person that ordered the appraisal; or

19 (6) submit a completed appraisal performed by an appraiser to one or
20 more clients.

21 ~~(d)~~(e) "Appraiser" means an individual who holds a credential issued
22 by the Kansas real estate appraisal board pursuant to the state certified and
23 licensed real property appraiser act entitling that individual to perform an
24 appraisal of real property in the state of Kansas consistent with the scope
25 of practice for such credential.

26 ~~(e)~~(f) "Appraiser panel" means a network of one or more licensed or
27 certified appraisers who are independent contractors to the AMC and have:

28 (1) Responded to an invitation, request, or solicitation from an AMC,
29 in any form, to perform appraisals for persons that have ordered appraisals
30 through the AMC, or to perform appraisals for the AMC directly, on a
31 periodic basis, as requested and assigned by the AMC; and

32 (2) been selected and approved by an AMC to perform appraisals for
33 any client of the AMC that has ordered an appraisal through the AMC, or
34 to perform appraisals for the AMC directly, on a periodic basis, as
35 assigned by the AMC.

36 ~~(f)~~(g) "Appraisal review" means the act or process of developing and
37 communicating an opinion about the quality of another appraiser's work
38 that was performed as part of an appraisal assignment related to the
39 appraiser's data collection, analysis, opinions of value, conclusions,
40 estimate of value, or compliance with the uniform standards of
41 professional appraisal practice. This term "appraisal review" does not
42 include a general examination for:

43 (1) Grammatical, typographical or other similar errors; or

1 (2) Completeness including regulatory requirements, client
2 requirements, or both such requirements as specified in the engagement
3 letter that does not communicate an opinion.

4 ~~(g)~~(h) "Board" means the Kansas real estate appraisal board.

5 ~~(h)~~(i) "Credential" means a certificate, license or temporary permit
6 issued by the board pursuant to the provisions of the state certified and
7 licensed real estate appraisals act authorizing an individual to act as a
8 temporary permitted appraiser, provisional appraiser, state licensed
9 appraiser, certified residential appraiser or certified general appraiser in the
10 state of Kansas.

11 ~~(i)~~(j) "Controlling person" means:

12 (1) An owner, officer, manager, or director of a corporation,
13 partnership, firm, association, limited liability company, or other business
14 entity seeking to offer appraisal management services in this state;

15 (2) an individual employed, appointed, or authorized by an AMC that
16 has the authority to enter into a contractual relationship with other persons
17 for the performance of appraisal management services and has the
18 authority to enter into agreements with appraisers for the performance of
19 appraisals; or

20 (3) an individual who possesses, directly or indirectly, the power to
21 direct or cause the direction of the management or policies of an AMC.

22 ~~(j)~~(k) "Person" means an individual, firm, partnership, association,
23 corporation, or any other entity.

24 ~~(k)~~(l) "Uniform standards of professional appraisal practice" or
25 "USPAP" means the edition of the uniform standards of professional
26 appraisal practice as specified in K.S.A. 58-4121, and amendments
27 thereto.

28 Sec. 43. K.S.A. 2023 Supp. 58-4709 is hereby amended to read as
29 follows: 58-4709. (a) No single interest in an AMC applying for, holding
30 or renewing a registration under this act shall be owned by:

31 (1) An individual who has held a credential issued by any appraiser-
32 credentialing jurisdiction to act as an appraiser and such credential:

33 (A) Was refused, denied, suspended, revoked, or surrendered or
34 nonrenewed in lieu of a pending disciplinary proceeding in any
35 jurisdiction against such individual; and

36 (B) not subsequently granted or reinstated; or

37 (C) is otherwise not in good standing; or

38 (2) any person who owns an interest in an entity and such person has
39 held a credential issued by any appraiser-credentialing jurisdiction to act as
40 an appraiser that:

41 (A) Was refused, denied, revoked, suspended, or surrendered or
42 nonrenewed in lieu of a pending disciplinary proceeding in any
43 jurisdiction against such person; and

1 (B) (i) not subsequently granted or reinstated; or

2 (ii) is otherwise not in good standing.

3 (b) (1) Each individual that owns an interest in an AMC who applies
4 for, holds, or renews a registration under this act shall be of good moral
5 character as determined by the board by rules and regulations.

6 (2) As a part of an application for an original registration, and for a
7 renewal registration if required by the board, the board shall require ~~the~~
8 ~~individual~~ *an applicant* to be fingerprinted and submit to a state and
9 national criminal history record check *in accordance with section 2, and*
10 *amendments thereto.* ~~The individual's fingerprints shall be used to identify~~
11 ~~the individual and to determine whether the individual has a record of~~
12 ~~criminal history in this state or other jurisdiction. The board shall require~~
13 ~~the individual to submit the fingerprints to the Kansas bureau of~~
14 ~~investigation and the federal bureau of investigation for a state and~~
15 ~~national criminal history record check. The board shall use the information~~
16 ~~obtained from the fingerprinting and the criminal history for purposes of~~
17 ~~verifying the identification of the individual and in the official~~
18 ~~determination of the qualifications and fitness of the applicant to be issued,~~
19 ~~maintain, or renew a registration.~~

20 (3) ~~Local and state law enforcement officers and agencies shall assist~~
21 ~~the board in taking and processing fingerprints of individuals for any~~
22 ~~registration and shall release all records of adult convictions to the board.~~

23 (4) The board may fix and collect a fee in an amount necessary to
24 reimburse the board for the cost of fingerprinting and the criminal history
25 record check. Such fee shall be established by rules and regulations.

26 (c) Each AMC applying for registration or for renewal of a
27 registration under this act shall certify to the board on a form prescribed by
28 the board that:

29 (1) Such AMC has reviewed each person or entity that owns an
30 interest in the AMC; and

31 (2) no person or entity that owns an interest in the AMC has held a
32 credential issued by any appraiser-credentialing jurisdiction to act as an
33 appraiser and such credential:

34 (A) Was refused, denied, suspended, revoked, or surrendered or
35 nonrenewed in lieu of a pending disciplinary proceeding in any
36 jurisdiction against such individual; and

37 (B) (i) was not subsequently granted or reinstated; or

38 (ii) is otherwise not in good standing.

39 Sec. 44. K.S.A. 65-503 is hereby amended to read as follows: 65-503.

40 As used in this act:

41 (a) "Child placement agency" means a business or service conducted,
42 maintained or operated by a person engaged in finding homes for children
43 by placing or arranging for the placement of such children for adoption or

1 foster care.

2 (b) "Child care resource and referral agency" means a business or
3 service conducted, maintained or operated by a person engaged in
4 providing resource and referral services, including information of specific
5 services provided by child care facilities, to assist parents to find child
6 care.

7 (c) "Child care facility" means:

8 (1) A facility maintained by a person who has control or custody of
9 one or more children under 16 years of age, unattended by parent or
10 guardian, for the purpose of providing the children with food or lodging,
11 or both, except children in the custody of the secretary for children and
12 families who are placed with a prospective adoptive family pursuant to the
13 provisions of an adoptive placement agreement or who are related to the
14 person by blood, marriage or legal adoption;

15 (2) a children's home, orphanage, maternity home, day care facility or
16 other facility of a type determined by the secretary to require regulation
17 under the provisions of this act;

18 (3) a child placement agency or child care resource and referral
19 agency, or a facility maintained by such an agency for the purpose of
20 caring for children under 16 years of age; or

21 (4) any receiving or detention home for children under 16 years of
22 age provided or maintained by, or receiving aid from, any city or county or
23 the state.

24 (d) "Day care facility" means a child care facility that includes a day
25 care home, preschool, child care center, school-age program or other
26 facility of a type determined by the secretary to require regulation under
27 the provisions of K.S.A. 65-501 et seq., and amendments thereto.

28 (e) "Person" means any individual, association, partnership,
29 corporation, government, governmental subdivision or other entity.

30 (f) "Boarding school" means a facility which provides 24-hour care to
31 school age children, provides education as its primary function, and is
32 accredited by an accrediting agency acceptable to the secretary of health
33 and environment.

34 (g) "Maternity center" means a facility which provides delivery
35 services for normal, uncomplicated pregnancies but does not include a
36 medical care facility as defined by K.S.A. 65-425, and amendments
37 thereto.

38 (h) *"Employee" means a person working, regularly volunteering or*
39 *residing in a child care facility.*

40 Sec. 45. K.S.A. 2023 Supp. 65-516 is hereby amended to read as
41 follows: 65-516. (a) No person shall knowingly maintain a child care
42 facility if ~~there resides, works or regularly volunteers any person an~~
43 *employee* who, in this state or in other states or the federal government:

1 (1) (A) Has been convicted of a crime that is classified as a person
2 felony under the Kansas criminal code;

3 (B) has been convicted of a felony under K.S.A. 2010 Supp. 21-
4 36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21
5 of the Kansas Statutes Annotated, and amendments thereto, or any felony
6 violation of any provision of the uniform controlled substances act prior to
7 July 1, 2009;

8 (C) has been convicted of any act that is described in articles 34, 35
9 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal,
10 or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or
11 K.S.A. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424,
12 and amendments thereto, or been convicted of an attempt under K.S.A. 21-
13 3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, to
14 commit any such act or been convicted of conspiracy under K.S.A. 21-
15 3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, to
16 commit such act, or similar statutes of any other state or the federal
17 government;

18 (D) has been convicted of any act that is described in K.S.A. 21-4301
19 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments
20 thereto, or similar statutes of any other state or the federal government; or

21 (E) has been convicted of any act that is described in K.S.A. 21-3718
22 or 21-3719, prior to their repeal, or K.S.A. 21-5812, and amendments
23 thereto, or similar statutes of any other state or the federal government;

24 (2) except as provided in subsection (b), has been adjudicated a
25 juvenile offender because of having committed an act that if done by an
26 adult would constitute the commission of a felony and that is a crime
27 against persons, is any act described in articles 34, 35 or 36 of chapter 21
28 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or
29 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-
30 6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments
31 thereto, or similar statutes of any other state or the federal government, or
32 is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal,
33 or K.S.A. 21-6401, and amendments thereto, or similar statutes of any
34 other state or the federal government;

35 (3) has been convicted or adjudicated of a crime that requires
36 registration as a sex offender under the Kansas offender registration act,
37 K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any
38 other state or as a sex offender on the national sex offender registry;

39 (4) has committed an act of physical, mental or emotional abuse or
40 neglect or sexual abuse and who is listed in the child abuse and neglect
41 registry maintained by the Kansas department for children and families
42 pursuant to K.S.A. 38-2226, and amendments thereto, or any similar child
43 abuse and neglect registries maintained by any other state or the federal

1 government and:

2 (A) The person has failed to successfully complete a corrective action
3 plan that had been deemed appropriate and approved by the Kansas
4 department for children and families or requirements of similar entities in
5 any other state or the federal government; or

6 (B) the record has not been expunged pursuant to rules and
7 regulations adopted by the secretary for children and families or similar
8 entities in any other state or the federal government;

9 (5) has had a child removed from home based on a court order
10 pursuant to K.S.A. 38-2251, and amendments thereto, in this state, or a
11 court order in any other state based upon a similar statute that finds the
12 child to be deprived or a child in need of care based on a finding of
13 physical, mental or emotional abuse or neglect or sexual abuse and the
14 child has not been returned to the home or the child reaches majority
15 before being returned to the home and the person has failed to
16 satisfactorily complete a corrective action plan approved by the
17 department of health and environment;

18 (6) has had parental rights terminated pursuant to the Kansas juvenile
19 code or K.S.A. 38-2266 through 38-2270, and amendments thereto, or a
20 similar statute of other states;

21 (7) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
22 seq., and amendments thereto, or an immediate intervention agreement
23 pursuant to K.S.A. 38-2346, and amendments thereto, involving a charge
24 of child abuse or a sexual offense; or

25 (8) has an infectious or contagious disease.

26 (b) If the secretary determines there is no safety concern, the
27 secretary may license a family foster home, as defined in K.S.A. 38-134,
28 and amendments thereto, when a person who has been adjudicated as a
29 juvenile offender for an offense described in subsection (a)(2):

30 (1) Was a child in the custody of the secretary and placed with such
31 family foster home by the secretary;

32 (2) is 18 years of age or older;

33 (3) (A) maintains residence at such family foster home; or

34 (B) has been legally adopted by any person who resides at such
35 family foster home; and

36 (4) six months have passed since the date of adjudication.

37 (c) No person shall maintain a child care facility if such person has
38 been found to be a person in need of a guardian or a conservator, or both,
39 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

40 (d) Any person who resides in a child care facility and who has been
41 found to be in need of a guardian or a conservator, or both, shall be
42 counted in the total number of children allowed in care.

43 (e) In accordance with the provisions of this subsection, the secretary

1 of health and environment shall have access to any court orders or
2 adjudications of any court of record, any records of such orders or
3 adjudications, criminal history record information including, but not
4 limited to, diversion agreements, in the possession of the Kansas bureau of
5 investigation and any report of investigations as authorized by K.S.A. 38-
6 2226, and amendments thereto, in the possession of the Kansas department
7 for children and families or court of this state concerning ~~persons working,~~
8 ~~regularly volunteering or residing~~ *employees* in a child care facility. The
9 secretary shall have access to these records for the purpose of determining
10 whether or not the home meets the requirements of K.S.A. 59-2132, 65-
11 503, 65-508 and 65-516, and amendments thereto.

12 (f) In accordance with the provisions of this subsection, the secretary
13 is authorized to conduct national criminal history record checks to
14 determine criminal history on ~~persons residing, working or regularly~~
15 ~~volunteering~~ *employees* in a child care facility. In order to conduct a
16 national criminal history check the secretary shall require fingerprinting
17 for identification and determination of criminal history *in accordance with*
18 *section 2, and amendments thereto.* ~~The secretary shall submit the~~
19 ~~fingerprints to the Kansas bureau of investigation and to the federal bureau~~
20 ~~of investigation and receive a reply to enable the secretary to verify the~~
21 ~~identity of such person and whether such person has been convicted of any~~
22 ~~crime that would prohibit such person from residing, working or regularly~~
23 ~~volunteering in a child care facility. The secretary is authorized to use~~
24 ~~information obtained from the national criminal history record check to~~
25 ~~determine such person's fitness to reside, work or regularly volunteer in a~~
26 ~~child care facility.~~

27 (g) ~~Local and state law enforcement officers and agencies shall assist~~
28 ~~the secretary in taking and processing fingerprints of persons residing,~~
29 ~~working or regularly volunteering in a child care facility and shall release~~
30 ~~all records of adult convictions and noneconvictions and adult convictions~~
31 ~~or adjudications of another state or country to the department.~~

32 (h) (1) The secretary shall adopt rules and regulations on or before
33 January 1, 2019, to fix a fee for fingerprinting persons residing, working or
34 regularly volunteering in a child care facility, as may be required by the
35 department to reimburse the department for the cost of the fingerprinting.

36 (2) The secretary shall remit all moneys received from the fees
37 established under this section to the state treasurer in accordance with the
38 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
39 each such remittance, the state treasurer shall deposit the entire amount in
40 the state treasury to the credit of the child care criminal background and
41 fingerprinting fund.

42 (i) The child care criminal background and fingerprinting fund is
43 hereby created in the state treasury to be administered by the secretary of

1 health and environment. All moneys credited to the child care criminal
2 background and fingerprinting fund shall be used to pay local and state
3 law enforcement officers and agencies for the processing of fingerprints
4 and criminal history background checks for the department. All
5 expenditures from the child care criminal background and fingerprinting
6 fund shall be made in accordance with appropriation acts upon warrants of
7 the director of accounts and reports issued pursuant to vouchers approved
8 by the secretary or by a person designated by the secretary.

9 (j) The secretary shall notify the child care applicant or licensee,
10 within seven days by certified mail with return receipt requested, when the
11 result of the national criminal history record check or other appropriate
12 review reveals unfitness specified in subsections (a)(1) through (8) with
13 regard to the person who is the subject of the review.

14 (k) No child care facility or the employees thereof, shall be liable for
15 civil damages to any person refused employment or discharged from
16 employment by reason of such facility's or home's compliance with the
17 provisions of this section if such home acts in good faith to comply with
18 this section.

19 (l) For the purpose of subsection (a)(3), a person listed in the child
20 abuse and neglect central registry shall not be prohibited from residing,
21 working or volunteering in a child care facility unless such person has:

22 (1) Had an opportunity to be interviewed and present information
23 during the investigation of the alleged act of abuse or neglect; and

24 (2) been given notice of the agency decision and an opportunity to
25 appeal such decision to the secretary and to the courts pursuant to the
26 Kansas judicial review act.

27 (m) In regard to Kansas issued criminal history records:

28 (1) The secretary of health and environment shall provide in writing
29 information available to the secretary to each child placement agency
30 requesting information under this section, including the information
31 provided by the Kansas bureau of investigation pursuant to this section, for
32 the purpose of assessing the fitness of persons living, working or regularly
33 volunteering in a family foster home under the child placement agency's
34 sponsorship.

35 (2) The child placement agency is considered to be a governmental
36 entity and the designee of the secretary of health and environment for the
37 purposes of obtaining, using and disseminating information obtained under
38 this section.

39 (3) The information shall be provided to the child placement agency
40 regardless of whether the information discloses that the subject of the
41 request has been convicted of any offense.

42 (4) Whenever the information available to the secretary reveals that
43 the subject of the request has no criminal history on record, the secretary

1 shall provide notice thereof in writing to each child placement agency
2 requesting information under this section.

3 (5) Any staff person of a child placement agency who receives
4 information under this subsection shall keep such information confidential,
5 except that the staff person may disclose such information on a need-to-
6 know basis to:

7 (A) The person who is the subject of the request for information;

8 (B) the applicant or operator of the family foster home in which the
9 person lives, works or regularly volunteers;

10 (C) the department of health and environment;

11 (D) the Kansas department for children and families;

12 (E) the department of corrections; and

13 (F) the courts.

14 (6) A violation of the provisions of paragraph (5) shall be an
15 unclassified misdemeanor punishable by a fine of \$100 for each violation.

16 (n) No person shall maintain a day care facility unless such person is
17 a high school graduate or the equivalent thereof, except where
18 extraordinary circumstances exist, the secretary of health and environment
19 may exercise discretion to make exceptions to this requirement. The
20 provisions of this subsection shall not apply to any person who was
21 maintaining a day care facility on the day immediately prior to July 1,
22 2010, or who had an application for an initial license or the renewal of an
23 existing license pending on July 1, 2010.

24 Sec. 46. K.S.A. 2023 Supp. 65-1120 is hereby amended to read as
25 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
26 deny, revoke, limit or suspend any license or authorization to practice
27 nursing as a registered professional nurse, as a licensed practical nurse, as
28 an advanced practice registered nurse or as a registered nurse anesthetist
29 that is issued by the board or applied for under this act, or may require the
30 licensee to attend a specific number of hours of continuing education in
31 addition to any hours the licensee may already be required to attend or
32 may publicly or privately censure a licensee or holder of a temporary
33 permit or authorization, if the applicant, licensee or holder of a temporary
34 permit or authorization is found after hearing:

35 (1) To be guilty of fraud or deceit in practicing nursing or in
36 procuring or attempting to procure a license to practice nursing;

37 (2) to have been guilty of a felony or to have been guilty of a
38 misdemeanor involving an illegal drug offense unless the applicant or
39 licensee establishes sufficient rehabilitation to warrant the public trust,
40 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
41 license or authorization to practice nursing as a licensed professional
42 nurse, as a licensed practical nurse, as an advanced practice registered
43 nurse or registered nurse anesthetist shall be granted to a person with a

1 felony conviction for a crime against persons as specified in article 34 of
2 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
3 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-
4 6325, 21-6326 or 21-6418, and amendments thereto;

5 (3) has been convicted or found guilty or has entered into an agreed
6 disposition of a misdemeanor offense related to the practice of nursing as
7 determined on a case-by-case basis;

8 (4) to have committed an act of professional incompetency as defined
9 in subsection (e);

10 (5) to be unable to practice with skill and safety due to current abuse
11 of drugs or alcohol;

12 (6) to be a person who has been adjudged in need of a guardian or
13 conservator, or both, under the act for obtaining a guardian or conservator,
14 or both, and who has not been restored to capacity under that act;

15 (7) to be guilty of unprofessional conduct as defined by rules and
16 regulations of the board;

17 (8) to have willfully or repeatedly violated the provisions of the
18 Kansas nurse practice act or any rules and regulations adopted pursuant to
19 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

20 (9) to have a license to practice nursing as a registered nurse or as a
21 practical nurse denied, revoked, limited or suspended, or to be publicly or
22 privately censured, by a licensing authority of another state, agency of the
23 United States government, territory of the United States or country or to
24 have other disciplinary action taken against the applicant or licensee by a
25 licensing authority of another state, agency of the United States
26 government, territory of the United States or country. A certified copy of
27 the record or order of public or private censure, denial, suspension,
28 limitation, revocation or other disciplinary action of the licensing authority
29 of another state, agency of the United States government, territory of the
30 United States or country shall constitute prima facie evidence of such a
31 fact for purposes of this paragraph (9); or

32 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
33 its repeal, or K.S.A. 21-5407, and amendments thereto, as established by
34 any of the following:

35 (A) A copy of the record of criminal conviction or plea of guilty for a
36 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-
37 5407, and amendments thereto.

38 (B) A copy of the record of a judgment of contempt of court for
39 violating an injunction issued under K.S.A. 2023 Supp. 60-4404, and
40 amendments thereto.

41 (C) A copy of the record of a judgment assessing damages under
42 K.S.A. 60-4405, and amendments thereto.

43 (b) *Proceedings*. Upon filing of a sworn complaint with the board

1 charging a person with having been guilty of any of the unlawful practices
2 specified in subsection (a), two or more members of the board shall
3 investigate the charges, or the board may designate and authorize an
4 employee or employees of the board to conduct an investigation. After
5 investigation, the board may institute charges. If an investigation, in the
6 opinion of the board, reveals reasonable grounds for believing the
7 applicant or licensee is guilty of the charges, the board shall fix a time and
8 place for proceedings, which shall be conducted in accordance with the
9 provisions of the Kansas administrative procedure act.

10 (c) *Witnesses.* No person shall be excused from testifying in any
11 proceedings before the board under this act or in any civil proceedings
12 under this act before a court of competent jurisdiction on the ground that
13 such testimony may incriminate the person testifying, but such testimony
14 shall not be used against the person for the prosecution of any crime under
15 the laws of this state except the crime of perjury as defined in K.S.A. 21-
16 5903, and amendments thereto.

17 (d) *Costs.* If final agency action of the board in a proceeding under
18 this section is adverse to the applicant or licensee, the costs of the board's
19 proceedings shall be charged to the applicant or licensee as in ordinary
20 civil actions in the district court, but if the board is the unsuccessful party,
21 the costs shall be paid by the board. Witness fees and costs may be taxed
22 by the board according to the statutes relating to procedure in the district
23 court. All costs accrued by the board, when it is the successful party, and
24 which the attorney general certifies cannot be collected from the applicant
25 or licensee shall be paid from the board of nursing fee fund. All moneys
26 collected following board proceedings shall be credited in full to the board
27 of nursing fee fund.

28 (e) *Professional incompetency defined.* As used in this section,
29 "professional incompetency" means:

30 (1) One or more instances involving failure to adhere to the
31 applicable standard of care to a degree which constitutes gross negligence,
32 as determined by the board;

33 (2) repeated instances involving failure to adhere to the applicable
34 standard of care to a degree which constitutes ordinary negligence, as
35 determined by the board; or

36 (3) a pattern of practice or other behavior which demonstrates a
37 manifest incapacity or incompetence to practice nursing.

38 (f) *Criminal justice information.* The board upon request shall receive
39 from the Kansas bureau of investigation such criminal history record
40 information relating to arrests and criminal convictions as necessary for
41 the purpose of determining initial and continuing qualifications of
42 licensees of and applicants for licensure by the board *in accordance with*
43 *section 3, and amendments thereto.*

1 Sec. 47. K.S.A. 65-1501a is hereby amended to read as follows: 65-
2 1501a. For the purposes of this act the following terms shall have the
3 meanings respectively ascribed to them unless the context requires
4 otherwise:

5 (a) "Board" means the board of examiners in optometry established
6 under K.S.A. 74-1501, and amendments thereto.

7 (b) "License" means a license to practice optometry granted under the
8 optometry law.

9 (c) "Licensee" means a person licensed under the optometry law to
10 practice optometry.

11 (d) "Adapt" means the determination, selection, fitting or use of
12 lenses, prisms, orthoptic exercises or visual training therapy for the aid of
13 any insufficiencies or abnormal conditions of the eyes after or by
14 examination or testing.

15 (e) "Lenses" means any type of ophthalmic lenses, which are lenses
16 prescribed or used for the aid of any insufficiencies or abnormal conditions
17 of the eyes.

18 (f) "Prescription" means a verbal, written or electronic order
19 transmitted directly or by electronic means from a licensee giving or
20 containing the name and address of the prescriber, the license registration
21 number of the licensee, the name and address of the patient, the
22 specifications and directions for lenses, prisms, orthoptic exercises, low
23 vision rehabilitation services or visual training therapy to be used for the
24 aid of any insufficiencies or abnormal conditions of the eyes, including
25 instructions necessary for the fabrication or use thereof and the date of
26 issue.

27 (g) "Prescription for topical pharmaceutical drugs or oral drugs"
28 means a verbal, written or electronic order transmitted directly or by
29 electronic means from a licensee giving or containing the name and
30 address of the prescriber, the license registration number of the licensee,
31 the name and address of the patient, the name and quantity of the drug
32 prescribed, directions for use, the number of refills permitted, the date of
33 issue and expiration date.

34 (h) "Topical pharmaceutical drugs" means drugs administered
35 topically and not by other means.

36 (i) "Dispense" means to deliver prescription-only medication or
37 ophthalmic lenses to the ultimate user pursuant to the lawful prescription
38 of a licensee and dispensing of prescription-only medication by a licensee
39 shall be limited to a twenty-four hour supply or minimal quantity
40 necessary until a prescription can be filled by a licensed pharmacist,
41 except that the twenty-four hour supply or minimal quantity shall not
42 apply to lenses described in ~~subsection (a)(2) of~~ K.S.A. 65-1501(a)(2), and
43 amendments thereto.

1 (j) "False advertisement" means any advertisement which is false,
2 misleading or deceptive in a material respect. In determining whether any
3 advertisement is misleading, there shall be taken into account not only
4 representations made or suggested by statement, word, design, device,
5 sound or any combination thereof, but also the extent to which the
6 advertisement fails to reveal facts material in the light of such
7 representations made.

8 (k) "Advertisement" means all representations disseminated in any
9 manner or by any means, for the purpose of inducing, or which are likely
10 to induce, directly or indirectly, the purchase of professional services or
11 ophthalmic goods.

12 (l) ~~"Health care~~ *Healthcare provider*" shall have the meaning ascribed
13 to that term in ~~subsection (f) of K.S.A. 40-3401(f)~~, and amendments
14 thereto.

15 (m) "Medical facility" shall have the meaning ascribed to that term in
16 ~~subsection (e) of K.S.A. 65-411(c)~~, and amendments thereto.

17 (n) "Medical care facility" shall have the meaning ascribed to that
18 term in K.S.A. 65-425, and amendments thereto.

19 (o) "Ophthalmologist" means a person licensed to practice medicine
20 and surgery by the state board of healing arts who specializes in the
21 diagnosis and medical and surgical treatment of diseases and defects of the
22 human eye and related structures.

23 (p) "Low vision rehabilitation services" means the evaluation,
24 diagnosis, management and care of the low vision patient including low
25 vision rehabilitation therapy, education and interdisciplinary consultation
26 under the direction and supervision of an ophthalmologist or optometrist.

27 (q) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs,
28 oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma
29 drugs and other oral drugs with clinically accepted ocular uses.

30 (r) *"Applicant" means a person who has submitted an application for*
31 *a license to practice optometry.*

32 Sec. 48. K.S.A. 65-1505 is hereby amended to read as follows: 65-
33 1505. (a) Persons entitled to practice optometry in Kansas shall be those
34 persons licensed in accordance with the provisions of the optometry law. A
35 person shall be qualified to be licensed and to receive a license as an
36 optometrist: (1) Who is of good moral character; and in determining the
37 moral character of any such person, the board may take into consideration
38 any felony conviction of such person, but such conviction shall not
39 automatically operate as a bar to licensure; (2) who has graduated from a
40 school or college of optometry approved by the board; and (3) who
41 successfully meets and completes the requirements set by the board and
42 passes an examination given by the board.

43 (b) All applicants for licensure, in addition to successfully completing

1 all other requirements for licensure, shall submit evidence satisfactory to
2 the board of professional liability insurance in an amount acceptable to the
3 board.

4 (c) Any person applying for examination by the board shall fill out
5 and swear to an application furnished by the board, accompanied by a fee
6 fixed by the board by rules and regulations in an amount of not to exceed
7 \$450, and file the same with the secretary of the board at least 30 days
8 prior to the holding of the examination. At such examinations the board
9 shall examine each applicant in subjects taught in schools or colleges of
10 optometry approved by the board, as may be required by the board. If such
11 person complies with the other qualifications for licensing and passes such
12 examination, such person shall receive from the board, upon the payment
13 of a fee fixed by the board by rules and regulations in an amount of not to
14 exceed \$150, a license entitling such person to practice optometry. In the
15 event of the failure on the part of the applicant to pass the first
16 examination, such person may, with the consent of the board, within 18
17 months, by filing an application accompanied by a fee fixed by the board
18 by rules and regulations in an amount of not to exceed \$150, take a second
19 examination; for the third and each subsequent examination a fee fixed by
20 the board by rules and regulations in an amount of not to exceed \$150.
21 Any examination fee and license fee fixed by the board under this
22 subsection which is in effect on the day preceding the effective date of this
23 act shall continue in effect until the board adopts rules and regulations
24 under this subsection fixing a different fee therefor.

25 (d) Any applicant for reciprocal licensure may in the board's
26 discretion be licensed and issued a license without examination if the
27 applicant has been in the active practice of optometry in another state for
28 at least the three-year period immediately preceding the application for
29 reciprocal licensure and the applicant:

30 (1) Presents a certified copy of a certificate of registration or license
31 which has been issued to the applicant by another state where the
32 requirements for licensure are deemed by the board to be equivalent to the
33 requirements for licensure under this act, if such state accords a like
34 privilege to holders of a license issued by the board;

35 (2) submits a sworn statement of the licensing authority of such other
36 state that the applicant's license has never been limited, suspended or
37 revoked and that the applicant has never been censured or had other
38 disciplinary action taken;

39 (3) successfully passes an examination of Kansas law administered
40 by the board and such clinical practice examination as the board deems
41 necessary; and

42 (4) pays the reciprocal license fixed by the board by rules and
43 regulations in an amount of not to exceed \$450. The reciprocal license fee

1 fixed by the board under this subsection which is in effect on the day
2 preceding the effective date of this act shall continue in effect until the
3 board adopts rules and regulations under this subsection fixing a different
4 fee therefor.

5 (e) The board shall adopt rules and regulations establishing the
6 criteria which a school or college of optometry shall satisfy in meeting the
7 requirement of approval by the board established under subsection (a). The
8 board may send a questionnaire developed by the board to any school or
9 college of optometry for which the board does not have sufficient
10 information to determine whether the school or college meets the
11 requirements for approval and rules and regulations adopted under this act.
12 The questionnaire providing the necessary information shall be completed
13 and returned to the board in order for the school or college to be
14 considered for approval. The board may contract with investigative
15 agencies, commissions or consultants to assist the board in obtaining
16 information about schools or colleges. In entering such contracts the
17 authority to approve schools or colleges shall remain solely with the board.

18 (f) (1) The board may require an applicant for licensure or a licensee
19 in connection with an investigation of the licensee to be fingerprinted and
20 submit to a state and national criminal history record check *in accordance*
21 *with section 2, and amendments thereto.* ~~The fingerprints shall be used to~~
22 ~~identify the licensee or applicant for licensure and to determine whether~~
23 ~~the licensee or applicant for licensure has a record of criminal arrests and~~
24 ~~convictions in this state or other jurisdictions. The board is authorized to~~
25 ~~submit the fingerprints to the Kansas bureau of investigation, the federal~~
26 ~~bureau of investigation or any other law enforcement or criminal justice~~
27 ~~agency for a state and national criminal history record check. The board~~
28 ~~may use the information obtained through the criminal history record~~
29 ~~check for the purposes of verifying the identification of the licensee or~~
30 ~~applicant for licensure and in the official character and fitness~~
31 ~~determination of the licensee or applicant for licensure to practice~~
32 ~~optometry in this state.~~

33 (2) ~~Local and state law enforcement officers and agencies shall assist~~
34 ~~the board in taking and processing fingerprints of licensees and applicants~~
35 ~~for licensure and shall release to the board all records of adult convictions,~~
36 ~~arrests and noneconvictions in this state and all records of adult convictions,~~
37 ~~arrests and noneconvictions of any other state or country. The board may~~
38 ~~enter into agreements with the Kansas bureau of investigation, the federal~~
39 ~~bureau of investigation or any other law enforcement or criminal justice~~
40 ~~agency as necessary to carry out the duties of the board under this act.~~

41 (3) ~~The fingerprints and all information obtained from the criminal~~
42 ~~history record check shall be confidential and shall not be disclosed except~~
43 ~~to members of the board and agents and employees of the board as~~

1 necessary to verify the identification of any licensee or applicant for
2 licensure and in the official character and fitness determination of the
3 licensee or applicant for licensure to practice optometry in this state. Any
4 other disclosure of such confidential information shall constitute a class A
5 misdemeanor and shall constitute grounds for removal from office,
6 termination of employment or denial, revocation or suspension of any
7 license issued under this act.

8 ~~(4)~~(2) (A) The board shall fix a fee for fingerprinting applicants or
9 licensees in an amount necessary to reimburse the board for the cost of the
10 fingerprinting. Fees collected under this subsection shall be deposited in
11 the criminal history and fingerprinting fund.

12 (B) There is hereby created in the state treasury the criminal history
13 and fingerprinting fund. All moneys credited to the fund shall be used to
14 pay all costs and fees associated with processing of fingerprints and
15 criminal history checks for the board of examiners in optometry. The fund
16 shall be administered by the board. All expenditures from the fund shall be
17 made in accordance with appropriation acts upon warrants of the director
18 of accounts and reports issued pursuant to vouchers approved by the
19 president of the board or a person designated by the president.

20 Sec. 49. K.S.A. 2023 Supp. 65-1626 is hereby amended to read as
21 follows: 65-1626. As used in the pharmacy act of the state of Kansas:

22 (a) "Address" means, with respect to prescriptions, the physical
23 address where a patient resides, including street address, city and state.

24 (b) "Administer" means the direct application of a drug, whether by
25 injection, inhalation, ingestion or any other means, to the body of a patient
26 or research subject by:

27 (1) A practitioner or pursuant to the lawful direction of a practitioner;

28 (2) the patient or research subject at the direction and in the presence
29 of the practitioner; or

30 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
31 thereto, or K.S.A. 2023 Supp. 65-16,129, and amendments thereto.

32 (c) "Agent" means an authorized person who acts on behalf of or at
33 the direction of a manufacturer, repackager, wholesale distributor, third-
34 party logistics provider or dispenser but does not include a common
35 carrier, public warehouseman or employee of the carrier or warehouseman
36 when acting in the usual and lawful course of the carrier's or
37 warehouseman's business.

38 (d) "Automated dispensing system" means a robotic or mechanical
39 system controlled by a computer that:

40 (1) Performs operations or activities, other than compounding or
41 administration, relative to the storage, packaging, labeling, dispensing or
42 distribution of drugs;

43 (2) collects, controls and maintains all transaction information; and

1 (3) operates in accordance with the board's rules and regulations.

2 (e) "Biological product" means the same as defined in 42 U.S.C. §
3 262(i), as in effect on January 1, 2017.

4 (f) "Board" means the state board of pharmacy created by K.S.A. 74-
5 1603, and amendments thereto.

6 (g) "Brand exchange," in the case of a drug prescribed, means the
7 dispensing of a different drug product of the same dosage form and
8 strength and of the same generic name as the brand name drug product
9 prescribed, and in the case of a biological product prescribed, means the
10 dispensing of an interchangeable biological product.

11 (h) "Brand name" means the registered trademark name given to a
12 drug product by its manufacturer, labeler or distributor.

13 (i) "Co-licensed partner" means a person or pharmaceutical
14 manufacturer that has entered into an agreement with another
15 pharmaceutical manufacturer or an affiliate of the manufacturer to engage
16 in a business activity or occupation related to the manufacture or
17 distribution of a product.

18 (j) "Common carrier" means any person who undertakes, whether
19 directly or by any other arrangement, to transport property, including
20 drugs, for compensation.

21 (k) (1) "Compounding" means the combining of components into a
22 compounded preparation under either of the following conditions:

23 (A) As the result of a practitioner's prescription drug order or
24 initiative based on the practitioner-patient-pharmacist relationship in the
25 course of professional practice to meet the specialized medical need of an
26 individual patient of the practitioner that cannot be filled by an FDA-
27 approved drug; or

28 (B) for the purpose of, or incidental to, research, teaching or chemical
29 analysis, and not for sale or dispensing.

30 (2) Compounding includes the preparation of drugs or devices in
31 anticipation of receiving prescription drug orders based on routine,
32 regularly observed prescribing patterns.

33 (3) Compounding does not include reconstituting any mixed drug
34 according to the FDA-approved labeling for the drug.

35 (l) "Current good manufacturing practices" or "CGMP" means the
36 requirements for ensuring that drugs and drug products are consistently
37 manufactured, repackaged, produced, stored and dispensed in accordance
38 with 21 C.F.R. §§ 207, 210 and 211.

39 (m) "DEA" means the United States department of justice, drug
40 enforcement administration.

41 (n) "Deliver" or "delivery" means the actual, constructive or
42 attempted transfer from one person to another of any drug whether or not
43 an agency relationship exists.

1 (o) "Device" means an instrument, apparatus, implement, machine,
2 contrivance, implant, in vitro reagent or other similar or related article,
3 including a component part or accessory that:

4 (1) (A) Is recognized in the official national formulary, or the United
5 States pharmacopoeia, or any supplement thereof;

6 (B) is intended for use in the diagnosis of disease or other conditions;

7 (C) is used for the cure, mitigation, treatment or prevention of disease
8 in human or other animals; or

9 (D) is intended to affect the structure or any function of the body of
10 human or other animals; and

11 (2) (A) does not achieve its primary intended purposes through
12 chemical action within or on the body of human or other animals; and

13 (B) is not dependent upon being metabolized for the achievement of
14 any of its primary intended purposes.

15 (p) "Direct supervision" means the process by which the responsible
16 pharmacist shall observe and direct the activities of a pharmacist intern or
17 pharmacy technician, be readily and immediately available at all time
18 activities are performed, provide personal assistance, direction and
19 approval throughout the time the activities are performed and complete the
20 final check before dispensing.

21 (q) "Dispense" or "dispensing" means to deliver prescription
22 medication to the ultimate user or research subject by or pursuant to the
23 lawful order of a practitioner or pursuant to the prescription of a mid-level
24 practitioner, including, but not limited to, delivering prescription
25 medication to a patient by mail, common carrier, personal delivery or
26 third-party delivery to any location requested by the patient.

27 (r) "Dispenser" means:

28 (1) A practitioner or pharmacist who dispenses prescription drugs or
29 devices or a physician assistant who has authority to dispense prescription-
30 only drugs in accordance with K.S.A. 65-28a08(b), and amendments
31 thereto; or

32 (2) a retail pharmacy, hospital pharmacy or group of pharmacies
33 under common ownership and control that do not act as a wholesale
34 distributor.

35 (s) "Distribute" or "distribution" means to deliver, offer to deliver,
36 sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store
37 or receive, other than by administering or dispensing, any product, but
38 does not include dispensing a product pursuant to a prescription executed
39 in accordance with 21 U.S.C. § 353 or the dispensing of a product
40 approved under 21 U.S.C. § 360b.

41 (t) "Distributor" means a person or entity that distributes a drug or
42 device.

43 (u) "Diversion" means the transfer of a controlled substance from a

1 lawful to an unlawful channel of distribution or use.

2 (v) "Drop shipment" means the sale, by a manufacturer, repackager or
3 exclusive distributor, of the manufacturer's prescription drug to a
4 wholesale distributor whereby the wholesale distributor takes title but not
5 possession of such prescription drug and the wholesale distributor invoices
6 the dispenser, and the dispenser receives delivery of the prescription drug
7 directly from the manufacturer, repackager, third-party logistics provider
8 or exclusive distributor, of such prescription drug.

9 (w) "Drug" means articles:

10 (1) Recognized in the official United States pharmacopeia, or other
11 such official compendiums of the United States, or official national
12 formulary, or any supplement to any of them;

13 (2) intended for use in the diagnosis, cure, mitigation, treatment or
14 prevention of disease in human or other animals;

15 (3) other than food, intended to affect the structure or any function of
16 the body of human or other animals; and

17 (4) intended for use as a component of any articles specified in
18 paragraph (1), (2) or (3); but does not include devices or their components,
19 parts or accessories, except that the term "drug" does not include
20 amygdalin (laetrile) or any livestock remedy, if such livestock remedy had
21 been registered in accordance with the provisions of article 5 of chapter 47
22 of the Kansas Statutes Annotated, prior to its repeal.

23 (x) "Durable medical equipment" means equipment that:

24 (1) Provides therapeutic benefits or enables an individual to perform
25 certain tasks that the individual is unable to otherwise undertake due to
26 certain medical conditions or illnesses;

27 (2) is primarily and customarily used to serve a medical purpose;

28 (3) generally is not useful to a person in the absence of an illness or
29 injury;

30 (4) can withstand repeated use;

31 (5) is appropriate for use in the home, long-term care facility or
32 medical care facility, but may be transported to other locations to allow the
33 individual to complete instrumental activities of daily living that are more
34 complex tasks required for independent living; and

35 (6) may include devices and medical supplies or other similar
36 equipment determined by the board in rules and regulations adopted by the
37 board.

38 (y) "Electronic prescription" means an electronically prepared
39 prescription that is authorized and transmitted from the prescriber to the
40 pharmacy by means of electronic transmission.

41 (z) "Electronic prescription application" means software that is used
42 to create electronic prescriptions and that is intended to be installed on the
43 prescriber's computers and servers where access and records are controlled

1 by the prescriber.

2 (aa) "Electronic signature" means a confidential personalized digital
3 key, code, number or other method for secure electronic data transmissions
4 that identifies a particular person as the source of the message,
5 authenticates the signatory of the message and indicates the person's
6 approval of the information contained in the transmission.

7 (bb) "Electronic transmission" means the transmission of an
8 electronic prescription, formatted as an electronic data file, from a
9 prescriber's electronic prescription application to a pharmacy's computer,
10 where the data file is imported into the pharmacy prescription application.

11 (cc) "Electronically prepared prescription" means a prescription that
12 is generated using an electronic prescription application.

13 (dd) "Exclusive distributor" means the wholesale distributor that
14 directly purchased the product from the manufacturer and is the sole
15 distributor of that manufacturer's product to a subsequent repackager,
16 wholesale distributor or dispenser.

17 (ee) "FDA" means the United States department of health and human
18 services, food and drug administration.

19 (ff) "Facsimile transmission" or "fax transmission" means the
20 transmission of a digital image of a prescription from the prescriber or the
21 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
22 is not limited to, transmission of a written prescription between the
23 prescriber's fax machine and the pharmacy's fax machine; transmission of
24 an electronically prepared prescription from the prescriber's electronic
25 prescription application to the pharmacy's fax machine, computer or
26 printer; or transmission of an electronically prepared prescription from the
27 prescriber's fax machine to the pharmacy's fax machine, computer or
28 printer.

29 (gg) "Generic name" means the established chemical name or official
30 name of a drug or drug product.

31 (hh) "Healthcare entity" means any person that provides diagnostic,
32 medical, surgical or dental treatment or rehabilitative care but does not
33 include any retail pharmacy or wholesale distributor.

34 (ii) (1) "Institutional drug room" means any location where
35 prescription-only drugs are stored and from which prescription-only drugs
36 are administered or dispensed and that is maintained or operated for the
37 purpose of providing the drug needs of:

38 (A) Inmates of a jail or correctional institution or facility;

39 (B) residents of a juvenile correctional facility or juvenile detention
40 facility, as defined in K.S.A. 38-2302, and amendments thereto;

41 (C) students of a public or private university or college, a community
42 college or any other institution of higher learning that is located in Kansas;

43 (D) employees of a business or other employer; or

1 (E) persons receiving inpatient hospice services.

2 (2) "Institutional drug room" does not include:

3 (A) Any registered pharmacy;

4 (B) any office of a practitioner; or

5 (C) a location where no prescription-only drugs are dispensed and no
6 prescription-only drugs other than individual prescriptions are stored or
7 administered.

8 (jj) "Interchangeable biological product" means a biological product
9 that the FDA has identified in the "purple book: lists of licensed biological
10 products with reference product exclusivity and biosimilarity or
11 interchangeability evaluations" as meeting the standards for
12 "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on
13 January 1, 2017.

14 (kk) "Intracompany transaction" means any transaction or transfer
15 between any division, subsidiary, parent or affiliated or related company
16 under common ownership or control of a corporate entity, or any
17 transaction or transfer between co-licensed partners.

18 (ll) "Label" means a display of written, printed or graphic matter
19 upon the immediate container of any drug.

20 (mm) "Labeling" means the process of preparing and affixing a label
21 to any drug container, exclusive of the labeling by a manufacturer, packer
22 or distributor of a non-prescription drug or commercially packaged legend
23 drug.

24 (nn) *"Fingerprint candidate" means a person who has made an*
25 *original application for or reinstatement of any license, registration,*
26 *permit or certificate under this act or a person who currently holds a*
27 *license, registration, permit or certificate under this act.*

28 (oo) "Long-term care facility" means "nursing facility," as defined in
29 K.S.A. 39-923, and amendments thereto.

30 ~~(pp)~~(pp) "Medical care facility" means the same as defined in K.S.A.
31 65-425, and amendments thereto, and also includes psychiatric hospitals
32 and psychiatric residential treatment facilities as defined by K.S.A. 39-
33 2002, and amendments thereto.

34 ~~(qq)~~(qq) "Manufacture" means the production, preparation,
35 propagation, compounding, conversion or processing of a drug either
36 directly or indirectly by extraction from substances of natural origin,
37 independently by means of chemical or biological synthesis or by a
38 combination of extraction and chemical or biological synthesis or the
39 packaging or repackaging of the drug or labeling or relabeling of its
40 container, except that this term does not include the preparation or
41 compounding of a drug by an individual for the individual's own use or the
42 preparation, compounding, packaging or labeling of a drug by:

43 (1) A practitioner or a practitioner's authorized agent incident to such

1 practitioner's administering or dispensing of a drug in the course of the
2 practitioner's professional practice;

3 (2) a practitioner, by a practitioner's authorized agent or under a
4 practitioner's supervision for the purpose of, or as an incident to, research,
5 teaching or chemical analysis and not for sale; or

6 (3) a pharmacist or the pharmacist's authorized agent acting under the
7 direct supervision of the pharmacist for the purpose of, or incident to, the
8 dispensing of a drug by the pharmacist.

9 ~~(qq)~~(rr) "Manufacturer" means:

10 (1) A person that holds an application approved under section 505 of
11 the federal food, drug and cosmetic act or a license issued under section
12 351 of the federal public health service act for such drug or, if such drug is
13 not the subject of an approved application or license, the person who
14 manufactured the drug;

15 (2) a co-licensed partner of the person described in paragraph (1) that
16 obtains the drug directly from a person described in paragraph (1) or (3);
17 or

18 (3) an affiliate of a person described in paragraph (1) or (2) that
19 receives the product directly from a person described in paragraph (1) or
20 (2).

21 ~~(rr)~~(ss) "Medication order" means a written or oral order by a
22 prescriber or the prescriber's authorized agent for administration of a drug
23 or device to a patient in a Kansas licensed medical care facility or in a
24 Kansas licensed nursing facility or nursing facility for mental health, as
25 such terms are defined by K.S.A. 39-923, and amendments thereto.

26 ~~(ss)~~(tt) "Mid-level practitioner" means a certified nurse-midwife
27 engaging in the independent practice of midwifery under the independent
28 practice of midwifery act, an advanced practice registered nurse issued a
29 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
30 authority to prescribe drugs under K.S.A. 65-1130, and amendments
31 thereto, or a physician assistant licensed pursuant to the physician assistant
32 licensure act who has authority to prescribe drugs pursuant to a written
33 agreement with a supervising physician under K.S.A. 65-28a08, and
34 amendments thereto.

35 ~~(tt)~~(uu) "Nonresident pharmacy" means a pharmacy located outside
36 of Kansas.

37 ~~(uu)~~(vv) "Outsourcing facility" means a facility at one geographic
38 location or address that is engaged in the compounding of sterile drugs and
39 has registered with the FDA as an outsourcing facility pursuant to 21
40 U.S.C. § 353b.

41 ~~(vv)~~(ww) "Person" means individual, corporation, government,
42 governmental subdivision or agency, partnership, association or any other
43 legal entity.

1 ~~(ww)~~(xx) "Pharmacist" means any natural person licensed under this
2 act to practice pharmacy.

3 ~~(xx)~~(yy) "Pharmacist-in-charge" means the pharmacist who is
4 responsible to the board for a registered establishment's compliance with
5 the laws and regulations of this state pertaining to the practice of
6 pharmacy, manufacturing of drugs and the distribution of drugs. The
7 pharmacist-in-charge shall supervise such establishment on a full-time or a
8 part-time basis and perform such other duties relating to supervision of a
9 registered establishment as may be prescribed by the board by rules and
10 regulations. Nothing in this definition shall relieve other pharmacists or
11 persons from their responsibility to comply with state and federal laws and
12 regulations.

13 ~~(yy)~~(zz) "Pharmacist intern" or "intern" means:

14 (1) A student currently enrolled in and in good standing with an
15 accredited pharmacy program;

16 (2) a graduate of an accredited pharmacy program serving an
17 internship; or

18 (3) a graduate of a pharmacy program located outside of the United
19 States that is not accredited and who has successfully passed equivalency
20 examinations approved by the board.

21 ~~(zz)~~(aaa) "Pharmacy," "drugstore" or "apothecary" means premises,
22 laboratory, area or other place, including any electronic medium:

23 (1) Where drugs are offered for sale where the profession of
24 pharmacy is practiced and where prescriptions are compounded and
25 dispensed;

26 (2) that has displayed upon it or within it the words "pharmacist,"
27 "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore,"
28 "druggist," "drugs," "drug sundries" or any of these words or combinations
29 of these words or words of similar import in any language or on any sign
30 containing any of these words as used in the context of health, medical or
31 pharmaceutical care or services; or

32 (3) where the characteristic symbols of pharmacy or the characteristic
33 prescription sign "Rx" may be exhibited in the context of health, medical
34 or pharmaceutical care or services. As used in this subsection, premises
35 refers only to the portion of any building or structure leased, used or
36 controlled by the licensee in the conduct of the business registered by the
37 board at the address for which the registration was issued.

38 ~~(aaa)~~(bbb) "Pharmacy prescription application" means software that
39 is used to process prescription information and is either installed on a
40 pharmacy's computers or servers and is controlled by the pharmacy or is
41 maintained on the servers of an entity that sells electronic pharmacy
42 prescription applications as a hosted service where the entity controls
43 access to the application and maintains the software and records on its

1 server.

2 ~~(bbb)~~(ccc) "Pharmacy technician" means an individual who, under
3 the direct supervision and control of a pharmacist, may perform
4 packaging, manipulative, repetitive or other nondiscretionary tasks related
5 to the processing of a prescription or medication order and who assists the
6 pharmacist in the performance of pharmacy-related duties, but who does
7 not perform duties restricted to a pharmacist.

8 ~~(eee)~~(ddd) "Practitioner" means a person licensed to practice
9 medicine and surgery, dentist, podiatrist, veterinarian, optometrist or
10 scientific investigator or other person authorized by law to use a
11 prescription-only drug in teaching or chemical analysis or to conduct
12 research with respect to a prescription-only drug.

13 ~~(ddd)~~(eee) "Preceptor" means a licensed pharmacist who possesses at
14 least two years' experience as a pharmacist and who supervises and is
15 responsible for the actions of pharmacist interns obtaining pharmaceutical
16 experience.

17 ~~(eee)~~(fff) "Prescriber" means a practitioner or a mid-level practitioner.

18 ~~(fff)~~(ggg) "Prescription" or "prescription order" means the front and
19 back of a lawful written, electronic or facsimile order from a prescriber or
20 an oral order from a prescriber or the prescriber's authorized agent that
21 communicates the prescriber's instructions for a prescription drug or
22 device to be dispensed.

23 ~~(ggg)~~(hhh) "Prescription medication" means any drug, including label
24 and container according to context, that is dispensed pursuant to a
25 prescription order.

26 ~~(hhh)~~(iii) "Prescription-only drug" means any drug whether intended
27 for use by human or animal, required by federal or state law, including 21
28 U.S.C. § 353, to be dispensed only pursuant to a written or oral
29 prescription or order of a practitioner or is restricted to use by practitioners
30 only.

31 ~~(iii)~~(jjj) "Probation" means the practice or operation under a
32 temporary license, registration or permit or a conditional license,
33 registration or permit of a business or profession for which a license,
34 registration or permit is granted by the board under the provisions of the
35 pharmacy act of the state of Kansas requiring certain actions to be
36 accomplished or certain actions not to occur before a regular license,
37 registration or permit is issued.

38 ~~(jjj)~~(lll) "Product" means the same as defined by part H of the federal
39 drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. §
40 360eee.

41 ~~(lll)~~(mmm) "Professional incompetency" means:

42 (1) One or more instances involving failure to adhere to the
43 applicable standard of pharmaceutical care to a degree that constitutes

1 gross negligence, as determined by the board;

2 (2) repeated instances involving failure to adhere to the applicable
3 standard of pharmaceutical care to a degree that constitutes ordinary
4 negligence, as determined by the board; or

5 (3) a pattern of pharmacy practice or other behavior that demonstrates
6 a manifest incapacity or incompetence to practice pharmacy.

7 ~~(mmm)~~(*nnn*) "Readily retrievable" or "readily available" means that
8 records kept in hard copy or by automatic data processing applications or
9 other electronic or mechanized record-keeping systems can be separated
10 out from all other records quickly and easily during an inspection or
11 investigation, or within a reasonable time not to exceed 48 hours of a
12 written request from the board or other authorized agent.

13 ~~(nnn)~~(*ooo*) "Repackage" means changing the container, wrapper,
14 quantity or label of a drug to further the distribution of the drug.

15 ~~(ooo)~~(*ppp*) "Repackager" means a person who owns or operates a
16 facility that repackages.

17 ~~(ppp)~~(*qqq*) "Retail dealer" means a person selling at retail
18 nonprescription drugs that are prepackaged, fully prepared by the
19 manufacturer or distributor for use by the consumer and labeled in
20 accordance with the requirements of the state and federal food, drug and
21 cosmetic acts. Such nonprescription drugs shall not include: (1) A
22 controlled substance; (2) a prescription-only drug; or (3) a drug intended
23 for human use by hypodermic injection.

24 ~~(qqq)~~(*rrr*) "Reverse distributor" means a person who owns or
25 operates an establishment that disposes of or otherwise processes saleable
26 or nonsaleable products received from an authorized trading partner such
27 that the product may be processed for credit to the purchaser, manufacturer
28 or seller or disposed of for no further distribution.

29 ~~(rrr)~~(*sss*) "Secretary" means the executive secretary of the board.

30 ~~(sss)~~(*ttt*) "Third-party logistics provider" means an entity that
31 provides or coordinates warehousing or other logistic services of a product
32 in interstate commerce on behalf of a manufacturer, wholesale distributor
33 or dispenser, but does not take ownership of the product or have
34 responsibility to direct the sale or disposition of the product.

35 ~~(ttt)~~(*uuu*) "Trading partner" means:

36 (1) A manufacturer, repackager, wholesale distributor or dispenser
37 from whom a manufacturer, repackager, wholesale distributor or dispenser
38 accepts direct ownership of a product or to whom a manufacturer,
39 repackager, wholesale distributor or dispenser transfers direct ownership of
40 a product; or

41 (2) a third-party logistics provider from whom a manufacturer,
42 repackager, wholesale distributor or dispenser accepts direct possession of
43 a product or to whom a manufacturer, repackager, wholesale distributor or

1 dispenser transfers direct possession of a product.

2 ~~(uuu)~~(vvv) "Transaction" means the transfer of product between
3 persons in which a change of ownership occurs.

4 ~~(vvv)~~(www) "Unprofessional conduct" means:

5 (1) Fraud in securing a registration or permit;

6 (2) intentional adulteration or mislabeling of any drug, medicine,
7 chemical or poison;

8 (3) causing any drug, medicine, chemical or poison to be adulterated
9 or mislabeled, knowing the same to be adulterated or mislabeled;

10 (4) intentionally falsifying or altering records or prescriptions;

11 (5) unlawful possession of drugs and unlawful diversion of drugs to
12 others;

13 (6) willful betrayal of confidential information under K.S.A. 65-1654,
14 and amendments thereto;

15 (7) conduct likely to deceive, defraud or harm the public;

16 (8) making a false or misleading statement regarding the licensee's
17 professional practice or the efficacy or value of a drug;

18 (9) commission of any act of sexual abuse, misconduct or
19 exploitation related to the licensee's professional practice; or

20 (10) performing unnecessary tests, examinations or services that have
21 no legitimate pharmaceutical purpose.

22 ~~(www)~~(xxx) "Vaccination protocol" means a written protocol, agreed
23 to and signed by a pharmacist and a person licensed to practice medicine
24 and surgery by the state board of healing arts, that establishes procedures
25 and recordkeeping and reporting requirements for administering a vaccine
26 by the pharmacist for a period of time specified therein, not to exceed two
27 years.

28 ~~(xxx)~~(yyy) "Valid prescription order" means a prescription that is
29 issued for a legitimate medical purpose by an individual prescriber
30 licensed by law to administer and prescribe drugs and acting in the usual
31 course of such prescriber's professional practice. A prescription issued
32 solely on the basis of an internet-based questionnaire or consultation
33 without an appropriate prescriber-patient relationship is not a valid
34 prescription order.

35 ~~(yyy)~~(zzz) "Veterinary medical teaching hospital pharmacy" means
36 any location where prescription-only drugs are stored as part of an
37 accredited college of veterinary medicine and from which prescription-
38 only drugs are distributed for use in treatment of or administration to a
39 nonhuman.

40 ~~(zzz)~~(aaa) "Virtual manufacturer" means an entity that engages in
41 the manufacture of a drug or device for which it:

42 (1) Owns the new drug application or abbreviated new drug
43 application number, if a prescription drug;

1 (2) owns the unique device identification number, as available, for a
2 prescription device;

3 (3) contracts with a contract manufacturing organization for the
4 physical manufacture of the drug or device;

5 (4) is not involved in the physical manufacture of the drug or device;
6 and

7 (5) does not store or take physical possession of the drug or device.

8 ~~(aaaa)~~(*bbbb*) "Virtual wholesale distributor" means a wholesale
9 distributor that sells, brokers or transfers a drug or device but never
10 physically possesses the product.

11 ~~(bbb)~~(*cccc*) "Wholesale distributor" means any person engaged in
12 wholesale distribution or reverse distribution of drugs or devices, other
13 than a manufacturer, co-licensed partner or third-party logistics provider.

14 ~~(eeee)~~(*dddd*) "Wholesale distribution" means the distribution or
15 receipt of drugs or devices to or by persons other than consumers or
16 patients, in which a change of ownership occurs. "Wholesale distribution"
17 does not include:

18 (1) The dispensing of a drug or device pursuant to a prescription;

19 (2) the distribution of a drug or device or an offer to distribute a drug
20 or device for emergency medical reasons, including a public health
21 emergency declaration pursuant to section 319 of the public health service
22 act, except that, for purposes of this paragraph, a drug or device shortage
23 not caused by a public health emergency shall not constitute an emergency
24 medical reason;

25 (3) intracompany distribution;

26 (4) the distribution of a drug or device, or an offer to distribute a drug
27 or device, among hospitals or other healthcare entities under common
28 control;

29 (5) the distribution of a drug or device, or the offer to distribute a
30 drug or device, by a charitable organization described in section 501(c)(3)
31 of the internal revenue code of 1986 to a nonprofit affiliate of the
32 organization to the extent otherwise permitted by law;

33 (6) the distribution of an intravenous drug used to maintain the
34 equilibrium of water and minerals in the body, such as dialysis solutions;
35 or

36 (7) the sale or transfer from a retail pharmacy of expired, damaged,
37 returned or recalled prescription drugs to the original manufacturer,
38 originating wholesale distributor or to a reverse distributor registered in
39 accordance with the board's rules and regulations.

40 Sec. 50. K.S.A. 65-1696 is hereby amended to read as follows: 65-
41 1696. (a) ~~As part of an original application for or reinstatement of any~~
42 ~~license, registration, permit or certificate or in connection with any~~
43 ~~investigation of any holder of a license, registration, permit or certificate,~~

1 The state board of pharmacy may require a ~~person~~ *licensee fingerprint*
2 *candidate* to be fingerprinted and submit to a state and national criminal
3 history record check *in accordance with section 2, and amendments*
4 *thereto*. ~~The fingerprints shall be used to identify the person and to~~
5 ~~determine whether the person has a record of criminal history in this state~~
6 ~~or other jurisdiction. The state board of pharmacy is authorized to submit~~
7 ~~the fingerprints to the Kansas bureau of investigation and the federal~~
8 ~~bureau of investigation for a state and national criminal history record~~
9 ~~check. The state board of pharmacy may use the information obtained~~
10 ~~from fingerprinting and the criminal history for purposes of verifying the~~
11 ~~identification of the person and in the official determination of the~~
12 ~~qualifications and fitness of the person to be issued or to maintain a~~
13 ~~license, registration, permit or certificate.~~

14 ~~(b) Local and state law enforcement officers and agencies shall assist~~
15 ~~the state board of pharmacy in taking and processing of fingerprints of~~
16 ~~applicants for and holders of any license, registration, permit or certificate~~
17 ~~and shall release all records of adult convictions and nonconvictions and~~
18 ~~adult convictions or adjudications of another state or country to the state~~
19 ~~board of pharmacy.~~

20 ~~(e)~~ The state board of pharmacy may fix and collect a fee as may be
21 required by the board in an amount equal to the cost of fingerprinting and
22 the criminal history record check. Any moneys collected under this
23 subsection shall be deposited in the state treasury and credited to the
24 pharmacy fee fund. The board of pharmacy shall remit all moneys received
25 by or for it from fees, charges or penalties to the state treasurer in
26 accordance with the provisions of K.S.A. 75-4215, and amendments
27 thereto. Upon receipt of each such remittance, the state treasurer shall
28 deposit the entire amount in the state treasury to the credit of the pharmacy
29 fee fund.

30 ~~(d)(c)~~ This section shall be *a* part of and supplemental to the
31 pharmacy act of the state of Kansas.

32 Sec. 51. K.S.A. 65-2401 is hereby amended to read as follows: 65-
33 2401. As used in this act: (a) "Vital statistics" includes the registration,
34 preparation, transcription, collection, compilation, and preservation of data
35 pertaining to birth, adoption, legitimation, death, stillbirth, marriage,
36 divorce, annulment of marriage, induced termination of pregnancy, and
37 data incidental thereto.

38 (b) "Live birth" means the complete expulsion or extraction from its
39 mother of a human child, irrespective of the duration of pregnancy, which,
40 after such expulsion or extraction, breathes or shows any other evidence of
41 life such as beating of the heart, pulsation of the umbilical cord, or definite
42 movement of voluntary muscles, whether or not the umbilical cord has
43 been cut or the placenta is attached.

1 (c) "Gestational age" means the age of the human child as measured
2 in weeks as determined by either the last date of the mother's menstrual
3 period, a sonogram conducted prior to the 20th week of pregnancy or the
4 confirmed known date of conception.

5 (d) "Stillbirth" means any complete expulsion or extraction from its
6 mother of a human child the gestational age of which is not less than 20
7 completed weeks, resulting in other than a live birth, as defined in this
8 section, and which is not an induced termination of pregnancy.

9 (e) "Induced termination of pregnancy" means abortion, as defined in
10 K.S.A. 65-6701, and amendments thereto.

11 (f) "Dead body" means a lifeless human body or such parts of a
12 human body or the bones thereof from the state of which it reasonably may
13 be concluded that death recently occurred.

14 (g) "Person in charge of interment" means any person who places or
15 causes to be placed a stillborn child or dead body or the ashes, after
16 cremation, in a grave, vault, urn or other receptacle, or otherwise disposes
17 thereof.

18 (h) "Secretary" means the secretary of health and environment.

19 (i) "*Employee*" means a person who has applied for employment or is
20 currently employed in the office of vital statistics.

21 Sec. 52. K.S.A. 65-2402 is hereby amended to read as follows: 65-
22 2402. (a) The secretary shall:

23 (1) Establish within the division of public health suitable offices
24 properly equipped for the preservation of official records;

25 (2) maintain a complete cross-index on all records filed under the
26 provisions of this act;

27 (3) install a statewide system of vital statistics;

28 (4) make and may amend, after notice and hearing, necessary
29 regulations, give instructions and prescribe forms for collection,
30 transcribing, compiling and preserving vital statistics; and

31 (5) enforce this act and the regulations made pursuant thereto.

32 (b) ~~Any person offered a position of employment~~ *employee* in the
33 office of vital statistics; *who is* subject to a criminal history records check;
34 shall be given a written notice that a criminal history records check is
35 required. The secretary shall require such applicant to be fingerprinted and
36 submit to a state and national criminal history record check *in accordance*
37 *with section 2, and amendments thereto.* ~~The fingerprints shall be used to~~
38 ~~identify the applicant and to determine whether the applicant has a record~~
39 ~~of criminal history in this state or another jurisdiction. The secretary shall~~
40 ~~submit the fingerprints to the Kansas bureau of investigation and the~~
41 ~~federal bureau of investigation for a state and national criminal history~~
42 ~~record check. Local and state law enforcement officers and agencies shall~~
43 ~~assist the secretary in taking and processing of fingerprints of applicants.~~

1 ~~The secretary may use the information obtained from fingerprinting and~~
2 ~~the criminal history for purposes of verifying the identification of the~~
3 ~~applicant and in the official determination of the eligibility of the applicant~~
4 ~~to perform tasks within the office of vital statistics. If the criminal history~~
5 ~~record information is used to disqualify an applicant, the applicant shall be~~
6 ~~informed in writing of that decision.~~

7 Sec. 53. K.S.A. 65-2802 is hereby amended to read as follows: 65-
8 2802. For the purpose of this act the following definitions shall apply:

9 (a) The healing arts include any system, treatment, operation,
10 diagnosis, prescription or practice for the ascertainment, cure, relief,
11 palliation, adjustment or correction of any human disease, ailment,
12 deformity, injury, alteration or enhancement of a condition or appearance
13 and includes specifically, but not by way of limitation, the practice of
14 medicine and surgery; the practice of osteopathic medicine and surgery;
15 and the practice of chiropractic.

16 (b) "Board" ~~shall mean~~ means the state board of healing arts.

17 (c) "License," unless otherwise specified, ~~shall mean~~ means a license
18 to practice the healing arts granted under this act.

19 (d) "Licensed" or "licensee," unless otherwise specified, ~~shall mean~~
20 means a person licensed under this act to practice medicine and surgery,
21 osteopathic medicine and surgery or chiropractic.

22 (e) "Healing arts school" ~~shall mean~~ means an academic institution
23 which grants a doctor of chiropractic degree, doctor of medicine degree or
24 doctor of osteopathy degree.

25 (f) "Applicant" means a person who has submitted an application for
26 any license, registration, permit or certificate to the board of healing arts.

27 (g) "Licensee" means a person who holds a license, registration,
28 permit or certificate issued by the board of healing arts.

29 (h) Wherever the masculine gender is used, it shall be construed to
30 include the feminine, and the singular number shall include the plural
31 when consistent with the intent of this act.

32 Sec. 54. K.S.A. 65-2839a is hereby amended to read as follows: 65-
33 2839a. (a) In connection with any investigation by the board, the board or
34 its duly authorized agents or employees shall at all reasonable times have
35 access to, for the purpose of examination, and the right to copy any
36 document, report, record or other physical evidence of any person being
37 investigated, or any document, report, record or other evidence maintained
38 by and in possession of any clinic, office of a practitioner of any
39 profession regulated by the board, laboratory, pharmacy, medical care
40 facility or other public or private agency if such document, report, record
41 or evidence relates to professional competence, unprofessional conduct or
42 the mental or physical ability of a person to safely practice any profession
43 regulated by the board.

1 (b) For the purpose of all investigations and proceedings conducted
2 by the board:

3 (1) The board may issue subpoenas compelling the attendance and
4 testimony of witnesses or the production for examination or copying of
5 documents or any other physical evidence if such evidence relates to
6 medical competence, unprofessional conduct or the mental or physical
7 ability of a licensee, registrant, permit holder or certificate holder to safely
8 practice. Within five days after the service of the subpoena on any person
9 requiring the production of any evidence in the person's possession or
10 under the person's control, such person may petition the board to revoke,
11 limit or modify the subpoena. The board shall revoke, limit or modify such
12 subpoena if in its opinion the evidence required does not relate to practices
13 which may be grounds for disciplinary action, is not relevant to the charge
14 which is the subject matter of the proceeding or investigation, or does not
15 describe with sufficient particularity the physical evidence which is
16 required to be produced. Any member of the board, or any agent
17 designated by the board, may administer oaths or affirmations, examine
18 witnesses and receive such evidence. The board shall have the authority to
19 compel the production of evidence upon noncompliance with an
20 investigative subpoena, if in the opinion of the board or the board's
21 designee, the evidence demanded relates to a practice which may be
22 grounds for disciplinary action, is relevant to the charge which is the
23 subject matter of the investigation and describes with sufficient
24 particularity the physical evidence required to be produced.

25 (2) Any person appearing before the board shall have the right to be
26 represented by counsel.

27 (3) The district court, upon application by the board or after
28 exhaustion of available administrative remedies by the person subpoenaed,
29 shall have jurisdiction to issue an order:

30 (A) Requiring such person to appear before the board or the board's
31 duly authorized agent to produce evidence relating to the matter under
32 investigation; or

33 (B) revoking, limiting or modifying the subpoena if in the court's
34 opinion the evidence demanded does not relate to practices which may be
35 grounds for disciplinary action, is not relevant to the charge which is the
36 subject matter of the hearing or investigation or does not describe with
37 sufficient particularity the evidence which is required to be produced.

38 (c) The board may receive from the Kansas bureau of investigation or
39 other criminal justice agencies such criminal history record information,
40 including arrest and nonconviction data, criminal intelligence information
41 and information relating to criminal and background investigations as
42 necessary for the purpose of determining initial and continuing
43 qualifications of licensees, permit holders, registrants and certificate

1 holders of, and applicants for, licensure and registration by the board *in*
2 *accordance with section 3, and amendments thereto.* ~~Disclosure or use of~~
3 ~~any such information received by the board or of any record containing~~
4 ~~such information, for any purpose other than that provided by this~~
5 ~~subsection is a class A misdemeanor and shall constitute grounds for~~
6 ~~removal from office, termination of employment or denial, revocation or~~
7 ~~suspension of any license, permit, registration or certificate issued under~~
8 ~~this act. Unless otherwise specified, nothing in this subsection shall be~~
9 ~~construed to make unlawful the disclosure of any such information by the~~
10 ~~board in a hearing held pursuant to the practice act of any profession~~
11 ~~regulated by the board.~~

12 (d) Patient records, including clinical records, medical reports,
13 laboratory statements and reports, files, films, other reports or oral
14 statements relating to diagnostic findings or treatment of patients,
15 information from which a patient or a patient's family might be identified,
16 peer review or risk management records or information received and
17 records kept by the board as a result of the investigation procedure
18 outlined in this section shall be confidential and shall not be disclosed.

19 (e) Nothing in this section or any other provision of law making
20 communications between a licensee, registrant, permit holder or certificate
21 holder and the patient a privileged communication shall apply to
22 investigations or proceedings conducted pursuant to this section. The
23 board and its employees, agents and representatives shall keep in
24 confidence the names of any patients whose records are reviewed during
25 the course of investigations and proceedings pursuant to this section.

26 Sec. 55. K.S.A. 65-28,129 is hereby amended to read as follows: 65-
27 28,129. (a) As part of an original application for or reinstatement of any
28 license, registration, permit or certificate or in connection with any
29 investigation of any holder of a license, registration, permit or certificate,
30 the state board of healing arts may require a person to be fingerprinted and
31 submit to a state and national criminal history record check *in accordance*
32 *with section 2, and amendments thereto.* ~~The fingerprints shall be used to~~
33 ~~identify the person and to determine whether the person has a record of~~
34 ~~criminal history in this state or other jurisdiction. The state board of~~
35 ~~healing arts is authorized to submit the fingerprints to the Kansas bureau~~
36 ~~of investigation and the federal bureau of investigation for a state and~~
37 ~~national criminal history record check. The state board of healing arts may~~
38 ~~use the information obtained from fingerprinting and the criminal history~~
39 ~~for purposes of verifying the identification of the person and in the official~~
40 ~~determination of the qualifications and fitness of the person to be issued or~~
41 ~~to maintain a license, registration, permit or certificate.~~

42 (b) ~~Local and state law enforcement officers and agencies shall assist~~
43 ~~the state board of healing arts in taking and processing of fingerprints of~~

1 ~~applicants for and holders of any license, registration, permit or certificate~~
2 ~~and shall release all records of adult convictions and nonconvictions and~~
3 ~~adult convictions or adjudications of another state or country to the state~~
4 ~~board of healing arts.~~

5 (e) The state board of healing arts may fix and collect a fee as may be
6 required by the board in an amount necessary to reimburse the board for
7 the cost of fingerprinting and the criminal history record check. Any
8 moneys collected under this subsection shall be deposited in the state
9 treasury and credited to the healing arts fee fund.

10 ~~(d)~~(c) This section shall be a part of and supplemental to the Kansas
11 healing arts act.

12 Sec. 56. K.S.A. 65-2901 is hereby amended to read as follows: 65-
13 2901. As used in the physical therapy practice act:

14 (a) "Physical therapy" means examining, evaluating and testing
15 individuals with mechanical, anatomical, physiological and developmental
16 impairments, functional limitations and disabilities or other health and
17 movement-related conditions in order to determine a diagnosis solely for
18 physical therapy, prognosis, plan of therapeutic intervention and to assess
19 the ongoing effects of physical therapy intervention. Physical therapy also
20 includes alleviating impairments, functional limitations and disabilities by
21 designing, implementing and modifying therapeutic interventions that may
22 include, but are not limited to, therapeutic exercise; functional training in
23 community or work integration or reintegration; manual therapy; dry
24 needling; therapeutic massage; prescription, application and, as
25 appropriate, fabrication of assistive, adaptive, orthotic, prosthetic,
26 protective and supportive devices and equipment; airway clearance
27 techniques; integumentary protection and repair techniques; debridement
28 and wound care; physical agents or modalities; mechanical and
29 electrotherapeutic modalities; patient-related instruction; reducing the risk
30 of injury, impairments, functional limitations and disability, including the
31 promotion and maintenance of fitness, health and quality of life in all age
32 populations and engaging in administration, consultation, education and
33 research. Physical therapy also includes the care and services provided by
34 a physical therapist or a physical therapist assistant under the direction and
35 supervision of a physical therapist who is licensed pursuant to the physical
36 therapy practice act. Physical therapy does not include the use of roentgen
37 rays and radium for diagnostic and therapeutic purposes, the use of
38 electricity for surgical purposes, including cauterization, the practice of
39 any branch of the healing arts and the making of a medical diagnosis.

40 (b) "Physical therapist" means a person who is licensed to practice
41 physical therapy pursuant to the physical therapy practice act. Any person
42 who successfully meets the requirements of K.S.A. 65-2906, and
43 amendments thereto, shall be known and designated as a physical therapist

1 and may designate or describe oneself, as appropriate, as a physical
2 therapist, physiotherapist, licensed physical therapist, doctor of physical
3 therapy, abbreviations thereof, or words similar thereto or use of the
4 designated letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this
5 section shall be construed to prohibit physical therapists licensed under
6 K.S.A. 65-2906 and 65-2909, and amendments thereto, from listing or
7 using in conjunction with their name any letters, words, abbreviations or
8 other insignia to designate any educational degrees, certifications or
9 credentials recognized by the board which such licensee has earned. Each
10 licensee when using the letters or term "Dr." or "Doctor" in conjunction
11 with such licensee's professional practice, whether in any written or oral
12 communication, shall identify oneself as a "physical therapist" or "doctor
13 of physical therapy."

14 (c) "Physical therapist assistant" means a person who is certified
15 pursuant to the physical therapy practice act and who works under the
16 direction of a physical therapist, and who assists the physical therapist in
17 selected components of physical therapy intervention. Any person who
18 successfully meets the requirements of K.S.A. 65-2906, and amendments
19 thereto, shall be known and designated as a physical therapist assistant,
20 and may designate or describe oneself as a physical therapist assistant,
21 certified physical therapist assistant, abbreviations thereof, or words
22 similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst.
23 Nothing in this section shall be construed to prohibit physical therapist
24 assistants certified under K.S.A. 65-2906 and 65-2909, and amendments
25 thereto, from listing or using in conjunction with their name any letters,
26 words, abbreviations or other insignia to designate any educational
27 degrees, certifications or credentials which such physical therapist
28 assistant has earned.

29 (d) "Board" means the state board of healing arts.

30 (e) "Council" means the physical therapy advisory council.

31 (f) "Dry needling" means a skilled intervention using a thin filiform
32 needle to penetrate into or through the skin and stimulate underlying
33 myofascial trigger points or muscular or connective tissues for the
34 management of neuromuscular pain or movement impairments.

35 (g) "Physician" means a person licensed to practice medicine and
36 surgery.

37 (h) "Recognized by the board" means an action taken by the board at
38 an open meeting to recognize letters, words, abbreviations or other
39 insignia to designate any educational degrees, certifications or credentials,
40 consistent with the provisions of this act, which a physical therapist may
41 appropriately use to designate or describe oneself and which shall be
42 published in the official minutes of the board.

43 (i) "*Applicant*" means a person who has submitted an application for

1 *a license to practice physical therapy or a certificate as a physical therapy*
2 *assistant.*

3 (j) *"Licensee" means a person who holds a license to practice*
4 *physical therapy or a certificate as a physical therapy assistant.*

5 Sec. 57. K.S.A. 2023 Supp. 65-2924 is hereby amended to read as
6 follows: 65-2924. (a) As part of an original application for a license as a
7 physical therapist or a certificate as a physical therapy assistant or as part
8 of an original application for reinstatement of a license or certificate or in
9 connection with any investigation of any holder of a license or certificate,
10 the state board of healing arts may require a person to be fingerprinted and
11 submit to a state and national criminal history record check *in accordance*
12 *with section 2, and amendments thereto.* ~~The fingerprints shall be used to~~
13 ~~identify the person and to determine whether the person has a record of~~
14 ~~criminal history in this state or other jurisdiction. The state board of~~
15 ~~healing arts is authorized to submit the fingerprints to the Kansas bureau~~
16 ~~of investigation and the federal bureau of investigation for a state and~~
17 ~~national criminal history record check. The state board of healing arts may~~
18 ~~use the information obtained from fingerprinting and the criminal history~~
19 ~~for purposes of verifying the identification of the person and in the official~~
20 ~~determination of the qualifications and fitness of the person to be issued or~~
21 ~~to maintain a license or certificate.~~

22 (b) ~~Local and state law enforcement officers and agencies shall assist~~
23 ~~the state board of healing arts in taking and processing of fingerprints of~~
24 ~~applicants for and holders of any license or certificate and shall release all~~
25 ~~records of adult convictions and noneconvictions and adult convictions or~~
26 ~~adjudications of another state or country to the state board of healing arts.~~

27 (e) The state board of healing arts may fix and collect a fee as may be
28 required by the board in an amount necessary to reimburse the board for
29 the cost of fingerprinting and the criminal history record check. Any
30 moneys collected under this subsection shall be deposited in the state
31 treasury and credited to the healing arts fee fund.

32 ~~(d)~~(c) This section shall be a part of and supplemental to the physical
33 therapy practice act.

34 Sec. 58. K.S.A. 2023 Supp. 65-3407 is hereby amended to read as
35 follows: 65-3407. (a) Except as otherwise provided by K.S.A. 65-3407c,
36 and amendments thereto, no person shall construct, alter or operate a solid
37 waste processing facility or a solid waste disposal area of a solid waste
38 management system, except for clean rubble disposal sites, without first
39 obtaining a permit from the secretary.

40 (b) Every person desiring to obtain a permit to construct, alter or
41 operate a solid waste processing facility or disposal area shall make
42 application for such a permit on forms provided for such purpose by the
43 rules and regulations of the secretary and shall provide the secretary with

1 such information as necessary to show that the facility or area will comply
2 with the purpose of this act. Upon receipt of any application and payment
3 of the application fee, the secretary, with advice and counsel from the local
4 health authorities and the county commission, shall make an investigation
5 of the proposed solid waste processing facility or disposal area and
6 determine whether it complies with the provisions of this act and any rules
7 and regulations and standards adopted thereunder. The secretary also may
8 consider the need for the facility or area in conjunction with the county or
9 regional solid waste management plan. If the investigation reveals that the
10 facility or area conforms with the provisions of the act and the rules and
11 regulations and standards adopted thereunder, the secretary shall approve
12 the application and shall issue a permit for the operation of each solid
13 waste processing or disposal facility or area set forth in the application. If
14 the facility or area fails to meet the rules and regulations and standards
15 required by this act the secretary shall issue a report to the applicant stating
16 the deficiencies in the application. The secretary may issue temporary
17 permits conditioned upon corrections of construction methods being
18 completed and implemented.

19 (c) Before reviewing any application for permit, the secretary shall
20 conduct a background investigation of the applicant. The secretary shall
21 consider the financial, technical and management capabilities of the
22 applicant as conditions for issuance of a permit. The secretary may reject
23 the application prior to conducting an investigation into the merits of the
24 application if the secretary finds that:

25 (1) The applicant currently holds, or in the past has held, a permit
26 under this section and while the applicant held a permit under this section
27 the applicant violated a provision of K.S.A. 65-3409(a), and amendments
28 thereto;

29 (2) the applicant previously held a permit under this section and that
30 permit was revoked by the secretary;

31 (3) the applicant failed or continues to fail to comply with any of the
32 provisions of the air, water or waste statutes, including rules and
33 regulations issued thereunder, relating to environmental protection or to
34 the protection of public health in this or any other state or the federal
35 government of the United States, or any condition of any permit or license
36 issued by the secretary; or if the secretary finds that the applicant has
37 shown a lack of ability or intention to comply with any provision of any
38 law referred to in this subsection or any rule and regulation or order or
39 permit issued pursuant to any such law as indicated by past or continuing
40 violations; or

41 (4) the applicant is a corporation and any principal, shareholder, or
42 other person capable of exercising total or partial control of such
43 corporation could be determined ineligible to receive a permit pursuant to

1 paragraph (1), (2) or (3).

2 (d) Before reviewing any application for a permit, the secretary may
3 request that the attorney general perform a comprehensive criminal
4 background investigation of the applicant; or in the case of a corporate
5 applicant, any principal, shareholder or other person capable of exercising
6 total or partial control of the corporation *in accordance with section 3, and*
7 *amendments thereto*. The secretary may reject the application prior to
8 conducting an investigation into the merits of the application if the
9 secretary finds that serious criminal violations have been committed by the
10 applicant or a principal of the corporation.

11 (e) (1) The fees for a solid waste processing or disposal permit shall
12 be established by rules and regulations adopted by the secretary. The fee
13 for the application and original permit shall not exceed \$5,000. Except as
14 provided by paragraphs (2) and (3), the annual permit renewal fee shall not
15 exceed \$2,000. No refund shall be made in case of revocation. In
16 establishing fees for a construction and demolition landfill, the secretary
17 shall adopt a differential fee schedule based upon the volume of
18 construction and demolition waste to be disposed of at such landfill. All
19 fees shall be deposited in the state treasury and credited to the solid waste
20 management fund. Except for the annual permit renewal fees provided in
21 paragraph (3), a city, county, other political subdivision or state agency
22 shall be exempt from payment of the fee but shall meet all other provisions
23 of this act.

24 (2) Except as provided in paragraph (3), the annual permit renewal
25 fee for a solid waste disposal area that is permitted by the secretary, owned
26 or operated by the facility generating the waste and used only for industrial
27 waste generated by such facility shall be not less than \$1,000 and not more
28 than \$4,000. In establishing fees for such disposal areas, the secretary shall
29 adopt a differential fee schedule based upon the characteristics of the
30 disposal area sites.

31 (3) (A) For each solid waste disposal area and each solid waste
32 processing facility that is permitted by the secretary and subject to the
33 requirements of 40 C.F.R. 257 subpart D, as in effect on July 1, 2017, or
34 any later version adopted by reference by the secretary in rules and
35 regulations, the annual permit renewal fee shall be not less than \$12,000
36 and not more than \$16,000.

37 (B) The minimum fee shall apply until a fee schedule is established
38 by the secretary in rules and regulations.

39 (C) If a single permit encompasses more than one solid waste
40 disposal area or solid waste processing facility, the total fee for the permit
41 shall be an amount equal to the sum of the fees for each solid waste
42 disposal area and each solid waste processing facility subject to 40 C.F.R.
43 257 subpart D encompassed in the permit.

1 (D) The first annual permit fee is due on September 1, 2022.

2 (E) If such solid waste disposal area or solid waste processing facility
3 is operating under a federally issued coal combustion residuals (CCR)
4 permit that includes all applicable requirements of 40 C.F.R. 257 subpart
5 D, then the fees provided in this paragraph shall no longer apply and such
6 disposal area or facility shall be subject to the fees provided in paragraph
7 (2).

8 (F) Upon a determination by the department of health and
9 environment that such solid waste disposal area or solid waste processing
10 facility has met all applicable post-closure care requirements of 40 C.F.R.
11 257 subpart D, and article 29 of the Kansas administrative regulations,
12 then such disposal area or facility shall no longer be subject to permitting
13 under this paragraph.

14 (f) Plans, designs and relevant data for the construction of solid waste
15 processing facilities and disposal sites shall be prepared by a professional
16 engineer licensed to practice in Kansas and shall be submitted to the
17 department for approval prior to the construction, alteration or operation of
18 such facility or area. In adopting rules and regulations, the secretary may
19 specify sites, areas or facilities where the environmental impact is minimal
20 and may waive such preparation requirements provided that a review of
21 such plans is conducted by a professional engineer licensed to practice in
22 Kansas.

23 (g) Each permit granted by the secretary, as provided in this act, shall
24 be subject to such conditions as the secretary deems necessary to protect
25 human health and the environment and to conserve the sites. Such
26 conditions shall include approval by the secretary of the types and
27 quantities of solid waste allowable for processing or disposal at the
28 permitted location.

29 (h) (1) Before issuing or renewing a permit to operate a solid waste
30 processing facility or solid waste disposal area, the secretary shall require
31 the permittee to demonstrate that funds are available to ensure payment of
32 the cost of closure and postclosure care and provide liability insurance for
33 accidental occurrences at the permitted facility.

34 (2) If the permittee owns the land where the solid waste processing
35 facility or disposal area is located or the permit for the facility was issued
36 before the date this act is published in the Kansas register, the permittee
37 shall satisfy the financial assurance requirement for closure and
38 postclosure care by providing a trust fund, a surety bond guaranteeing
39 payment, an irrevocable letter of credit or insurance policy, or by passing a
40 financial test or obtaining a financial guarantee from a related entity, to
41 guarantee the future availability of funds. The secretary shall prescribe the
42 methods to be used by a permittee to demonstrate sufficient financial
43 strength to become eligible to use a financial test or a financial guarantee

1 procedure in lieu of providing the other financial instruments. Solid waste
2 processing facilities or disposal areas, except municipal solid waste
3 landfills, may also demonstrate financial assurance costs by use of ad
4 valorem taxing power.

5 (3) If the permittee does not own the land where the solid waste
6 processing facility or disposal area is located and the permit for the facility
7 is issued after the date this act is published in the Kansas register, the
8 permittee shall satisfy the financial assurance requirement for closure and
9 postclosure care by providing a trust fund, a surety bond guaranteeing
10 payment, or an irrevocable letter of credit.

11 (4) The secretary shall require each permittee of a solid waste
12 processing facility or disposal area to provide liability insurance coverage
13 during the period that the facility or area is active, and during the term of
14 the facility or area is subject to postclosure care, in such amount as
15 determined by the secretary to insure the financial responsibility of the
16 permittee for accidental occurrences at the site of the facility or area. Any
17 such liability insurance as may be required pursuant to this subsection or
18 pursuant to the rules and regulations of the secretary shall be issued by an
19 insurance company authorized to do business in Kansas or by a licensed
20 insurance agent operating under authority of K.S.A. 40-246b, and
21 amendments thereto, and shall be subject to the insurer's policy provisions
22 filed with and approved by the commissioner of insurance pursuant to
23 K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A.
24 40-246b, and amendments thereto. Nothing contained in this subsection
25 shall be deemed to apply to any state agency or department or agency of
26 the federal government.

27 (i) (1) Permits granted by the secretary as provided by this act shall
28 not be transferable except as follows:

29 (A) A permit for a solid waste disposal area may be transferred if the
30 area is permitted for only solid waste produced on site from manufacturing
31 and industrial processes or on-site construction or demolition activities and
32 the only change in the permit is a name change resulting from a merger,
33 acquisition, sale, corporate restructuring or other business transaction.

34 (B) A permit for a solid waste disposal area or a solid waste
35 processing facility may be transferred if the secretary approves of the
36 transfer based upon information submitted to the secretary sufficient to
37 conduct a background investigation of the new owner as specified in
38 subsections (c) and (d) and a financial assurance evaluation as specified in
39 subsection (h). Such information shall be submitted to the secretary not
40 more than one year nor less than 60 days before the transfer. If the
41 secretary does not approve or disapprove the transfer within 30 days after
42 all required information is submitted to the secretary, the transfer shall be
43 deemed to have been approved.

1 (2) Permits granted by the secretary as provided by this act shall be
2 revocable or subject to suspension whenever the secretary shall determine
3 that the solid waste processing or disposal facility or area is, or has been
4 constructed or operated in violation of this act or the rules and regulations
5 or standards adopted pursuant to the act, or is creating or threatens to
6 create a hazard to persons or property in the area or to the environment, or
7 is creating or threatens to create a public nuisance, or upon the failure to
8 make payment of any fee required under this act.

9 (3) The secretary also may revoke, suspend or refuse to issue a permit
10 when the secretary determines that past or continuing violations of the
11 provisions of subsection (c)(3) or K.S.A. 65-3409 or 65-3424b, and
12 amendments thereto, have been committed by a permittee, or any
13 principal, shareholder or other person capable of exercising partial or total
14 control over a permittee.

15 (j) Except as otherwise provided by subsection (i)(1), the secretary
16 may require a new permit application to be submitted for a solid waste
17 processing facility or a solid waste disposal area in response to any
18 change, either directly or indirectly, in ownership or control of the
19 permitted real property or the existing permittee.

20 (k) In case any permit is denied, suspended or revoked the person,
21 city, county or other political subdivision or state agency may request a
22 hearing before the secretary in accordance with K.S.A. 65-3412, and
23 amendments thereto.

24 (l) (1) No permit to construct or operate a solid waste disposal area
25 shall be issued on or after the effective date of this act if such area is
26 located within $\frac{1}{2}$ mile of a navigable stream used for interstate commerce
27 or within one mile of an intake point for any public surface water supply
28 system.

29 (2) Any permit, issued before the effective date of this act, to
30 construct or operate a solid waste disposal area is hereby declared void if
31 such area is not yet in operation and is located within $\frac{1}{2}$ mile of a
32 navigable stream used for interstate commerce or within one mile of an
33 intake point for any public surface water supply system.

34 (3) The provisions of this subsection shall not be construed to
35 prohibit:

36 (A) Issuance of a permit for lateral expansion onto land contiguous to
37 a permitted solid waste disposal area in operation on the effective date of
38 this act;

39 (B) issuance of a permit for a solid waste disposal area for disposal of
40 a solid waste by-product produced on-site;

41 (C) renewal of an existing permit for a solid waste area in operation
42 on the effective date of this act; or

43 (D) activities regulated under K.S.A. 65-163 through 65-165 or 65-

1 171d, and amendments thereto.

2 (m) Before reviewing any application for a solid waste processing
3 facility or solid waste disposal area, the secretary shall require the
4 following information as part of the application:

5 (1) Certification by the board of county commissioners or the mayor
6 of a designated city responsible for the development and adoption of the
7 solid waste management plan for the location where the processing facility
8 or disposal area is or will be located that the processing facility or disposal
9 area is consistent with the plan. This certification shall not apply to a solid
10 waste disposal area for disposal of only solid waste produced on site from
11 manufacturing and industrial processes or from on-site construction or
12 demolition activities.

13 (2) If the location is zoned, certification by the local planning and
14 zoning authority that the processing facility or disposal area is consistent
15 with local land use restrictions or, if the location is not zoned, certification
16 from the board of county commissioners that the processing facility or
17 disposal area is compatible with surrounding land use.

18 (3) For a solid waste disposal area permit issued on or after July 1,
19 1999, proof that the applicant either owns the land where the disposal area
20 will be located or operates the solid waste disposal area for an adjacent or
21 on-site industrial facility, if the disposal area is:

22 (A) A municipal solid waste landfill; or

23 (B) a solid waste disposal area that has:

24 (i) A leachate or gas collection or treatment system;

25 (ii) waste containment systems or appurtenances with planned
26 maintenance schedules; or

27 (iii) an environmental monitoring system with planned maintenance
28 schedules or periodic sampling and analysis requirements.

29 (4) If the applicant does not own the land, the applicant shall also
30 provide proof that the applicant has acquired and duly recorded an
31 easement to the landfill property. The easement shall authorize the
32 applicant to carry out landfill operations, closure, post-closure care,
33 monitoring, and all related construction activities on the landfill property
34 as required by applicable solid waste laws and regulations, as established
35 in permit conditions, or as ordered or directed by the secretary. Such
36 easement shall run with the land if the landfill property is transferred and
37 the easement may only be vacated with the consent of the secretary. These
38 requirements shall not apply to a permit for lateral or vertical expansion
39 contiguous to a permitted solid waste disposal area in operation on July 1,
40 1999, if such expansion is on land leased by the permittee before April 1,
41 1999.

42 Sec. 59. K.S.A. 65-3503 is hereby amended to read as follows: 65-
43 3503. (a) It shall be the duty of the board to:

1 (1) Develop, impose and enforce standards that shall be met by
2 individuals in order to receive a license as an adult care home
3 administrator and that shall be designed to ensure that adult care home
4 administrators will be individuals who are of good character and are
5 otherwise suitable, and who, by training or experience in the field of
6 institutional administration, are qualified to serve as adult care home
7 administrators;

8 (2) develop examinations and investigations for determining whether
9 an individual meets such standards;

10 (3) issue licenses to individuals who meet such standards, and revoke
11 or suspend licenses issued by the board or reprimand, censure or otherwise
12 discipline a person holding any such license as provided under K.S.A. 65-
13 3508, and amendments thereto;

14 (4) establish and carry out procedures designed to ensure that
15 individuals licensed as adult care home administrators comply with the
16 requirements of such standards; and

17 (5) receive, investigate and take appropriate action under K.S.A. 65-
18 3505, and amendments thereto, and rules and regulations adopted by the
19 board with respect to any charge or complaint filed with the board to the
20 effect that any person licensed as an adult care home administrator may be
21 subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and
22 amendments thereto.

23 (b) The board shall also have the power to make rules and
24 regulations, not inconsistent with law, as may be necessary for the proper
25 performance of its duties, and to have subpoenas issued pursuant to K.S.A.
26 60-245, and amendments thereto, in the board's exercise of its power and
27 to take such other actions as may be necessary to enable the state to meet
28 the requirements set forth in section 1908 of the social security act, the
29 federal rules and regulations promulgated thereunder and other pertinent
30 federal authority.

31 (c) The board shall fix by rules and regulations the licensure fee,
32 temporary license fee, renewal fee, late renewal fee, reinstatement fee,
33 reciprocity fee, sponsorship fee, wall or wallet card license replacement
34 fee, duplicate wall license fee for any administrator serving as
35 administrator in more than one facility and, if necessary, an examination
36 fee under this act. Such fees shall be fixed in an amount to cover the costs
37 of administering the provisions of the act. No fee shall be more than \$200.
38 The secretary for aging and disability services shall remit all moneys
39 received from fees, charges or penalties under this act to the state treasurer
40 in accordance with the provisions of K.S.A. 75-4215, and amendments
41 thereto. Upon receipt of each such remittance, the state treasurer shall
42 deposit the entire amount in the state treasury to the credit of the health
43 occupations credentialing fee fund created by K.S.A. 39-979, and

1 amendments thereto.

2 (d) The board upon request shall receive from the Kansas bureau of
3 investigation, without charge, such criminal history record information
4 relating to criminal convictions as necessary for the purpose of
5 determining initial and continuing qualifications of licensees of and
6 applicants for licensure by the board *in accordance with section 3, and*
7 *amendments thereto.*

8 Sec. 60. K.S.A. 65-4209 is hereby amended to read as follows: 65-
9 4209. (a) The board may deny, revoke, limit or suspend any license to
10 practice as a mental health technician issued or applied for in accordance
11 with the provisions of this act, may publicly or privately censure a licensee
12 or may otherwise discipline a licensee upon proof that the licensee:

13 (1) Is guilty of fraud or deceit in procuring or attempting to procure a
14 license to practice mental health technology;

15 (2) is unable to practice with reasonable skill and safety due to
16 current abuse of drugs or alcohol;

17 (3) to be a person who has been adjudged in need of a guardian or
18 conservator, or both, under the act for obtaining a guardian or conservator,
19 or both, and who has not been restored to capacity under that act;

20 (4) is incompetent or grossly negligent in carrying out the functions
21 of a mental health technician;

22 (5) has committed unprofessional conduct as defined by rules and
23 regulations of the board;

24 (6) has been convicted of a felony or has been convicted of a
25 misdemeanor involving an illegal drug offense, unless the applicant or
26 licensee establishes sufficient rehabilitation to warrant the public trust,
27 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
28 license, certificate of qualification or authorization to practice as a licensed
29 mental health technician shall be granted to a person with a felony
30 conviction for a crime against persons as specified in article 34 of chapter
31 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of
32 chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6104, 21-6325,
33 21-6326 or 21-6418, and amendments thereto;

34 (7) has committed an act of professional incompetency as defined in
35 subsection (e);

36 (8) to have willfully or repeatedly violated the provisions of the
37 mental health technician's licensure act or rules and regulations adopted
38 under that act and amendments thereto; or

39 (9) to have a license to practice mental health technology denied,
40 revoked, limited or suspended, or to be publicly or privately censured, by a
41 licensing authority of another state, agency of the United States
42 government, territory of the United States or country or to have other
43 disciplinary action taken against the applicant or licensee by a licensing

1 authority of another state, agency of the United States government,
2 territory of the United States or country. A certified copy of the record or
3 order of public or private censure, denial, suspension, limitation,
4 revocation or other disciplinary action of the licensing authority of another
5 state, agency of the United States government, territory of the United
6 States or country shall constitute prima facie evidence of such a fact for
7 purposes of this paragraph (9).

8 (b) Upon filing a sworn complaint with the board charging a person
9 with having been guilty of any of the unlawful practices specified in
10 subsection (a), two or more members of the board shall investigate the
11 charges, or the board may designate and authorize an employee or
12 employees of the board to conduct an investigation. After investigation,
13 the board may institute charges. If an investigation, in the opinion of the
14 board, reveals reasonable grounds to believe the applicant or licensee is
15 guilty of the charges, the board shall fix a time and place for proceedings,
16 which shall be conducted in accordance with the Kansas administrative
17 procedure act.

18 (c) No person shall be excused from testifying in any proceedings
19 before the board under the mental health technician's licensure act or in
20 any civil proceedings under such act before a court of competent
21 jurisdiction on the ground that the testimony may incriminate the person
22 testifying, but such testimony shall not be used against the person for the
23 prosecution of any crime under the laws of this state except the crime of
24 perjury as defined in K.S.A. 21-5903, and amendments thereto.

25 (d) If final agency action of the board in a proceeding under this
26 section is adverse to the applicant or licensee, the costs of the board's
27 proceedings shall be charged to the applicant or licensee as in ordinary
28 civil actions in the district court, but if the board is the unsuccessful party,
29 the costs shall be paid by the board. Witness fees and costs may be taxed
30 by the board according to the statutes relating to procedure in the district
31 court. All costs accrued by the board, when it is the successful party, and
32 which the attorney general certifies cannot be collected from the applicant
33 or licensee shall be paid from the board of nursing fee fund. All moneys
34 collected following board proceedings shall be credited in full to the board
35 of nursing fee fund.

36 (e) As used in this section, "professional incompetency" means:

37 (1) One or more instances involving failure to adhere to the
38 applicable standard of care to a degree which constitutes gross negligence,
39 as determined by the board;

40 (2) repeated instances involving failure to adhere to the applicable
41 standard of care to a degree which constitutes ordinary negligence, as
42 determined by the board; or

43 (3) a pattern of practice or other behavior which demonstrates a

1 manifest incapacity or incompetence to practice mental health technology.

2 (f) The board upon request shall receive from the Kansas bureau of
3 investigation such criminal history record information relating to criminal
4 convictions as necessary for the purpose of determining initial and
5 continuing qualifications of licensees of and applicants for licensure by the
6 board *in accordance with section 3, and amendments thereto.*

7 (g) All proceedings under this section shall be conducted in
8 accordance with the provisions of the Kansas administrative procedure act.

9 Sec. 61. K.S.A. 65-5117 is hereby amended to read as follows: 65-
10 5117. (a) As used in this section:

11 (1) "Applicant" means an individual who applies for employment
12 with a home health agency or applies to work for an employment agency
13 or as an independent contractor that provides staff to a home health
14 agency.

15 (2) "Completion of the sentence" means the last day of the entire term
16 of incarceration imposed by a sentence, including any term that is
17 deferred, suspended or subject to parole, probation, diversion, community
18 corrections, fines, fees, restitution or any other imposed sentencing
19 requirements.

20 (3) "Department" means the Kansas department for aging and
21 disability services.

22 (4) "Direct access" means work that involves an actual or reasonable
23 expectation of one-on-one interaction with a consumer or a consumer's
24 property, personally identifiable information, medical records, treatment
25 information or financial information.

26 (5) "Direct supervision" means that a supervisor is physically present
27 within an immediate distance to a supervisee and is available to provide
28 constant direction, feedback and assistance to a client and the supervisee.

29 (6) "Employment agency" means an organization or entity that has a
30 contracted relationship with a home health agency to provide staff with
31 direct access to consumers.

32 (7) "Independent contractor" means an organization, entity, agency or
33 individual that provides contracted workers or services to a home health
34 agency.

35 (b) (1) No person shall knowingly operate a home health agency if,
36 for the home health agency, there works any person who has adverse
37 findings on any state or national registry, as defined in rules and
38 regulations adopted by the secretary for aging and disability services, or
39 has been convicted of or has been adjudicated a juvenile offender because
40 of having committed an act that if done by an adult would constitute the
41 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its
42 repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder,
43 pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and

1 amendments thereto, second degree murder, pursuant to K.S.A. 21-
2 3402(a), prior to its repeal, or K.S.A. 21-5403(a), and amendments thereto,
3 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
4 K.S.A. 21-5404, and amendments thereto, assisting suicide, pursuant to
5 K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments
6 thereto, mistreatment of a dependent adult or mistreatment of an elder
7 person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417,
8 and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446,
9 prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto,
10 aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its
11 repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to
12 K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments
13 thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior
14 to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated
15 indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its
16 repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated
17 criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A.
18 21-5504(b), and amendments thereto, indecent solicitation of a child,
19 pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and
20 amendments thereto, aggravated indecent solicitation of a child, pursuant
21 to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and
22 amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-
23 3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto,
24 sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A.
25 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant
26 to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and
27 amendments thereto, commercial sexual exploitation of a child, pursuant
28 to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of
29 the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its
30 repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to
31 commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-
32 3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or
33 criminal solicitation of any of the crimes listed in this paragraph, pursuant
34 to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments
35 thereto, or similar statutes of other states or the federal government. The
36 provisions of subsection (b)(2)(C) shall not apply to any person who is
37 employed by a home health agency on or before July 1, 2010, and while
38 continuously employed by the same home health agency or to any person
39 during or upon successful completion of a diversion agreement.

40 (2) A person operating a home health agency may employ an
41 applicant who has been convicted of any of the following if six or more
42 years have elapsed since completion of the sentence imposed or the
43 applicant was discharged from probation, a community correctional

1 services program, parole, postrelease supervision, conditional release or a
2 suspended sentence; if six or more years have elapsed since the applicant
3 has been finally discharged from the custody of the commissioner of
4 juvenile justice or from probation or has been adjudicated a juvenile
5 offender, whichever time is longer; or if the applicant has been granted a
6 waiver of such six-year disqualification: A felony conviction for a crime
7 that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes
8 Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas
9 Statutes Annotated, and amendments thereto, except those crimes listed in
10 subsection (b)(1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes
11 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the
12 Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto,
13 except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior
14 to its repeal, or K.S.A. 21-5606, and amendments thereto; (C) K.S.A. 21-
15 3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D)
16 an attempt to commit any of the crimes listed in this paragraph pursuant to
17 K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments
18 thereto; (E) a conspiracy to commit any of the crimes listed in this
19 paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-
20 5302, and amendments thereto; (F) criminal solicitation of any of the
21 crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its
22 repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes
23 of other states or the federal government.

24 An individual who has been disqualified for employment due to
25 conviction or adjudication of an offense listed in this paragraph (2) may
26 apply to the secretary for aging and disability services for a waiver of such
27 disqualification if five years have elapsed since completion of the sentence
28 for such conviction. The secretary shall adopt rules and regulations
29 establishing the waiver process and the criteria to be utilized by the
30 secretary in evaluating any such waiver request.

31 (3) A person operating a home health agency may employ an
32 applicant who has been convicted of any of the following if six or more
33 years have elapsed since completion of the sentence imposed or the
34 applicant was discharged from probation, a community correctional
35 services program, parole, postrelease supervision, conditional release or a
36 suspended sentence; if six or more years have elapsed since the applicant
37 has been finally discharged from the custody of the commissioner of
38 juvenile justice or from probation or has been adjudicated a juvenile
39 offender, whichever time is longer; or if the applicant has been granted a
40 waiver of such six-year disqualification:

41 (i) Interference with custody of a committed person pursuant to
42 K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments
43 thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425,

1 prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful
2 administration of a substance pursuant to K.S.A. 21-3445, prior to its
3 repeal, or K.S.A. 21-5425, and amendments thereto; violation of a
4 protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A.
5 21-5924; promoting obscenity or promoting obscenity to minors pursuant
6 to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401,
7 and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-
8 3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and
9 amendments thereto; or

10 (ii) any felony conviction of: Unlawful manufacture of a controlled
11 substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or
12 K.S.A. 21-5703, and amendments thereto; unlawful cultivation or
13 distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-
14 36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto;
15 unlawful manufacture, distribution, cultivation or possession of a
16 controlled substance using a communication facility pursuant to K.S.A.
17 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and
18 amendments thereto; unlawful obtainment or sale of a prescription-only
19 drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A.
20 21-5708, and amendments thereto; unlawful distribution of drug
21 precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10,
22 prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful
23 distribution or possession of a simulated controlled substance pursuant to
24 K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and
25 amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its
26 repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a
27 financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-
28 5828, and amendments thereto; any violation of the Kansas medicaid fraud
29 control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or
30 K.S.A. 21-5925 et seq., and amendments thereto; making a false claim,
31 statement or representation to the medicaid program pursuant to K.S.A.
32 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto;
33 unlawful acts relating to the medicaid program pursuant to K.S.A. 21-
34 3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto;
35 obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856,
36 prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity
37 theft or identity fraud pursuant to K.S.A. 21-4018, prior to its repeal, or
38 K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant
39 to K.S.A. 39-720, and amendments thereto. The provisions of this
40 paragraph shall not apply to any person who is employed by a home health
41 agency on or before July 1, 2018, and is continuously employed by the
42 same home health agency or to any person during or upon successful
43 completion of a diversion agreement.

1 An individual who has been disqualified for employment due to
2 conviction or adjudication of an offense listed in this paragraph (3) may
3 apply to the secretary for aging and disability services for a waiver of such
4 disqualification if five years have elapsed since completion of the sentence
5 for such conviction. The secretary shall adopt rules and regulations
6 establishing the waiver process and criteria to be considered by the
7 secretary in evaluating any such waiver request.

8 (c) No person shall operate a home health agency if such person has
9 been found to be a person in need of a guardian or a conservator, or both,
10 as provided in the act for obtaining a guardian or a conservator, or both.
11 The provisions of this subsection shall not apply to an individual who, as a
12 minor, was found to be in need of a guardian or conservator for reasons
13 other than impairment.

14 (d) (1) The Kansas bureau of investigation shall release all records of
15 adult and juvenile convictions and adjudications and adult and juvenile
16 convictions and adjudications of any other state or country concerning
17 persons working in a home health agency to the secretary for aging and
18 disability services *in accordance with section 2, and amendments thereto*.
19 ~~The Kansas bureau of investigation may charge to the Kansas department~~
20 ~~for aging and disability services a reasonable fee for providing criminal~~
21 ~~history record information under this subsection.~~

22 (2) ~~The department shall may require an applicant to be fingerprinted~~
23 ~~and to submit to a state and national criminal history record check in~~
24 ~~accordance with section 2, and amendments thereto. The fingerprints shall~~
25 ~~be used to identify the individual and to determine whether the individual~~
26 ~~has a record of criminal history in this state or other jurisdiction. The~~
27 ~~department is authorized to submit the fingerprints to the Kansas bureau of~~
28 ~~investigation and the federal bureau of investigation for a state and~~
29 ~~national criminal history record check. The department may use the~~
30 ~~information obtained from fingerprinting and the criminal history record~~
31 ~~check for purposes of verifying the identification of the person and for~~
32 ~~making an official determination of the qualifications and fitness of the~~
33 ~~person to work in the home health agency.~~

34 (3) An applicant for employment in ~~an~~ a home health agency shall
35 have 20 calendar days after receipt of authorization to submit the
36 applicant's fingerprints through an authorized collection site in order to be
37 eligible for provisional employment or the applicant's application shall be
38 deemed withdrawn.

39 (4) (A) The current or prospective employer of an applicant shall pay
40 a *reasonable fee not to exceed \$19 of the total cost* for criminal history
41 record information to the department for each applicant submitted.

42 (B) The prospective employer, employee or independent contractor
43 shall pay the fingerprint collection fee at the time of fingerprinting to the

1 authorized collection site.

2 (5) If an applicant disputes the contents of a criminal history record
3 check, then the applicant may file an appeal with the Kansas bureau of
4 investigation.

5 (6) Individuals who have been disqualified for employment by reason
6 of their criminal history records and who have met the requirements of this
7 subsection may apply for a waiver with the department within 30 days of
8 the receipt of the notice of employment prohibition.

9 (7) The department shall adopt rules and regulations specifying the
10 criteria and procedure for issuing a waiver of the employment prohibition.
11 The secretary shall consider the following criteria when rendering a
12 decision on such a waiver request: Passage of time; extenuating
13 circumstances; demonstration of rehabilitation; and relevancy of the
14 criminal history record information to the position for which the applicant
15 is applying. Any employment prohibition issued shall remain in effect
16 unless or until a waiver is granted.

17 (e) For the purpose of complying with this section, the operator of a
18 home health agency shall request from the Kansas department for aging
19 and disability services an eligibility determination regarding adult and
20 juvenile convictions and adjudications. For the purpose of complying with
21 this section, a person who operates a home health agency may hire an
22 applicant for provisional employment on a one-time basis of 60 calendar
23 days pending the results from the Kansas department for aging and
24 disability services of a request for information under this subsection. A
25 provisional employee may only be supervised by an employee who has
26 completed all training required by federal regulations, rules and
27 regulations of the department and the home health agency's policies and
28 procedures. No home health agency, the operator or employees of a home
29 health agency or an employment agency or an independent contractor shall
30 be liable for civil damages resulting from any decision to employ, to refuse
31 to employ or to discharge from employment any person based on such
32 home health agency's compliance with the provisions of this section if
33 such home health agency or employment agency acts in good faith to
34 comply with this section.

35 (f) The secretary for aging and disability services shall provide each
36 operator requesting information under this section with a pass or fail
37 determination after review of any criminal history information in writing
38 and within three working days of receipt of such information from the
39 Kansas bureau of investigation or the federal bureau of investigation.

40 (g) A person who volunteers to assist a home health agency shall not
41 be subject to the provisions of this section unless the volunteer performs
42 functions equivalent to functions performed by direct access employees.

43 (h) No person who has been continuously employed by the same

1 home health agency since July 1, 1992, shall be subject to the
2 requirements of this section while employed by such home health agency.

3 (i) The operator of a home health agency shall not be required under
4 this section to conduct a criminal history record check on an applicant for
5 employment with the home health agency if the applicant has been the
6 subject of a criminal history record check under this act within one year
7 prior to the application for employment with the home health agency.

8 (j) No person who is in the custody of the secretary of corrections and
9 who provides services, under direct supervision in non-patient areas, on
10 the grounds or other areas designated by the superintendent of the Kansas
11 soldiers' home or the Kansas veterans' home shall be subject to the
12 provisions of this section while providing such services.

13 (k) (1) All fees charged by the secretary for criminal history record
14 checks conducted pursuant to this section shall be established by rules and
15 regulations of the secretary.

16 (2) All moneys collected and remitted to the department for fees
17 charged for criminal history record checks conducted pursuant to this
18 section shall be remitted to the state treasurer in accordance with K.S.A.
19 65-5113, and amendments thereto. Upon receipt of each such remittance,
20 the state treasurer shall deposit the entire amount into the state treasury to
21 the credit of the state licensure fee fund created by K.S.A. 39-930, and
22 amendments thereto.

23 (l) The department may implement the amendments made to this
24 section by this act in phases for different categories of employers. The
25 department shall adopt rules and regulations establishing dates and
26 procedures for the implementation of the criminal history record checks
27 required by this section, and such dates may be staggered to facilitate
28 implementation of the criminal history record checks required by this
29 section.

30 (m) This section shall be a part of and supplemental to the provisions
31 of article 51 of chapter 65 of the Kansas Statutes Annotated, and
32 amendments thereto.

33 Sec. 62. K.S.A. 2023 Supp. 65-6129 is hereby amended to read as
34 follows: 65-6129. (a) (1) Application for an emergency medical service
35 provider certificate shall be made to the board. The board shall not grant
36 an emergency medical service provider certificate unless the applicant
37 meets the following requirements:

38 (A) (i) Has successfully completed coursework required by the rules
39 and regulations adopted by the board;

40 (ii) has successfully completed coursework in another jurisdiction
41 that is substantially equivalent to that required by the rules and regulations
42 adopted by the board; or

43 (iii) has provided evidence that such applicant holds a current and

1 active certification with the national registry of emergency medical
2 technicians, completed emergency medical technician training as a
3 member of the army, navy, marine corps, air force, air or army national
4 guard, coast guard or any branch of the military reserves of the United
5 States that is substantially equivalent to that required by the rules and
6 regulations adopted by the board, and such applicant separated from such
7 military service with an honorable discharge;

8 (B) (i) has passed the examination required by the rules and
9 regulations adopted by the board; or

10 (ii) has passed the certification or licensing examination in another
11 jurisdiction that has been approved by the board; and

12 (C) has paid an application fee required by the rules and regulations
13 adopted by the board.

14 (2) The board may grant an emergency medical service provider
15 certificate to any applicant who meets the requirements under subsection
16 (a)(1)(A)(iii) but was separated from such military service with a general
17 discharge under honorable conditions.

18 (b) (1) The emergency medical services board may require an original
19 applicant for certification as an emergency medical services provider to be
20 fingerprinted and submit to a state and national criminal history record
21 check *in accordance with section 2, and amendments thereto.* ~~The~~
22 ~~fingerprints shall be used to identify the applicant and to determine~~
23 ~~whether the applicant has a record of criminal history in this state or~~
24 ~~another jurisdiction. The emergency medical services board is authorized~~
25 ~~to submit the fingerprints to the Kansas bureau of investigation and the~~
26 ~~federal bureau of investigation for a state and national criminal history~~
27 ~~record check. The emergency medical services board may use the~~
28 ~~information obtained from fingerprinting and the applicant's criminal~~
29 ~~history for purposes of verifying the identification of the applicant and~~
30 ~~making the official determination of the qualifications and fitness of the~~
31 ~~applicant to be issued or to maintain a certificate.~~

32 (2) ~~Local and state law enforcement officers and agencies shall assist~~
33 ~~the emergency medical services board in taking the fingerprints of~~
34 ~~applicants for license, registration, permit or certificate. The Kansas~~
35 ~~bureau of investigation shall release all records of adult convictions,~~
36 ~~noneconvictions or adjudications in this state and any other state or country~~
37 ~~to the emergency medical services board.~~ *As used in this section,*
38 *"applicant" means a person who has submitted an application for an*
39 *emergency medical services provider certificate.*

40 (3) The emergency medical services board may fix and collect a fee
41 as may be required by the board in an amount equal to the cost of
42 fingerprinting and the criminal history record check. The emergency
43 medical services board shall remit all moneys received from the fees

1 established by this section to the state treasurer in accordance with the
2 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
3 each such remittance, the state treasurer shall deposit the entire amount in
4 the state treasury to the credit of the emergency medical services criminal
5 history and fingerprinting fund.

6 (4) There is hereby created in the state treasury the emergency
7 medical services criminal history and fingerprinting fund. All moneys
8 credited to the fund shall be used to pay the Kansas bureau of investigation
9 for the processing of fingerprints and criminal history record checks for
10 the emergency medical services board. The fund shall be administered by
11 the emergency medical services board. All expenditures from the fund
12 shall be made in accordance with appropriation acts upon warrants of the
13 director of accounts and reports issued pursuant to vouchers approved by
14 the chairperson of the emergency medical services board or the
15 chairperson's designee.

16 (c) The board shall not grant an initial advanced emergency medical
17 technician certificate or paramedic certificate as a result of successful
18 course completion in the state of Kansas, unless the applicant for such an
19 initial certificate is certified as an emergency medical technician.

20 (d) An emergency medical service provider certificate shall expire on
21 the date prescribed by the board. An emergency medical service provider
22 certificate may be renewed for a period of two years upon payment of a
23 fee as prescribed by rule and regulation of the board and upon presentation
24 of satisfactory proof that the emergency medical service provider has
25 successfully completed continuing education as prescribed by the board.

26 (e) All fees received pursuant to the provisions of this section shall be
27 remitted to the state treasurer in accordance with the provisions of K.S.A.
28 75-4215, and amendments thereto. Upon receipt of each such remittance,
29 the state treasurer shall deposit the entire amount in the state treasury to
30 the credit of the emergency medical services operating fund established by
31 K.S.A. 65-6151, and amendments thereto.

32 (f) If a person who was previously certified as an emergency medical
33 service provider applies for an emergency medical service provider's
34 certificate after the certificate's expiration, the board may grant a
35 certificate without the person completing an initial course of instruction or
36 passing a certification examination if the person has completed education
37 requirements and has paid a fee as specified in rules and regulations
38 adopted by the board.

39 (g) The board shall adopt, through rules and regulations, a formal list
40 of graduated sanctions for violations of article 61 of chapter 65 of the
41 Kansas Statutes Annotated, and amendments thereto, that shall specify the
42 number and severity of violations for the imposition of each level of
43 sanction.

1 Sec. 63. K.S.A. 73-1210a is hereby amended to read as follows: 73-
2 1210a. (a) Except as otherwise provided by law, and subject to the Kansas
3 civil service act, the director of the Kansas commission on veterans affairs
4 office shall appoint:

5 (1) Subordinate officers and employees, subject to the approval of the
6 governor, as are necessary to enable the director to exercise or perform the
7 functions, powers and duties pursuant to the provisions of article 12 of
8 chapter 73 of the Kansas Statutes Annotated, and amendments thereto;

9 (2) the superintendent of the Kansas soldiers' home;

10 (3) the superintendent of the Kansas veterans' home; and

11 (4) the deputy director of veterans services pursuant to K.S.A. 73-
12 1234, and amendments thereto.

13 (b) *(1)* Upon the commencement of the interview process, every
14 candidate ~~for a position in the Kansas commission on veterans affairs~~
15 ~~office that interviews claimants and provides information advice and~~
16 ~~counseling to veterans, surviving spouses, their dependents concerning~~
17 ~~compensation, pension, education, vocational rehabilitation, insurance,~~
18 ~~hospitalization, outpatient care, home loans, housing, tax exemptions,~~
19 ~~burial benefits and other benefits to which they may be entitled, or any~~
20 ~~other sensitive position, as determined by the director shall be given a~~
21 ~~written notice that a criminal history records check is required. The~~
22 ~~director of the Kansas commission on veterans affairs office shall require~~
23 ~~such candidates to be fingerprinted and submit to a state and national~~
24 ~~criminal history record check in accordance with section 2, and~~
25 ~~amendments thereto. The fingerprints shall be used to identify the~~
26 ~~candidate and to determine whether the candidate has a record of criminal~~
27 ~~history in this state or another jurisdiction. The director of the Kansas~~
28 ~~commission on veterans affairs office shall submit the fingerprints to the~~
29 ~~Kansas bureau of investigation and the federal bureau of investigation for~~
30 ~~a state and national criminal history record check. Local and state law~~
31 ~~enforcement officers and agencies shall assist the director of the Kansas~~
32 ~~commission on veterans affairs office in taking and processing of~~
33 ~~fingerprints of candidates. If the criminal history record information~~
34 ~~reveals any conviction of crimes of dishonesty or violence, such~~
35 ~~conviction may be used to disqualify a candidate for any position within~~
36 ~~the director of the Kansas commission on veterans affairs office. If the~~
37 ~~criminal history record information is used to disqualify a candidate, the~~
38 ~~candidate shall be informed in writing of that decision.~~

39 (2) *As used in this subsection, "candidate" means an applicant for a*
40 *position in the Kansas commission on veterans affairs office that*
41 *interviews claimants and provides information, advice and counseling to*
42 *veterans, surviving spouses and their dependents concerning*
43 *compensation, pension, education, vocational rehabilitation, insurance,*

1 *hospitalization, outpatient care, home loans, housing, tax exemptions,*
2 *burial benefits and other benefits to which they may be entitled.*

3 (c) Persons employed by the Kansas soldiers' home and Kansas
4 veterans' home shall be excluded from the provisions of subsection (b). No
5 person who has been employed by the director of the Kansas commission
6 on veterans affairs office for five consecutive years immediately prior to
7 the effective date of this act shall be subject to the provisions of subsection
8 (b) while employed by the director of the Kansas commission on veterans
9 affairs office.

10 (d) (1) Except as otherwise provided by law, and subject to the
11 Kansas civil service act, the director of the Kansas commission on
12 veterans affairs office shall appoint subordinate officers and employees, a
13 superintendent of the Kansas soldiers' home and a superintendent of the
14 Kansas veterans' home, as shall be necessary to enable the director of the
15 Kansas commission on veterans affairs office to exercise or perform its
16 functions, powers and duties pursuant to the provisions of article 19 of
17 chapter 76 of the Kansas Statutes Annotated, and amendments thereto.

18 (2) (A) All subordinate officers and employees shall be within the
19 classified service under the Kansas civil service act, shall perform such
20 duties and exercise such powers as the director of the Kansas commission
21 on veterans affairs office may prescribe and such duties and powers as are
22 designated by law, and shall act for and exercise the powers of the the
23 director of the Kansas commission on veterans affairs office.

24 (B) The superintendent of the Kansas soldiers' home shall be in the
25 unclassified service under the Kansas civil service act and shall receive an
26 annual salary fixed by the director of the Kansas commission on veterans
27 affairs office, with the approval of the governor. The superintendent of the
28 Kansas soldiers' home shall perform such duties and exercise such powers
29 as the director may prescribe, and such duties and powers as are prescribed
30 by law.

31 (C) The superintendent of the Kansas veterans' home shall be in the
32 unclassified service under the Kansas civil service act and shall receive an
33 annual salary fixed by the director of the Kansas commission on veterans
34 affairs office, with the approval of the governor. The superintendent of the
35 Kansas veterans' home shall perform such duties and exercise such powers
36 as the director may prescribe, and such duties and powers as are prescribed
37 by law.

38 (e) Any veterans service representative appointed by the director of
39 the Kansas commission on veterans affairs office shall be an honorably
40 discharged veteran or retired from the United States armed forces. No
41 veterans service representative of the Kansas commission on veterans
42 affairs office shall take a power of attorney in the name of the director of
43 the Kansas commission on veterans affairs office. Nothing in this act shall

1 be construed to prohibit any such veterans service representative from
2 assisting any veteran with any claim in which a power of attorney is not
3 required.

4 (f) For the purpose of this subsection, "veterans service
5 representative" means any officer or employee appointed pursuant to this
6 section whose primary duties include:

7 (1) Assisting veterans and their dependents in securing benefits from
8 the federal government and the state of Kansas.

9 (2) Providing information and assistance to veterans and dependents
10 in obtaining special services and benefits based on knowledge of federal
11 and state laws, policies and regulations pertaining to veterans benefits and
12 services.

13 (3) Providing assistance to veterans service organizations
14 participating in the veterans claims assistance program.

15 (g) Nothing in this act shall be construed to affect the status, rights
16 or benefits of any officer or employee of the Kansas commission on
17 veterans affairs under K.S.A. 73-1208a, prior to its repeal, employed by
18 such commission on July 1, 2014.

19 Sec. 64. K.S.A. 74-1112 is hereby amended to read as follows: 74-
20 1112. (a) ~~The board of nursing may require an original applicant for~~
21 ~~licensure as a professional nurse, practical nurse or mental health~~
22 ~~technician application to be fingerprinted and submit to a state and~~
23 ~~national criminal history record check in accordance with section 2, and~~
24 ~~amendments thereto. The fingerprints shall be used to identify the~~
25 ~~applicant and to determine whether the applicant has a record of criminal~~
26 ~~history in this state or other jurisdictions. The board of nursing is~~
27 ~~authorized to submit the fingerprints to the Kansas bureau of investigation~~
28 ~~and the federal bureau of investigation for a state and national criminal~~
29 ~~history record check. The board of nursing may use the information~~
30 ~~obtained from fingerprinting and the applicant's criminal history for~~
31 ~~purposes of verifying the identification of any applicant and in the official~~
32 ~~determination of character and fitness of the applicant for any licensure to~~
33 ~~practice professional or practical nursing or mental health technology in~~
34 ~~this state.~~

35 (b) ~~Local and state law enforcement officers and agencies shall assist~~
36 ~~the board of nursing in taking and processing of fingerprints of applicants~~
37 ~~to practice professional or practical nursing or mental health technology in~~
38 ~~this state and shall release all records of adult convictions and~~
39 ~~nonconvictions and adult convictions or adjudications of another state or~~
40 ~~country to the board of nursing.~~

41 (e)(b) The board shall fix a fee for fingerprinting of applicants or
42 licensees, or both, as may be required by the board in an amount necessary
43 to reimburse the board for the cost of the fingerprinting. Fees collected

1 under this subsection shall be deposited in the criminal background and
2 fingerprinting fund.

3 ~~(d)(c)~~ There is hereby created in the state treasury the criminal
4 background and fingerprinting fund. All moneys credited to the fund shall
5 be used to pay the Kansas bureau of investigation for the processing of
6 fingerprints and criminal history background checks for the board of
7 nursing. The fund shall be administered by the board of nursing. All
8 expenditures from the fund shall be made in accordance with appropriation
9 acts upon warrants of the director of accounts and reports issued pursuant
10 to vouchers approved by the president of the board or a person designated
11 by the president.

12 *(d) As used in this section, "applicant" means a person who has*
13 *applied for licensure as a professional nurse, practical nurse or mental*
14 *health technician.*

15 Sec. 65. K.S.A. 74-2113 is hereby amended to read as follows: 74-
16 2113. (a) *(1)* There is hereby created a Kansas highway patrol. The patrol
17 shall consist of:

18 ~~(1)(A)~~ A superintendent, who shall have the rank of colonel and who
19 shall have special training and qualifications for the position;

20 ~~(2)(B)~~ an assistant superintendent, who shall have the rank of
21 lieutenant colonel; and

22 ~~(3)(C)~~ officers and troopers who are appointed in accordance with
23 appropriation acts and as provided in this section.

24 *(2)* The superintendent and assistant superintendent shall be within
25 the unclassified service under the Kansas civil service act. The assistant
26 superintendent shall be appointed by the superintendent from among the
27 members of the patrol, and shall serve at the pleasure of the
28 superintendent. If a person appointed as superintendent, assistant
29 superintendent or major is a member of the patrol when appointed, the
30 person in each case, upon termination of the term as superintendent,
31 assistant superintendent or major, respectively, shall be returned to a rank
32 not lower than the rank the person held when appointed as superintendent,
33 assistant superintendent or major. If the rank is filled at that time, a
34 temporary additional position shall be created in the rank until a vacancy
35 occurs in such rank. All other officers, troopers and employees shall be
36 within the classified service under the Kansas civil service act.

37 *(b)* The superintendent of the patrol shall be appointed by the
38 governor, subject to confirmation by the senate as provided in K.S.A. 75-
39 4315b, and amendments thereto, and shall receive an annual salary fixed
40 by the governor. Except as provided by K.S.A. 46-2601, and amendments
41 thereto, no person appointed as superintendent shall exercise any power,
42 duty or function as superintendent until confirmed by the senate. The
43 assistant superintendent shall receive an annual salary fixed by the

1 superintendent and approved by the governor.

2 (c) All other members of the patrol shall be appointed by the
3 superintendent in accordance with appropriation acts and with the Kansas
4 civil service act. No person shall be appointed as an officer of the patrol,
5 other than superintendent, unless the person has had at least five years of
6 service in the patrol as an officer or trooper. No person shall be appointed
7 as a trooper unless the person meets the following requirements:

8 (1) Is a citizen of the United States;

9 (2) is at least 21 years of age at the time of appointment;

10 (3) has not been convicted by any state or the federal government of a
11 crime which is a felony or its equivalent under the uniform code of
12 military justice;

13 (4) has been fingerprinted *pursuant to section 1, and amendments*
14 *thereto*, and a search of local, state and national fingerprint files has been
15 made to determine whether the applicant has a criminal record;

16 (5) is the holder of a high school diploma or furnishes evidence of
17 successful completion of an examination indicating an equivalent
18 achievement; and

19 (6) is free of any physical or mental condition which might adversely
20 affect the applicant's performance of duties as a trooper and whose
21 physical health has been certified by an examining physician appointed by
22 the superintendent.

23 (d) No member of the patrol shall:

24 (1) Hold any other elective or appointive commission or office,
25 except:

26 (A) In the Kansas national guard or in the organized reserve of the
27 United States army, air force or navy.

28 (B) In the governing body of a municipality:

29 (i) If the position to be held is appointed; or

30 (ii) if the position to be held is elected on a nonpartisan basis.

31 (C) On any appointed board, commission or task force which the
32 superintendent of the highway patrol deems necessary as part of the
33 member's or officer's duties.

34 (2) Accept any employment or compensation from any licensee of the
35 director of alcoholic beverage control of the department of revenue or
36 from any licensee of the Kansas racing commission or from any officer,
37 director, member or employee of any such licensee.

38 (3) Accept any employment or compensation for services which
39 require the use of any state-owned equipment provided by the Kansas
40 highway patrol or the wearing of the patrol uniform.

41 (4) Accept any reward or gift pertaining to the performance of the
42 member's or officer's duties except with the written permission of the
43 superintendent.

1 (e) For the purposes of this section, the terms "governing body" and
2 "municipality" shall have the meanings ascribed to such terms in K.S.A.
3 12-105a, and amendments thereto.

4 Sec. 66. K.S.A. 74-4905 is hereby amended to read as follows: 74-
5 4905. (a) On July 1, 1993, the board of trustees of the Kansas public
6 employees retirement system, as such board existed on June 30, 1993, is
7 hereby abolished. On July 1, 1993, there is hereby established a new board
8 of trustees of the Kansas public employees retirement system. Such board
9 established on July 1, 1993, shall consist of nine members, as follows:

10 (1) Six appointed members, four appointed by the governor subject to
11 confirmation by the senate as provided in K.S.A. 75-4315b, and
12 amendments thereto, one appointed by the president of the senate and one
13 appointed by the speaker of the house of representatives. Except as
14 provided by K.S.A. 46-2601, *and amendments thereto*, no person
15 appointed to the board whose appointment is subject to confirmation, shall
16 exercise any power, duty or function as a member of the board until
17 confirmed by the senate. No more than two members of the board whose
18 appointment is subject to confirmation shall be from the same political
19 party;

20 (2) two retirement system members elected by the members and
21 retirants of the system as provided in ~~subsection (12)~~ of K.S.A. 74-
22 4909(12), and amendments thereto. As provided in this subsection, only
23 active and retired members of the system shall be eligible to be elected to
24 the board and only active and retired members of the system shall be
25 eligible to elect the two retirement system members pursuant to this
26 subsection. Inactive members shall not be eligible to be elected to the
27 board nor to elect the two retirement system members elected pursuant to
28 this subsection. If a member elected to the board as provided in this
29 subsection becomes inactive, such member is disqualified from service on
30 the board and such member's board position shall be vacant and such
31 vacancy shall be filled as provided in subsection (b)(1). Of the two
32 retirement system members elected pursuant to this subsection, one shall
33 be a member of the retirement system who is in school employment as
34 provided in K.S.A. 74-4931et seq., and amendments thereto and one shall
35 be a member of the retirement system other than a member who is in
36 school employment. For purposes of this subsection, retirement system
37 means the Kansas public employees retirement system, the Kansas police
38 and firemen's retirement system and the retirement system for judges; and

39 (3) the state treasurer.

40 (b) (1) Except as provided by this paragraph and paragraph (2), all
41 members of the board as provided in subsection (a)(1) and (a)(2) shall
42 serve four-year terms, except that of the members first appointed by the
43 governor, two shall be appointed for two-year terms and the member

1 appointed by the speaker of the house of representatives shall be appointed
2 for a two-year term. The governor shall designate the term for which each
3 of the members first appointed shall serve. All members appointed to fill
4 vacancies in the membership of the board and all members appointed to
5 succeed members appointed to membership on the board shall be
6 appointed in like manner as that provided for the original appointment of
7 the member succeeded. All members appointed to fill vacancies of a
8 member of the board appointed by the governor, the president of the senate
9 or the speaker of the house of representatives shall be appointed to fill the
10 unexpired term of such member. All vacancies on the board by a member
11 elected by the members and retirants of the system shall be filled by the
12 board as provided by rules and regulations adopted as provided in
13 ~~subsection (12) of K.S.A. 74-4909(12)~~, and amendments thereto.

14 (2) Except as provided in K.S.A. 46-2601, *and amendments thereto*,
15 no person appointed to the board by the governor shall exercise any power,
16 duty or function as a member of the board until confirmed by the senate.
17 The terms of members appointed by the governor who are serving on the
18 board on the effective date of this act shall expire on January 15, of the
19 year in which such member's term would have expired under the
20 provisions of this section prior to amendment by this act. Thereafter,
21 members shall be appointed for terms of four years and until their
22 successors are appointed and confirmed.

23 (c) The board shall elect a chairperson of the board at the first regular
24 meeting held on or after July 1, 1993, and at each annual meeting
25 thereafter from the members of the board. The chairperson shall preside
26 over meetings of the board and perform such other duties as required by
27 the board.

28 (d) The chairperson shall appoint another board member as vice-
29 chairperson, and the vice-chairperson shall perform the duties of
30 chairperson in the absence of the chairperson or upon the chairperson's
31 inability or refusal to act.

32 (e) The six members appointed pursuant to subsection (a)(1) shall
33 have demonstrated experience in the financial affairs of a public or private
34 organization or entity which employs 100 or more employees or had at
35 least five years' experience in the field of investment management or
36 analysis, actuarial analysis or administration of an employee benefit plan.

37 (f) No person shall serve on the board if such person has knowingly
38 acquired a substantial interest in any nonpublicly traded investment made
39 with moneys of the fund. Any such person who knowingly acquires such
40 an interest shall vacate such member's position on the board and shall be
41 guilty of a class A misdemeanor. For purposes of this subsection,
42 "substantial interest" means any of the following:

43 (1) If an individual or an individual's spouse, either individually or

1 collectively, has owned within the preceding 12 months a legal or
2 equitable interest exceeding \$5,000 or 5% of any business, whichever is
3 less, the individual has a substantial interest in that business.

4 (2) If an individual or an individual's spouse, either individually or
5 collectively, has received during the preceding calendar year compensation
6 which is or will be required to be included as taxable income on federal
7 income tax returns of the individual and spouse in an aggregate amount of
8 \$2,000 from any business or combination of businesses, the individual has
9 a substantial interest in that business or combination of businesses.

10 (3) If an individual or an individual's spouse holds the position of
11 officer, director, associate, partner or proprietor of any business, the
12 individual has a substantial interest in that business, irrespective of the
13 amount of compensation received by the individual or individual's spouse.

14 (4) If an individual or an individual's spouse receives compensation
15 which is a portion or percentage of each separate fee or commission paid
16 to a business or combination of businesses, the individual has a substantial
17 interest in any client or customer who pays fees or commissions to the
18 business or combination of businesses from which fees or commissions the
19 individual or the individual's spouse, either individually or collectively,
20 received an aggregate of \$2,000 or more in the preceding calendar year.

21 (5) If an individual or an individual's spouse has received a loan from
22 or received financing from any bank, savings and loan, credit union or any
23 other financial institution in an amount which exceeds \$2,000, the
24 individual has a substantial interest in that financial institution.

25 (6) As used in this subsection, "client or customer" means a business
26 or combination of businesses.

27 (7) Any person who serves on the board shall fully disclose any
28 substantial interest that such person has in any publicly traded investment
29 made with moneys of the fund.

30 (g) No person who serves on the board shall be employed for a period
31 of two years commencing on the date the person no longer serves on the
32 board and ending two years after such date with any organization in which
33 moneys of the fund were invested, except that the employment limitation
34 contained in this subsection shall not apply if such person's employment is
35 with an organization whose stock or other evidences of ownership are
36 traded on the public stock or bond exchanges.

37 (h) All members of the board named, appointed or elected to the
38 board shall be ~~subject to an investigation by the Kansas bureau of~~
39 ~~investigation or other criminal justice agencies fingerprinted and to submit~~
40 ~~to a state and national criminal background check in accordance with~~
41 ~~section 2, and amendments thereto. Information to be obtained during such~~
42 ~~investigation shall include criminal history record information, including~~
43 ~~arrest and conviction data, criminal intelligence information and~~

1 ~~information relating to criminal and background investigations as~~
2 ~~necessary to determine qualifications of such member. Such information~~
3 ~~shall be forwarded to the senate committee specified by the president of~~
4 ~~the senate for such committee's consideration and other than conviction~~
5 ~~data, shall be confidential and shall not be disclosed except to members~~
6 ~~and employees of the committee as necessary to determine qualifications~~
7 ~~of such member.~~ The committee, in accordance with K.S.A. 75-4319, and
8 amendments thereto, shall recess for a closed or executive meeting to
9 receive and discuss information received by the committee pursuant to this
10 subsection.

11 (i) All of the powers, duties and functions of the board of trustees of
12 the Kansas public employees retirement system as such board existed prior
13 to July 1, 1993, are hereby transferred to and conferred and imposed upon
14 the board of trustees established pursuant to this act. The board of trustees
15 of the Kansas public employees retirement system established pursuant to
16 this act shall be the successor in every way of the powers, duties and
17 functions of the board of trustees existing prior to July 1, 1993, in which
18 the same were vested prior to July 1, 1993.

19 Sec. 67. K.S.A. 74-50,182 is hereby amended to read as follows: 74-
20 50,182. As used in the Kansas professional regulated sports act:

21 (a) "Amateur mixed martial arts" means any form of martial arts or
22 self-defense conducted on a full-contact basis in a contest without
23 weapons and in which the contestants compete without valuable
24 consideration.

25 (b) "Bout" means one match involving a regulated sport.

26 (c) *"Boxing commissioner" means the person appointed pursuant to*
27 *K.S.A. 74-50,184, and amendments thereto, who shall be devoted full time*
28 *to the duties prescribed by the commission.*

29 (d) "Commission" means the athletic commission or the commission's
30 designee.

31 ~~(d)~~(e) "Contest" means a bout or a group of bouts involving licensed
32 contestants competing in a regulated sport.

33 ~~(e)~~(f) "Contestant" means a person who is licensed by the commission
34 to compete in a regulated sport.

35 ~~(f)~~(g) "Fund" means the athletic fee fund.

36 ~~(g)~~(h) "Grappling arts" means any form of grappling including, but
37 not limited to, Brazilian jujitsu, catch wrestling, judo, luta livre esportiva,
38 sambo, shoot wrestling, shooto and shuai Jiao conducted on a full-contact
39 basis in a bout or contest without weapons or striking and where
40 contestants may compete for valuable consideration.

41 ~~(h)~~(i) "Noncompetitive sparring" means boxing, kickboxing or mixed
42 martial arts where a decision is not rendered.

43 ~~(i)~~(j) "Pankration" means a martial art system which includes

1 elements of karate, tae-kwon-do, jujitsu, kempo, kung-fu, wrestling, and
2 submission grappling.

3 ~~(j)~~(k) "Professional boxing" means the sport of attack and defense
4 which uses the fists and where contestants compete for valuable
5 consideration.

6 ~~(k)~~(l) "Professional full-contact karate" means any form of full-
7 contact martial arts including but not limited to full-contact kung fu, full-
8 contact tae-kwon-do or any form of martial arts or self-defense conducted
9 on a full-contact basis in a bout or contest without weapons and where
10 contestants may compete for valuable consideration.

11 ~~(l)~~(m) "Professional kickboxing" means any form of kickboxing in
12 which blows are delivered with any part of the arm below the shoulder,
13 including the hand, and any part of the leg below the hip, including the
14 foot, and where contestants compete for valuable consideration.

15 ~~(m)~~(n) "Professional mixed martial arts" means any form of martial
16 arts or self-defense conducted on a full-contact basis in a bout or contest
17 without weapons and where contestants compete for valuable
18 consideration.

19 ~~(n)~~(o) "Professional wrestling" means any performance of wrestling
20 skills and techniques by two or more professional wrestlers, to which any
21 admission is charged. Participating wrestlers may not be required to use
22 their best efforts in order to win. The winner may have been selected
23 before the performance commences and contestants compete for valuable
24 consideration.

25 ~~(o)~~(p) "Regulated sports" means professional boxing, sparring,
26 professional kickboxing, professional and amateur mixed martial arts,
27 grappling arts, pankration, professional wrestling and professional full-
28 contact karate.

29 ~~(p)~~(q) "Sparring" means boxing, kickboxing, professional and
30 amateur mixed martial arts, grappling arts, pankration, or full-contact
31 karate for practice or as an exhibition.

32 Sec. 68. K.S.A. 74-50,184 is hereby amended to read as follows: 74-
33 50,184. (a) The commission shall appoint a boxing commissioner who
34 shall be in the unclassified service under the Kansas civil service act and
35 who shall devote full-time to the duties prescribed by the commission.
36 Before appointing a person as the boxing commissioner, the commission
37 shall request the Kansas bureau of investigation to conduct a criminal
38 history record check and background investigation of the person. The
39 boxing commissioner shall have no felony convictions under the laws of
40 any state or of the United States prior to appointment or during such
41 commissioner's employment with the commission. The boxing
42 commissioner shall receive an annual salary fixed by the commission and
43 approved by the governor.

1 (b) Before appointing a person as the boxing commissioner, the
2 commission shall require fingerprinting of such person necessary to verify
3 qualification for appointment *in accordance with section 2, and*
4 *amendments thereto.* ~~The commission shall submit such fingerprints to the~~
5 ~~Kansas bureau of investigation and to the federal bureau of investigation~~
6 ~~for the purposes of verifying the identity of such person and obtaining~~
7 ~~records of eriminal arrests and convictions.~~

8 (c) ~~The commission may receive from the Kansas bureau of~~
9 ~~investigation or other criminal justice agencies, including but not limited~~
10 ~~to the federal bureau of investigation and the federal internal revenue~~
11 ~~service, such criminal history record information (including arrest and~~
12 ~~nonconviction data), criminal intelligence information and information~~
13 ~~relating to criminal and background investigations as necessary for the~~
14 ~~purpose of determining qualifications of a person to be appointed as~~
15 ~~boxing commissioner. Upon the written request of the chairperson of the~~
16 ~~commission, the commission may receive from the district courts such~~
17 ~~information relating to juvenile proceedings as necessary for the purpose~~
18 ~~of determining qualifications of any person to be appointed as boxing~~
19 ~~commissioner. Such information, other than conviction data, shall be~~
20 ~~confidential and shall not be disclosed except to members and employees~~
21 ~~of the commission as necessary to determine qualifications of such person.~~
22 ~~Any other disclosure of such confidential information is a class A~~
23 ~~misdeemeanor and shall constitute grounds for removal from office,~~
24 ~~termination of employment or denial, revocation or suspension of any~~
25 ~~license issued under this act.~~

26 Sec. 69. K.S.A. 2023 Supp. 74-5602 is hereby amended to read as
27 follows: 74-5602. As used in the Kansas law enforcement training act:

28 (a) "Training center" means the law enforcement training center
29 within the university of Kansas, created by K.S.A. 74-5603, and
30 amendments thereto.

31 (b) "Commission" means the Kansas commission on peace officers'
32 standards and training, created by K.S.A. 74-5606, and amendments
33 thereto, or the commission's designee.

34 (c) "Chancellor" means the chancellor of the university of Kansas, or
35 the chancellor's designee.

36 (d) "Director of police training" means the director of police training
37 at the law enforcement training center.

38 (e) "Director" means the executive director of the Kansas commission
39 on peace officers' standards and training.

40 (f) "Law enforcement" means the prevention or detection of crime
41 and the enforcement of the criminal or traffic laws of this state or of any
42 municipality thereof.

43 (g) (1) "Police officer" or "law enforcement officer" means a full-time

1 or part-time salaried officer or employee of the state, a county or a city,
2 whose duties include the prevention or detection of crime and the
3 enforcement of the criminal or traffic laws of this state or of any
4 municipality thereof.

5 (2) "Police officer" or "law enforcement officer" includes, but is not
6 limited to: The sheriff, undersheriff and full-time or part-time salaried
7 deputies in the sheriff's office in each county; deputy sheriffs deputized
8 pursuant to K.S.A. 19-2858, and amendments thereto; conservation
9 officers of the Kansas department of wildlife and parks; university police
10 officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus
11 police officers, as defined in K.S.A. 22-2401a, and amendments thereto;
12 law enforcement agents of the director of alcoholic beverage control; law
13 enforcement agents designated by the secretary of revenue pursuant to
14 K.S.A. 75-5157, and amendments thereto; law enforcement agents of the
15 Kansas lottery; law enforcement agents of the Kansas racing commission;
16 deputies and assistants of the state fire marshal having law enforcement
17 authority; capitol police, existing under the authority of K.S.A. 75-4503,
18 and amendments thereto; special agents of the department of corrections;
19 special investigators designated by the secretary of labor; and law
20 enforcement officers appointed by the adjutant general pursuant to K.S.A.
21 48-204, and amendments thereto; railroad policemen appointed pursuant to
22 K.S.A. 66-524, and amendments thereto; school security officers
23 designated as school law enforcement officers pursuant to K.S.A. 72-6146,
24 and amendments thereto; the manager and employees of the horsethief
25 reservoir benefit district pursuant to K.S.A. 82a-2212, and amendments
26 thereto; and the director of the Kansas commission on peace officers'
27 standards and training and any other employee of such commission
28 designated by the director pursuant to K.S.A. 74-5603, and amendments
29 thereto, as a law enforcement officer. "Police officer" or "law enforcement
30 officer" includes any officer appointed or elected on a provisional basis.

31 (2)(3) "Police officer" or "law enforcement officer" does not include
32 any elected official, other than a sheriff, serving in the capacity of a law
33 enforcement or police officer solely by virtue of such official's elected
34 position; any attorney-at-law having responsibility for law enforcement
35 and discharging such responsibility solely in the capacity of an attorney;
36 any employee of the secretary of corrections other than a special agent;
37 any employee of the secretary for children and families; any deputy
38 conservation officer of the Kansas department of wildlife and parks; or any
39 employee of a city or county who is employed solely to perform
40 correctional duties related to jail inmates and the administration and
41 operation of a jail; or any full-time or part-time salaried officer or
42 employee whose duties include the issuance of a citation or notice to
43 appear provided such officer or employee is not vested by law with the

1 authority to make an arrest for violation of the laws of this state or any
2 municipality thereof, and is not authorized to carry firearms when
3 discharging the duties of such person's office or employment.

4 (h) "Full-time" means employment requiring at least 1,000 hours of
5 law enforcement related work per year.

6 (i) "Part-time" means employment on a regular schedule or
7 employment which requires a minimum number of hours each payroll
8 period, but in any case requiring less than 1,000 hours of law enforcement
9 related work per year.

10 (j) "Misdemeanor crime of domestic violence" means a violation of
11 domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or
12 K.S.A. 21-5414, and amendments thereto, or any other misdemeanor
13 under federal, municipal or state law that has as an element the use or
14 attempted use of physical force, or the threatened use of a deadly weapon,
15 committed against a person with whom the offender is involved or has
16 been involved in a "dating relationship" or is a "family or household
17 member" as defined in K.S.A. 21-5414, and amendments thereto, at the
18 time of the offense.

19 (k) "Auxiliary personnel" means members of organized nonsalaried
20 groups who operate as an adjunct to a police or sheriff's department,
21 including reserve officers, posses and search and rescue groups.

22 (l) "Active law enforcement certificate" means a certificate that
23 attests to the qualification of a person to perform the duties of a law
24 enforcement officer and that has not been suspended or revoked by action
25 of the Kansas commission on peace officers' standards and training and
26 has not lapsed by operation of law as provided in K.S.A. 74-5622, and
27 amendments thereto.

28 (m) *"Applicant" means a person seeking certification as an officer*
29 *under this act.*

30 Sec. 70. K.S.A. 74-5605 is hereby amended to read as follows: 74-
31 5605. (a) Every applicant for certification shall be:

32 (1) An employee of a state, county or city law enforcement agency, a
33 municipal university police officer, a railroad policeman appointed
34 pursuant to K.S.A. 66-524, and amendments thereto;

35 (2) an employee of the tribal law enforcement agency of an Indian
36 nation that has entered into a tribal-state gaming compact with this state;

37 (3) a manager or employee of the horsethief reservoir benefit district
38 pursuant to K.S.A. 82a-2212, and amendments thereto; or

39 (4) a school security officer designated as a school law enforcement
40 officer pursuant to K.S.A. 72-6146, and amendments thereto.

41 (b) Prior to admission to a course conducted at the training center or
42 at a certified state or local law enforcement agency, the applicant's
43 appointing authority or agency head shall furnish to the director of police

1 training and to the commission a statement certifying that the applicant has
2 been found to meet the minimum requirements of certification established
3 by this subsection. The commission may rely upon the statement of the
4 appointing authority or agency head as evidence that the applicant meets
5 the minimum requirements for certification to issue a provisional
6 certification. Each applicant for certification shall meet the following
7 minimum requirements:

8 (1) Be a United States citizen;

9 (2) have been fingerprinted *pursuant to section 1, and amendments*
10 *thereto*, and a search of local, state and national fingerprint files made to
11 determine whether the applicant has a criminal record;

12 (3) not have been convicted of a crime that would constitute a felony
13 under the laws of this state, a misdemeanor crime of domestic violence or
14 a misdemeanor offense that the commission determines reflects on the
15 honesty, trustworthiness, integrity or competence of the applicant as
16 defined by rules and regulations of the commission;

17 (4) have:

18 (A) graduated from a high school accredited by the Kansas state
19 board of education or the appropriate accrediting agency of another state
20 jurisdiction;

21 (B) obtained a high school education from a nonaccredited private
22 secondary school as defined in K.S.A. 72-4345, and amendments thereto;
23 or

24 (C) obtained the equivalent of a high school education as defined by
25 rules and regulations of the commission;

26 (5) be of good moral character sufficient to warrant the public trust in
27 the applicant as a police officer or law enforcement officer;

28 (6) have completed an assessment, including psychological testing
29 approved by the commission, to determine that the applicant does not have
30 a mental or personality disorder that would adversely affect the ability to
31 perform the essential functions of a police officer or law enforcement
32 officer with reasonable skill, safety and judgment;

33 (7) be free of any physical or mental condition which adversely
34 affects the ability to perform the essential functions of a police officer or
35 law enforcement officer with reasonable skill, safety and judgment; and

36 (8) be at least 21 years of age.

37 (c) The commission may deny a provisional or other certification
38 upon a finding that the applicant has engaged in conduct for which a
39 certificate may be revoked, suspended or otherwise disciplined as provided
40 in K.S.A. 74-5616, and amendments thereto. When it appears that grounds
41 for denial of a certification exist under this subsection, after a conditional
42 offer of employment has been made to an applicant seeking appointment
43 as a police officer or law enforcement officer, the applicant's appointing

1 authority or agency head may request an order from the commission to
2 determine whether a provisional certification will be issued to that
3 applicant.

4 (d) As used in this section, "conviction" includes rendering of
5 judgment by a military court martial pursuant to the uniform code of
6 military justice, by a court of the United States or by a court of competent
7 jurisdiction in any state, whether or not expunged; and any diversion or
8 deferred judgment agreement entered into for a misdemeanor crime of
9 domestic violence or a misdemeanor offense that the commission
10 determines reflects on the honesty, trustworthiness, integrity or
11 competence of the applicant as defined by rules and regulations by the
12 commission and any diversion agreement or deferred judgment entered
13 into on or after July 1, 1995, for a felony.

14 Sec. 71. K.S.A. 74-5607 is hereby amended to read as follows: 74-
15 5607. (a) In addition to other powers and duties prescribed by law, the
16 commission shall adopt, in accordance with the provisions of K.S.A. 77-
17 415 et seq., and amendments thereto, rules and regulations necessary to
18 carry out the provisions of and to administer the Kansas law enforcement
19 training act. The commission may also adopt such rules of procedure or
20 guidance documents as are necessary for conducting the business of the
21 commission.

22 (b) The commission or a designated committee or member of the
23 commission may conduct investigations and proceedings necessary to
24 carry out the provisions of the Kansas law enforcement training act. In all
25 investigations, hearings or other matters pending before the commission,
26 the commission or any person acting as a presiding officer for the
27 commission shall have the power to:

28 (1) Administer oaths and take testimony;

29 (2) issue subpoenas, compel the attendance of witnesses and the
30 production of any papers, books, accounts, documents and testimony, and
31 to cause the deposition of witnesses, either residing within or without the
32 state, to be taken in the manner prescribed by law for taking depositions in
33 civil actions in the district courts. In case of the failure of any person to
34 comply with any subpoena issued on behalf of the commission, or on the
35 refusal of any witness to testify to any matters regarding which the witness
36 may be lawfully questioned, the district court of any county, on application
37 of a member of the commission, may require compliance by proceedings
38 for contempt, as in the case of failure to comply with a subpoena issued
39 from such court or a refusal to testify in such court. Each witness who
40 appears before the commission by its order or subpoena, other than a state
41 officer or employee, shall receive for such attendance the fees and mileage
42 provided for witnesses in civil cases in courts of record which shall be
43 audited and paid upon presentation of proper vouchers sworn to by such

1 witnesses and approved by the chairperson of the commission or by a
2 person or persons designated by the chairperson;

3 (3) enter into contracts necessary to administer the provisions of the
4 Kansas law enforcement training act and the certification of law
5 enforcement officers; and

6 (4) assess the costs of such matters pending before the commission
7 under this section against the governmental entity employing the police
8 officer or law enforcement officer.

9 (c) Members of the commission attending meetings of the
10 commission, or attending a committee meeting authorized by the
11 commission, shall be paid amounts provided for in ~~subsection (e) of~~
12 K.S.A. 75-3223(e), and amendments thereto. The commission shall be
13 responsible for approving all expense vouchers of members.

14 (d) The commission shall meet at least once each year at the training
15 center and may hold other meetings whenever they are called by the
16 chairperson.

17 (e) The commission shall adopt the rules and regulations that are
18 necessary to ensure that law enforcement officers are adequately trained
19 and to enforce the provisions of the Kansas law enforcement training act.
20 Such rules and regulations shall include, but are not limited to, the
21 establishment of a course of fire as a standard qualification for active law
22 enforcement officers to carry firearms that may also be used for qualified
23 retired officers to carry firearms pursuant to federal law. The director of
24 police training shall provide qualification opportunities for qualified
25 retired officers at the times and places the director determines to be
26 necessary. The training center shall charge and collect a fee from retired
27 state, local and federal officers for the qualification opportunities, but these
28 fees shall be limited to the actual costs of presenting the standard
29 qualifications course.

30 ~~(f) On and after July 1, 2012, The commission shall may require~~
31 ~~fingerprinting of each applicant for certification under the Kansas law~~
32 ~~enforcement training act in accordance with section 2, and amendments~~
33 ~~thereto, and may require fingerprinting of a person who has received a~~
34 ~~certificate under the Kansas law enforcement training act prior to July 1,~~
35 ~~2012, if such person's conduct is investigated pursuant to this section. The~~
36 ~~commission shall appoint an employee of the commission whose official~~
37 ~~duty includes seeking and maintaining confidential information as~~
38 ~~provided by this subsection. The appointed employee shall submit~~
39 ~~fingerprints to the Kansas bureau of investigation and to the federal bureau~~
40 ~~of investigation for the purpose of verifying the identity of such applicant~~
41 ~~or certificate holder and for obtaining records of that person's criminal~~
42 ~~arrests and convictions. Upon the request of the appointed employee, the~~
43 ~~Kansas bureau of investigation and other criminal justice agencies shall~~

1 provide to the appointed employee all background investigation
2 information including criminal history record information, arrest and
3 nonconviction data and criminal intelligence information. Such
4 information, other than conviction data, shall be confidential and shall not
5 be disclosed by the appointed employee, except for a purpose stated in this
6 section. In addition to any other penalty provided by law, unauthorized
7 disclosure of such information shall be grounds for removal from office or
8 termination of employment.

9 Sec. 72. K.S.A. 74-7511 is hereby amended to read as follows: 74-
10 7511. (a) As part of an original application for or reinstatement of any
11 license, registration, permit or certificate or in connection with any
12 investigation of any holder of a license, registration, permit or certificate,
13 the behavioral sciences regulatory board may require a person to be
14 fingerprinted and submit to a state and national criminal history record
15 check *in accordance with section 2, and amendments thereto.* ~~The~~
16 ~~fingerprints shall be used to identify the person and to determine whether~~
17 ~~the person has a record of criminal history in this state or another~~
18 ~~jurisdiction. The behavioral sciences regulatory board is authorized to~~
19 ~~submit the fingerprints to the Kansas bureau of investigation and the~~
20 ~~federal bureau of investigation for a state and national criminal history~~
21 ~~record check. The behavioral sciences regulatory board may use the~~
22 ~~information obtained from fingerprinting and the criminal history for~~
23 ~~purposes of verifying the identification of the person and in the official~~
24 ~~determination of the qualifications and fitness of the person to be issued or~~
25 ~~to maintain a license, registration, permit or certificate.~~

26 (b) ~~Local and state law enforcement officers and agencies shall assist~~
27 ~~the behavioral sciences regulatory board in the taking and processing of~~
28 ~~fingerprints of applicants for and holders of any license, registration,~~
29 ~~permit or certificate and shall release all records of adult convictions and~~
30 ~~nonconvictions and adult convictions or adjudications of another state or~~
31 ~~country to the behavioral sciences regulatory board.~~

32 (e) The behavioral sciences regulatory board may fix and collect a fee
33 as may be required by the board in an amount equal to the cost of
34 fingerprinting and the criminal history record check. Any moneys
35 collected under this subsection shall be deposited in the state treasury and
36 credited to the behavioral sciences regulatory board fee fund. The
37 behavioral sciences regulatory board shall remit all moneys received by or
38 for it from fees, charges or penalties to the state treasurer in accordance
39 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
40 receipt of each such remittance, the state treasurer shall deposit the entire
41 amount in the state treasury to the credit of the behavioral sciences
42 regulatory board fee fund.

43 (c) *As used in this section, "licensee" means a person who has*

1 *submitted an original application for or an application for reinstatement*
2 *of any license, registration, permit or certificate or a person who currently*
3 *holds a license, registration, permit or certificate issued by the behavioral*
4 *sciences regulatory board.*

5 Sec. 73. K.S.A. 2023 Supp. 74-8702 is hereby amended to read as
6 follows: 74-8702. As used in the Kansas lottery act, unless the context
7 otherwise requires:

8 (a) "Ancillary lottery gaming facility operations" means additional
9 non-lottery facility game products and services not owned and operated by
10 the state that may be included in the overall development associated with
11 the lottery gaming facility. Such operations may include, but are not
12 limited to, restaurants, hotels, motels, museums or entertainment facilities.

13 (b) "Auto racetrack facility" means the same as defined in K.S.A. 12-
14 17,162, and amendments thereto, and that is located in Wyandotte county
15 with a minimum investment of \$50,000,000 and is in operation on July 1,
16 2022.

17 (c) "Commission" means the Kansas lottery commission.

18 (d) (1) "Electronic gaming machine" means any electronic,
19 electromechanical, video or computerized device, contrivance or machine
20 authorized by the Kansas lottery that, upon insertion of cash, tokens,
21 electronic cards or any consideration, is available to play, operate or
22 simulate the play of a game authorized by the Kansas lottery pursuant to
23 the Kansas expanded lottery act, including, but not limited to, bingo,
24 poker, blackjack, keno and slot machines, and that may deliver or entitle
25 the player operating the machine to receive cash, tokens, merchandise or
26 credits that may be redeemed for cash. Electronic gaming machines may
27 use bill validators and may be single-position reel-type, single or multi-
28 game video and single-position multi-game video electronic game,
29 including, but not limited to, poker, blackjack and slot machines.
30 Electronic gaming machines shall be directly linked to a central computer
31 at a location determined by the executive director for purposes of security,
32 monitoring and auditing.

33 (2) "Electronic gaming machine" does not mean an historical horse
34 race machine, as defined in K.S.A. 74-8802, and amendments thereto.

35 (e) "*Employee*" means a person who has applied for a position of
36 employment or is currently employed by the lottery in a position of
37 employment within a sensitive area of the lottery.

38 (f) "Executive director" means the executive director of the Kansas
39 lottery.

40 (†)(g) "Gaming equipment" means any electric, electronic,
41 computerized or electromechanical machine, mechanism, supply or device
42 or any other equipment, that is: (1) Unique to the Kansas lottery and used
43 pursuant to the Kansas lottery act; (2) integral to the operation of an

1 electronic gaming machine or lottery facility game; and (3) affects the
2 results of an electronic gaming machine or lottery facility game by
3 determining win or loss.

4 ~~(g)~~(h) "Gaming zone" means: (1) The northeast Kansas gaming zone,
5 which consists of Wyandotte county; (2) the southeast Kansas gaming
6 zone, which consists of Crawford and Cherokee counties; (3) the south
7 central Kansas gaming zone, which consists of Sedgwick and Sumner
8 counties; and (4) the southwest Kansas gaming zone, which consists of
9 Ford county.

10 ~~(h)~~(i) "Gray machine" means any mechanical, electro-mechanical or
11 electronic device, capable of being used for gambling, that is: (1) Not
12 authorized by the Kansas lottery; (2) not linked to a lottery central
13 computer system; (3) available to the public for play; or (4) capable of
14 simulating a game played on an electronic gaming machine or any similar
15 gambling game authorized pursuant to the Kansas expanded lottery act.

16 ~~(i)~~(j) "Interactive sports wagering platform" means an integrated
17 system of hardware, software and applications, including, but not limited
18 to, mobile applications and servers, through which sports wagering may be
19 made available to persons physically located within the state of Kansas at
20 the time of submitting the wager to a sports wagering manager over the
21 internet or wireless services as defined in K.S.A. 66-2019, and
22 amendments thereto, including, but not limited to, through websites and
23 mobile device applications.

24 ~~(j)~~(k) (1) "Instant bingo vending machine" means a machine or
25 electronic device that is purchased or leased by a licensee, as defined by
26 K.S.A. 75-5173, and amendments thereto, from a distributor who has been
27 issued a distributor registration certificate pursuant to K.S.A. 75-5184, and
28 amendments thereto, or leased from the Kansas lottery in fulfillment of the
29 Kansas lottery's obligations under an agreement between the Kansas
30 lottery and a licensee entered into pursuant to K.S.A. 75-5189, and
31 amendments thereto, and the sole purpose of which is to:

32 (A) Dispense a printed physical instant bingo ticket after a purchaser
33 inserts cash or other form of consideration into the machine; and

34 (B) allow purchasers to manually check the winning status of the
35 instant bingo ticket.

36 (2) "Instant bingo vending machine" shall not:

37 (A) Provide a visual or audio representation of a bingo card or an
38 electronic gaming machine;

39 (B) visually or functionally have the same characteristics of an
40 electronic instant bingo game or an electronic gaming machine;

41 (C) automatically determine or display the winning status of any
42 dispensed instant bingo ticket;

43 (D) extend or arrange credit for the purchase of an instant bingo

1 ticket;

2 (E) dispense any winnings;

3 (F) dispense any prize;

4 (G) dispense any evidence of a prize other than an instant bingo
5 ticket;

6 (H) provide free instant bingo tickets or any other item that can be
7 redeemed for cash; or

8 (I) dispense any other form of a prize to a purchaser.

9 All physical instant bingo tickets dispensed by an instant bingo vending
10 machine shall be purchased by a licensee, as defined by K.S.A. 75-5173,
11 and amendments thereto, from a registered distributor.

12 Not more than two instant bingo vending machines may be located on
13 the premises of each licensee location.

14 ~~(k)~~(l) "Kansas lottery" means the state agency created by this act to
15 operate a lottery or lotteries pursuant to this act.

16 ~~(j)~~(m) "Lottery" or "state lottery" means the lottery or lotteries
17 operated pursuant to this act.

18 ~~(m)~~(n) (1) "Lottery facility games" means any electronic gaming
19 machines and any other games that are authorized to be conducted or
20 operated at any licensed gaming facilities in the United States.

21 (2) "Lottery facility games" does not include sports wagering or
22 historical horse race machines, as defined in K.S.A. 74-8802, and
23 amendments thereto.

24 ~~(n)~~(o) "Lottery gaming enterprise" means an entertainment enterprise
25 that includes a lottery gaming facility authorized pursuant to the Kansas
26 expanded lottery act and ancillary lottery gaming facility operations that
27 have a coordinated business or marketing strategy. A lottery gaming
28 enterprise shall be designed to attract to its lottery gaming facility
29 consumers who reside outside the immediate area of such enterprise.

30 ~~(o)~~(p) "Lottery gaming facility" means that portion of a building used
31 for the purposes of operating, managing and maintaining lottery facility
32 games.

33 ~~(p)~~(q) "Lottery gaming facility expenses" means normal business
34 expenses, as defined in the lottery gaming facility management contract,
35 associated with the ownership and operation of a lottery gaming facility.

36 ~~(q)~~(r) "Lottery gaming facility management contract" means a
37 contract, subcontract or collateral agreement between the state and a
38 lottery gaming facility manager for the management of a lottery gaming
39 facility, the business of which is owned and operated by the Kansas lottery,
40 negotiated and signed by the executive director on behalf of the state.

41 ~~(r)~~(s) "Lottery gaming facility manager" means a corporation, limited
42 liability company, resident Kansas American Indian tribe or other business
43 entity authorized to construct and manage, or manage alone, pursuant to a

1 lottery gaming facility management contract with the Kansas lottery, and
2 on behalf of the state, a lottery gaming enterprise and lottery gaming
3 facility.

4 ~~(s)~~(t) "Lottery gaming facility revenues" means the total revenues
5 from lottery facility games at a lottery gaming facility after all related
6 prizes are paid. The term "lottery gaming facility revenues" does not
7 include sports wagering revenues.

8 ~~(t)~~(u) (1) "Lottery machine" means any machine or device that allows
9 a purchaser to insert cash or other form of consideration and may deliver
10 as the result of an element of chance, regardless of the skill required by the
11 purchaser, a prize or evidence of a prize, including, but not limited to:

12 (A) Any machine or device in which the prize or evidence of a prize
13 is determined by both chance and the purchaser's or purchasers' skill,
14 including, but not limited to, any machine or device on which a lottery
15 game or lottery games, such as poker or blackjack, are played; or

16 (B) any machine or device in which the prize or evidence of a prize is
17 determined only by chance, including, but not limited to, any slot machine
18 or bingo machine.

19 (2) "Lottery machine" shall not mean:

20 (A) Any food vending machine defined by K.S.A. 36-501, and
21 amendments thereto;

22 (B) any nonprescription drug machine authorized under K.S.A. 65-
23 650, and amendments thereto;

24 (C) any machine that dispenses only bottled or canned soft drinks,
25 chewing gum, nuts or candies;

26 (D) any machine excluded from the definition of gambling devices
27 under K.S.A. 21-4302(d), prior to its repeal, or K.S.A. 21-6403, and
28 amendments thereto;

29 (E) any electronic gaming machine or lottery facility game operated
30 in accordance with the provisions of the Kansas expanded lottery act;

31 (F) any lottery ticket vending machine; or

32 (G) any instant bingo vending machine.

33 ~~(u)~~(v) "Lottery retailer" means any person with whom the Kansas
34 lottery has contracted to sell lottery tickets or shares, or both, to the public.

35 ~~(v)~~(w) (1) "Lottery ticket vending machine" means a machine or
36 similar electronic device owned or leased by the Kansas lottery, the sole
37 purposes of which are to:

38 (A) Dispense a printed physical ticket, such as a lottery ticket, a keno
39 ticket, a pull tab ticket or a coupon, the coupon of which must be
40 redeemed through something other than a lottery ticket vending machine,
41 after a purchaser inserts cash or other form of consideration into the
42 machine;

43 (B) allow purchasers to manually check the winning status of a

1 Kansas lottery ticket; and

2 (C) display advertising, promotions and other information pertaining
3 to the Kansas lottery.

4 (2) "Lottery ticket vending machine" shall not:

5 (A) Provide a visual or audio representation of an electronic gaming
6 machine;

7 (B) visually or functionally have the same characteristics of an
8 electronic gaming machine;

9 (C) automatically determine or display the winning status of any
10 dispensed ticket;

11 (D) extend or arrange credit for the purchase of a ticket;

12 (E) dispense any winnings;

13 (F) dispense any prize;

14 (G) dispense any evidence of a prize other than the lottery ticket,
15 keno ticket, pull tab ticket or any free Kansas lottery ticket received as a
16 result of the purchase of another Kansas lottery ticket;

17 (H) provide free games or any other item that can be redeemed for
18 cash; or

19 (I) dispense any other form of a prize to a purchaser.

20 Not more than two lottery ticket vending machines may be located at
21 each Kansas lottery retailer selling location.

22 Lottery ticket vending machines may only dispense the printed physical
23 lottery ticket, keno ticket or pull tab ticket, including any free Kansas
24 lottery ticket received as a result of the purchase of another Kansas lottery
25 ticket, and change from a purchase to the purchaser. Any winnings from a
26 lottery ticket vending machine shall be redeemed only for cash or check by
27 a lottery retailer or by cash, check or other prize from the office of the
28 Kansas lottery.

29 ~~(w)~~(x) (1) "Major procurement" means any gaming product or
30 service, including, but not limited to, facilities, advertising and
31 promotional services, annuity contracts, prize payment agreements,
32 consulting services, equipment, tickets and other products and services
33 unique to the Kansas lottery, but not including materials, supplies,
34 equipment and services common to the ordinary operations of state
35 agencies.

36 (2) "Major procurement" shall not mean any product, service or other
37 matter covered by or addressed in the Kansas expanded lottery act or a
38 lottery gaming facility management contract or racetrack gaming facility
39 management contract executed pursuant to the Kansas expanded lottery
40 act.

41 ~~(x)~~(y) "Marketing agreement" means an agreement entered into
42 between a professional sports team or other marketing entity and a lottery
43 gaming facility manager for the purposes described in K.S.A. 2023 Supp.

1 74-8784, and amendments thereto.

2 ~~(y)~~(z) "Marketing entity" means:

3 (1) A corporation, limited liability company, partnership or other
4 business entity registered to do business in this state; or

5 (2) a nonprofit fraternal or veterans organization.

6 ~~(z)~~(aa) "Match-fixing" means to arrange or determine any action that
7 occurs during a sporting event, including, but not limited to, any action
8 resulting in the final outcome of such sporting event, for financial gain.

9 ~~(aa)~~(bb) "Net electronic gaming machine income" means all cash or
10 other consideration utilized to play an electronic gaming machine operated
11 at a racetrack gaming facility, less all cash or other consideration paid out
12 to winning players as prizes.

13 ~~(bb)~~(cc) "Nonprofit fraternal organization" means any organization
14 within this state that exists for the common benefit, brotherhood or other
15 interests of its members and is authorized by its written constitution,
16 charter, articles of incorporation or bylaws to engage in a fraternal, civic or
17 service purpose within this state and has been determined by the executive
18 director to be organized and operated as a bona fide fraternal organization
19 and that has been exempted from the payment of federal income taxes as
20 provided by section 501(c)(8) or section 501(c)(10) of the federal internal
21 revenue code of 1986, as amended, or determined to be organized and
22 operated as a bona fide nonprofit fraternal organization by the executive
23 director.

24 ~~(ee)~~(dd) "Nonprofit veterans' organization" means any organization
25 within this state or any branch, lodge or chapter of a national or state
26 organization within this state, the membership of which consists
27 exclusively of individuals who qualify for membership because they were
28 or are members of the armed services or forces of the United States, or an
29 auxiliary unit or society of such a nonprofit veterans' organization, the
30 membership of which consists exclusively of individuals who were or are
31 members of the armed services or forces of the United States, or are
32 cadets, or are spouses, widows or widowers of individuals who were or are
33 members of the armed services or forces of the United States, and of
34 which no part of the net earnings inures to the benefit of any private
35 shareholder or individual member of such organization, and has been
36 determined by the executive director to be organized and operated as a
37 bona fide veterans' organization and that has been exempted from the
38 payment of federal income taxes as provided by section 501(c)(4) or
39 501(c)(19) of the federal internal revenue code of 1986, as amended, or
40 determined to be organized and operated as a bona fide nonprofit veterans'
41 organization by the executive director.

42 ~~(dd)~~(ee) "Organization licensee" means the same as defined in K.S.A.
43 74-8802, and amendments thereto.

- 1 ~~(ee)~~(ff) "Parimutuel licensee" means a facility owner licensee or
2 facility manager licensee under the Kansas parimutuel racing act.
- 3 ~~(ff)~~(gg) "Parimutuel licensee location" means a racetrack facility, as
4 defined in K.S.A. 74-8802, and amendments thereto, owned or managed
5 by the parimutuel licensee. A parimutuel licensee location includes any
6 existing structure at such racetrack facility or any structure that may be
7 constructed on real estate where such racetrack facility is located.
- 8 ~~(gg)~~(hh) "Person" means any natural person, association, limited
9 liability company, corporation or partnership.
- 10 ~~(hh)~~(ii) "Primary facility" means the stadium or arena where a
11 professional sports team hosts competitive games in accordance with such
12 team's league rules.
- 13 ~~(ii)~~(jj) "Prize" means any prize paid directly by the Kansas lottery
14 pursuant to the Kansas lottery act or the Kansas expanded lottery act or
15 any rules and regulations adopted pursuant to either act.
- 16 ~~(jj)~~(kk) "Professional sports team" means an athletic team, whose
17 primary facility is located in Kansas, that operates at the major league
18 level in the sport of baseball, basketball, football, ice hockey or soccer.
- 19 ~~(kk)~~(ll) "Progressive electronic game" means a game played on an
20 electronic gaming machine for which the payoff increases uniformly as the
21 game is played and for which the jackpot, determined by application of a
22 formula to the income of independent, local or interlinked electronic
23 gaming machines, may be won.
- 24 ~~(ll)~~(mm) "Racetrack gaming facility" means that portion of a
25 parimutuel licensee location where electronic gaming machines are
26 operated, managed and maintained.
- 27 ~~(mm)~~(nn) "Racetrack gaming facility management contract" means
28 an agreement between the Kansas lottery and a racetrack gaming facility
29 manager, negotiated and signed by the executive director on behalf of the
30 state, for placement of electronic gaming machines owned and operated by
31 the state at a racetrack gaming facility.
- 32 ~~(nn)~~(oo) "Racetrack gaming facility manager" means a parimutuel
33 licensee specifically certified by the Kansas lottery to become a certified
34 racetrack gaming facility manager and offer electronic gaming machines
35 for play at the racetrack gaming facility.
- 36 ~~(oo)~~(pp) "Returned ticket" means any ticket that was transferred to a
37 lottery retailer, that was not sold by the lottery retailer and that was
38 returned to the Kansas lottery for refund by issuance of a credit or
39 otherwise.
- 40 ~~(pp)~~(qq) "Share" means any intangible manifestation authorized by
41 the Kansas lottery to prove participation in a lottery game, except as
42 provided by the Kansas expanded lottery act.
- 43 ~~(qq)~~(rr) "Sports governing body" means the organization that

1 prescribes the final rules and enforces codes of conduct with respect to a
2 sporting event and the participants in such event.

3 ~~(ff)~~(ss) (1) "Sporting event" means any professional or collegiate
4 sport or athletic event, motor race event or any other special event
5 authorized by the commission that has not occurred at the time wagers are
6 placed on such event.

7 (2) The term "sporting event" does not include:

8 (A) Any horse race that is subject to the provisions of the Kansas
9 parimutuel racing act, K.S.A. 74-8801 et seq., and amendments thereto;

10 (B) any greyhound race; or

11 (C) any sporting or athletic event where a majority of the participants
12 are less than 18 years of age.

13 ~~(ss)~~(tt) (1) "Sports wagering" means placing a wager or bet on one or
14 more sporting events, or any portion thereof, or on the individual
15 performance statistics of athletes participating in a sporting event, or
16 combination of sporting events, by any system or method of wagering at or
17 through a lottery gaming facility, including through an interactive sports
18 wagering platform. "Sports wagering" includes, but is not limited to, single
19 game wagers, teaser wagers, parlays, over-under wagers, moneyline
20 wagers, pools, exchange wagering, in-game wagers, in-play wagers,
21 proposition wagers, straight wagers and such other wagers approved by the
22 commission.

23 (2) The term "sports wagering" shall not include:

24 (A) Parimutuel wagering, as defined in K.S.A. 74-8802, and
25 amendments thereto; or

26 (B) fantasy sports leagues, as defined in K.S.A. 21-6403, and
27 amendments thereto.

28 ~~(tt)~~(uu) "Sports wagering revenues" means wagering revenue
29 generated from sports wagering that is an amount equal to the total wagers
30 less any voided wagers, federal excise taxes, free plays or other
31 promotional credits and any amounts paid as prizes.

32 ~~(uu)~~(vv) "Sports wagering supplier" means a person providing goods,
33 services, software or any other components necessary for the
34 determination of the odds or the outcomes of any wager on a sporting
35 event, directly or indirectly, to a lottery gaming facility manager, including
36 data feeds and odds services, that is licensed under K.S.A. 2023 Supp. 74-
37 8783, and amendments thereto.

38 ~~(vv)~~(ww) "Ticket" means any tangible evidence issued by the Kansas
39 lottery to prove participation in a lottery game, including a sports wager,
40 other than a lottery facility game.

41 ~~(ww)~~(xx) "Token" means a representative of value, of metal or other
42 material, that is not legal tender, redeemable for cash only by the issuing
43 lottery gaming facility manager or racetrack gaming facility manager and

1 that is issued and sold by a lottery gaming facility manager or racetrack
2 gaming facility manager for the sole purpose of playing an electronic
3 gaming machine or lottery facility game.

4 ~~(xx)~~(yy) "Vendor" means any person who has entered into a major
5 procurement contract with the Kansas lottery.

6 ~~(yy)~~(zz) "Video lottery machine" means any electronic video game
7 machine that, upon insertion of cash, is available to play or simulate the
8 play of a video game authorized by the commission, including, but not
9 limited to, bingo, poker, black jack and keno, and which uses a video
10 display and microprocessors and in which, by chance, the player may
11 receive free games or credits that can be redeemed for cash.

12 ~~(zz)~~(aaa) "Wager" or "bet" means a bargain in which the parties agree
13 that, dependent upon chance, one stands to win or lose something of value
14 specified in the agreement.

15 Sec. 74. K.S.A. 74-8704 is hereby amended to read as follows: 74-
16 8704. (a) The executive director shall have the power to:

17 (1) Supervise and administer the operation of the state lottery in
18 accordance with the provisions of this act and such rules and regulations as
19 adopted hereunder.

20 (2) Appoint, subject to the Kansas civil service act and within the
21 limitations of appropriations therefor, all other employees of the Kansas
22 lottery, which employees shall be in the classified service unless otherwise
23 specifically provided by this act.

24 (3) Enter into contracts for advertising and promotional services,
25 subject to the provisions of subsection (b); annuities or other methods
26 deemed appropriate for the payment of prizes; data processing and other
27 technical products, equipment and services; and facilities as needed to
28 operate the Kansas lottery, including, but not limited to, gaming
29 equipment, tickets and other services involved in major procurement
30 contracts, in accordance with K.S.A. 74-8705, and amendments thereto.

31 (4) Enter into contracts with persons for the sale of lottery tickets or
32 shares to the public, as provided by this act and rules and regulations
33 adopted pursuant to this act, which contracts shall not be subject to the
34 provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

35 (5) Require lottery retailers to furnish proof of financial stability or
36 furnish surety in an amount based upon the expected volume of sales of
37 lottery tickets or shares.

38 (6) Examine, or cause to be examined by any agent or representative
39 designated by the executive director, any books, papers, records or
40 memoranda of any lottery retailer for the purpose of ascertaining
41 compliance with the provisions of this act or rules and regulations adopted
42 hereunder.

43 (7) Issue subpoenas to compel access to or for the production of any

1 books, papers, records or memoranda in the custody or control of any
2 lottery retailer, or to compel the appearance of any lottery retailer or
3 employee of any lottery retailer, for the purpose of ascertaining
4 compliance with the provisions of this act or rules and regulations adopted
5 hereunder. Subpoenas issued under the provisions of this subsection may
6 be served upon natural persons and corporations in the manner provided in
7 K.S.A. 60-304, and amendments thereto, for the service of process by any
8 officer authorized to serve subpoenas in civil actions or by the executive
9 director or an agent or representative designated by the executive director.
10 In the case of the refusal of any person to comply with any such subpoena,
11 the executive director may make application to the district court of any
12 county where such books, papers, records, memoranda or person is located
13 for an order to comply.

14 (8) Administer oaths and take depositions to the same extent and
15 subject to the same limitations as would apply if the deposition were in aid
16 of a civil action in the district court.

17 (9) ~~Require fingerprinting of employees and such other persons who~~
18 ~~work in sensitive areas within the lottery as deemed appropriate by the~~
19 ~~director in accordance with section 2, and amendments thereto. The~~
20 ~~director may submit such fingerprints to the Kansas bureau of~~
21 ~~investigation and to the federal bureau of investigation for the purposes of~~
22 ~~verifying the identity of such employees and persons and obtaining records~~
23 ~~of their criminal arrests and convictions.~~

24 (b) The Kansas lottery shall not engage in on-site display advertising
25 or promotion of the lottery at any amateur athletic or sporting event where
26 the majority of participating athletes are under the age of 18, including, but
27 not limited to, events under the jurisdiction and control of the Kansas state
28 high school activities association.

29 Sec. 75. K.S.A. 74-8705 is hereby amended to read as follows: 74-
30 8705. (a) Major procurement contracts shall be awarded in accordance
31 with K.S.A. 75-3738 through 75-3744, and amendments thereto, or
32 subsection (b), as determined by the director, except that:

33 (1) The contract or contracts for the initial lease of facilities for the
34 Kansas lottery shall be awarded upon the evaluation and approval of the
35 director, the secretary of administration and the director of architectural
36 services;

37 (2) The commission shall designate certain major procurement
38 contracts or portions thereof to be awarded, in accordance with rules and
39 regulations of the commission, solely to minority business enterprises.

40 (b) (1) The director may award any major procurement contract by
41 use of a procurement negotiating committee. Such committee shall be
42 composed of:

43 ~~(1) (A)~~ The executive director or a Kansas lottery employee

1 designated by the executive director;

2 ~~(2)-(B)~~ the chairperson of the commission or a commission member
3 designated by the chairperson; and

4 ~~(3)-(C)~~ the director of the division of purchases or an employee of
5 such division designated by the director.

6 (2) Prior to negotiating a major procurement contract, the committee
7 shall solicit bids or proposals thereon. The division of purchases shall
8 provide staff support for the committee's solicitations. Upon receipt of bids
9 or proposals, the committee may negotiate with one or more of the persons
10 submitting such bids or proposals and select from among such persons the
11 person to whom the contract is awarded. Such procurements shall be open
12 and competitive and shall consider relevant factors, including security,
13 competence, experience, timely performance and maximization of net
14 revenues to the state. If a procurement negotiating committee is utilized,
15 the provisions of K.S.A. 75-3738 through 75-3744, and amendments
16 thereto, shall not apply. Meetings conducted by the procurement
17 negotiating committee shall be exempt from the provisions of the Kansas
18 open meeting act, K.S.A. 75-4317 through 75-4320c, and amendments
19 thereto.

20 (c) (1) Before a major procurement contract is awarded, the executive
21 director shall *fingerprint and* conduct a ~~background investigation state~~
22 *criminal history record check in accordance with section 3, and*
23 *amendments thereto*, of:

24 ~~(1)-(A)~~ The vendor to whom the contract is to be awarded;

25 ~~(2)-(B)~~ all officers and directors of such vendor;

26 ~~(3)-(C)~~ all persons who own a 5% or more interest in such vendor;

27 ~~(4)-(D)~~ all persons who own a controlling interest in such vendor; and

28 ~~(5)-(E)~~ any subsidiary or other business in which such vendor owns a
29 controlling interest.

30 (2) The vendor shall submit appropriate investigation authorizations
31 to facilitate such investigation. The executive director may require, in
32 accordance with rules and regulations of the commission, that a vendor
33 submit any additional information considered appropriate to preserve the
34 integrity and security of the lottery. In addition, the executive director may
35 conduct a background investigation of any person having a beneficial
36 interest in a vendor. The secretary of revenue, securities commissioner,
37 attorney general and director of the Kansas bureau of investigation shall
38 assist in any investigation pursuant to this subsection upon request of the
39 executive director. Whenever the secretary of revenue, securities
40 commissioner, attorney general or director of the Kansas bureau of
41 investigation assists in such an investigation and incurs costs in addition
42 to those attributable to the operations of the office or bureau, such additional
43 costs shall be paid by the Kansas lottery. The furnishing of assistance in

1 such an investigation shall be a transaction between the Kansas lottery and
2 the respective officer and shall be settled in accordance with K.S.A. 75-
3 5516, and amendments thereto.

4 (3) Upon the request of the chairperson, the Kansas bureau of
5 investigation and other criminal justice agencies shall provide to the
6 chairperson all background investigation information including criminal
7 history record information, arrest and nonconviction data, criminal
8 intelligence information and information relating to criminal and
9 background investigations of a vendor to whom a major procurement
10 contract is to be awarded *in accordance with section 2, and amendments*
11 *thereto*. ~~Such information, other than conviction data, shall be confidential~~
12 ~~and shall not be disclosed, except as provided in this section. In addition to~~
13 ~~any other penalty provided by law, disclosure of such information shall be~~
14 ~~grounds for removal from office or termination of employment.~~

15 (d) All major procurement contracts shall be subject to approval of
16 the commission.

17 (e) The executive director shall not agree to any renewal or extension
18 of a major procurement contract unless such extension or renewal is
19 awarded in the manner provided by this section.

20 Sec. 76. K.S.A. 74-8763 is hereby amended to read as follows: 74-
21 8763. Each person subject to a background check pursuant to the Kansas
22 expanded lottery act *and section 3, and amendments thereto*, shall be
23 subject to a state and national criminal history records check ~~which that~~
24 conforms to applicable federal standards for the purpose of verifying the
25 identity of the applicant and whether the person has been convicted of any
26 crime that would disqualify the person from engaging in activities
27 pursuant to this act. The executive director is authorized to use the
28 information obtained from the national criminal history record check to
29 determine the person's eligibility to engage in such activities.

30 Sec. 77. K.S.A. 74-8769 is hereby amended to read as follows: 74-
31 8769. Each person subject to a background check pursuant to the Kansas
32 expanded lottery act *and section 3, and amendments thereto*, shall be
33 subject to a state and national criminal history records check which
34 conforms to applicable federal standards for the purpose of verifying the
35 identity of the applicant and whether the person has been convicted of any
36 crime that would disqualify the person from engaging in activities
37 pursuant to this act. The executive director of the Kansas racing and
38 gaming commission is authorized to use the information obtained from the
39 national criminal history record check to determine the person's eligibility
40 to engage in such activities.

41 Sec. 78. K.S.A. 2023 Supp. 74-8802 is hereby amended to read as
42 follows: 74-8802. As used in the Kansas parimutuel racing act unless the
43 context otherwise requires:

1 (a) "Breakage" means the odd cents by which the amount payable on
2 each dollar wagered exceeds:

3 (1) A multiple of \$.10, for parimutuel pools from races conducted in
4 this state; and

5 (2) a multiple of such other number of cents as provided by law of the
6 host jurisdiction, for interstate combined wagering pools.

7 (b) "Commission" means the Kansas racing and gaming commission
8 created by this act.

9 (c) "Concessionaire licensee" means a person, partnership,
10 corporation or association licensed by the commission to utilize a space or
11 privilege within a racetrack facility to sell goods or services.

12 (d) "Contract" means an agreement, written or oral, between two or
13 more persons, partnerships, corporations or associations, or any
14 combination thereof that creates an obligation between the parties.

15 (e) "Crossover employment" means a situation in which an
16 occupational licensee is concurrently employed at the same racing facility
17 by an organization licensee and a facility owner licensee or facility
18 manager licensee.

19 (f) "Dual racetrack facility" means a racetrack facility for the racing
20 of both horses and greyhounds or two immediately adjacent racetrack
21 facilities, owned by the same licensee, one for racing horses and one for
22 racing greyhounds.

23 (g) *"Employee" means a person who has applied for a position of*
24 *employment or is currently employed by the commission.*

25 (h) "Executive director" means the executive director of the
26 commission.

27 ~~(i)~~(i) "Facility manager licensee" means a person, partnership,
28 corporation or association licensed by the commission and having a
29 contract with an organization licensee to manage a racetrack facility
30 located in Sedgwick county.

31 ~~(j)~~(j) "Facility owner licensee" means a person, partnership,
32 corporation or association, or the state of Kansas or any political
33 subdivision thereof, licensed by the commission to construct or own a
34 racetrack facility located in Sedgwick county. "Facility owner licensee"
35 does not mean an organization licensee that owns the racetrack facility in
36 which it conducts horse or greyhound racing.

37 ~~(k)~~(k) "Fair association" means an association organized pursuant to
38 K.S.A. 2-125 et seq., and amendments thereto or a nonprofit association
39 determined by the commission to be otherwise organized to conduct fair
40 activities pursuant to findings of fact entered by the commission in a
41 license order.

42 ~~(l)~~(l) "Financial interest" means an interest that could result directly
43 or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as

1 a result of ownership or interest in a business entity or activity or as a
2 result of a salary, gratuity or other compensation or remuneration from any
3 person.

4 ~~(h)~~(m) "Greyhound" means any greyhound breed of dog properly
5 registered with the national greyhound association of Abilene, Kansas.

6 ~~(m)~~(n) "Historical horse race machine" means any electronic,
7 electromechanical, video or computerized device, contrivance or machine
8 authorized by the commission that, upon insertion of cash, tokens,
9 electronic cards or any consideration, is available to accept wagers on and
10 simulate the running of historical horse races, and that may deliver or
11 entitle the patron operating the machine to receive cash, tokens,
12 merchandise or credits that may be redeemed for cash. Historical horse
13 race machines shall use historically accurate information of the horse race
14 selected to determine the place of finish of each horse. No random number
15 generator or other algorithm shall be used for determining the results of an
16 historical horse race. Historical horse race machines shall be directly
17 linked to a central computer at a location determined by the commission
18 for purposes of security, monitoring and auditing.

19 ~~(n)~~(o) "Horsemen's association" means any association or
20 corporation:

21 (1) All officers, directors, members and shareholders of which are
22 licensed owners of horses or licensed trainers of horses, or both;

23 (2) applying for or has been issued a facility owner license
24 authorizing ownership of Eureka Downs, Anthony Downs or a racetrack
25 facility on or adjacent to premises used by a fair association to conduct fair
26 activities; and

27 (3) none of the officers, directors, members or shareholders of which
28 holds another facility owner license or is an officer, director, member or
29 shareholder of another facility owner licensee.

30 ~~(o)~~(p) "Horsemen's nonprofit organization" means any nonprofit
31 organization:

32 (1) All officers, directors, members or shareholders of which are
33 licensed owners of horses or licensed trainers of horses, or both; and

34 (2) applying for or has been issued an organization license
35 authorizing the conduct of horse races at Eureka Downs, Anthony Downs
36 or a racetrack facility on or adjacent to premises used by a fair association
37 to conduct fair activities.

38 ~~(p)~~(q) "Host facility" means the racetrack at which the race is run or,
39 if the race is run in a jurisdiction that is not participating in the interstate
40 combined wagering pool, the racetrack or other facility that is designated
41 as the host facility.

42 ~~(q)~~(r) "Host jurisdiction" means the jurisdiction where the host
43 facility is located.

1 ~~(s)~~(s) "Interstate combined wagering pool" means a parimutuel pool
2 established in one jurisdiction that is combined with comparable
3 parimutuel pools from one or more racing jurisdictions for the purpose of
4 establishing the amount of money returned on a successful wager in the
5 participating jurisdictions.

6 ~~(t)~~(t) "Intertrack wagering" means wagering on a simulcast race at a
7 licensed racetrack facility or at a facility that is licensed in its racing
8 jurisdiction to conduct live races.

9 ~~(u)~~(u) "Intrastate combined wagering pool" means a parimutuel pool
10 that is combined with comparable parimutuel pools from one or more
11 racetrack facilities for the purpose of establishing the amount of money
12 returned on a successful wager at the participating racetrack facilities.

13 ~~(v)~~(v) "Kansas-whelped greyhound" means a greyhound whelped and
14 raised in Kansas for the first six months of its life.

15 ~~(w)~~(w) "*Licensee*" means a person who has submitted an application
16 for licesure or currently holds a license issued by the commission.

17 (x) "Minus pool" means a parimutuel pool in which, after deducting
18 the takeout, not enough money remains in the pool to pay the legally
19 prescribed minimum return to those placing winning wagers, and in which
20 the organization licensee would be required to pay the remaining amount
21 due.

22 ~~(y)~~(y) "Nonprofit organization" means:

23 (1) A corporation that is incorporated in Kansas as a not-for-profit
24 corporation pursuant to the Kansas general corporation code and the net
25 earnings of which do not inure to the benefit of any shareholder, individual
26 member or person; or

27 (2) a fair association.

28 ~~(z)~~(z) "Occupation licensee" means a person licensed by the
29 commission to perform an occupation or provide services that the
30 commission has identified as requiring a license pursuant to this act.

31 ~~(aa)~~(aa) "Off-track wagering" means wagering on a simulcast race at a
32 facility that is not licensed in its jurisdiction to conduct live races.

33 ~~(bb)~~(bb) "Organization licensee" means a nonprofit organization
34 licensed by the commission to conduct races pursuant to this act and, if the
35 license so provides, to construct or own a racetrack facility.

36 ~~(cc)~~(cc) "Parimutuel pool" means the total money wagered by
37 individuals on one or more horses or greyhounds in a particular horse or
38 greyhound race to win, place or show, or combinations thereof, as
39 established by the commission, and, except in the case of an interstate or
40 intrastate combined wagering pool, held by the organization licensee
41 pursuant to the parimutuel system of wagering. There is a separate
42 parimutuel pool for win, for place, for show and for each of the other
43 forms of betting provided for by the rules and regulations of the

1 commission.

2 ~~(bb)~~(dd) "Parimutuel wagering" means a form of wagering on the
3 outcome of horse and greyhound races, including historical horse races
4 conducted by an historical horse race machine, in which those who wager
5 purchase tickets of various denominations on one or more horses or
6 greyhounds and all wagers for each race are pooled and the winning ticket
7 holders are paid prizes from such pool in amounts proportional to the total
8 receipts in the pool.

9 ~~(ee)~~(ee) "Race meeting" means one or more periods of racing days
10 during a calendar year designated by the commission for which an
11 organization licensee has been approved by the commission to hold live
12 horse or greyhound races or simulcast horse races at which parimutuel
13 wagering is conducted, including such additional time as designated by the
14 commission for the conduct of official business before and after the races.

15 ~~(dd)~~(ff) "Racetrack facility" means a racetrack within Kansas used for
16 the racing of horses or greyhounds, or both, including the track surface,
17 grandstands, clubhouse, all animal housing and handling areas, other areas
18 in which a person may enter only upon payment of an admission fee or
19 upon presentation of authorized credentials and such additional areas as
20 designated by the commission. The term "racetrack facility" includes a
21 facility used for the display of and wagering on simulcast races and the
22 operation of historical horse race machines without any live horse or
23 greyhound races being conducted.

24 ~~(ee)~~(gg) "Racing jurisdiction" or "jurisdiction" means a governmental
25 authority that is responsible for the regulation of live or simulcast racing in
26 its jurisdiction.

27 ~~(ff)~~(hh) "Racing or wagering equipment or services licensee" means
28 any person, partnership, corporation or association licensed by the
29 commission to provide integral racing or wagering equipment or services,
30 as designated by the commission, to an organization licensee.

31 ~~(gg)~~(ii) "Recognized greyhound owners' group" means the duly
32 recognized group elected in accordance with rules and regulations of the
33 commission by a majority of the Kansas licensed greyhound owners at the
34 racetrack facility voting in the election. The commission may designate an
35 organization such as the national greyhound association of Abilene,
36 Kansas, to conduct the election.

37 ~~(hh)~~(jj) "Recognized horsemen's group" means the duly recognized
38 group, representing the breeds of horses running at a racetrack facility,
39 elected in accordance with rules and regulations of the commission by a
40 majority of the licensed owners and trainers at the racetrack facility voting
41 in the election. If the licensee does not have a recognized horsemen's
42 group, the commission shall designate as the recognized horsemen's group
43 one that serves another organization licensee, but not one that serves a fair

1 association organization licensee.

2 (~~ii~~)(kk) "Simulcast" means a live audio-visual broadcast of an actual
3 horse race at the time it is run.

4 (~~jj~~)(ll) "Takeout" means the total amount of money withheld from
5 each parimutuel pool for the payment of purses, taxes and the share to be
6 kept by the organization licensee. Takeout does not include the breakage.
7 The balance of each pool less the breakage is distributed to the holders of
8 winning parimutuel tickets.

9 Sec. 79. K.S.A. 74-8803 is hereby amended to read as follows: 74-
10 8803. (a) There is hereby created the Kansas racing and gaming
11 commission, consisting of five members who shall be appointed by the
12 governor, subject to confirmation by the senate as provided by K.S.A. 75-
13 4315b, and amendments thereto. Except as provided by K.S.A. 46-2601,
14 and amendments thereto, no person appointed to the commission shall
15 exercise any power, duty or function as a member of the commission until
16 confirmed by the senate.

17 (b) Before appointing any person as a member of the commission, the
18 governor shall cause the Kansas bureau of investigation to conduct a
19 criminal history record check and background investigation of the person
20 *in accordance with section 3, and amendments thereto.*

21 (c) The members of the commission shall meet the following
22 qualifications:

23 (1) Each member shall be a citizen of the United States and an actual
24 resident of Kansas at the time of appointment and during such member's
25 term of office with the commission;

26 (2) each member shall have been a resident of Kansas for a
27 continuous period of not less than five years immediately preceding
28 appointment to the commission; and

29 (3) no member shall have been convicted of a felony under the laws
30 of any state or of the United States at any time prior to appointment or
31 during such member's term of office with the commission.

32 (d) The governor shall make appointments to the commission in such
33 a manner that:

34 (1) Not more than three members belong to the same political party at
35 the time of appointment and during their terms of office with the
36 commission; and

37 (2) subject to the provisions of K.S.A. 75-4315c, and amendments
38 thereto each congressional district has at least one member residing in such
39 district at the time of appointment.

40 (e) Except as provided by subsection (f), each member appointed
41 before July 1, 1995, shall be appointed for a term of three years and until a
42 successor is appointed and confirmed. Each member appointed on or after
43 July 1, 1995, shall be appointed for a term of four years and until a

1 successor is appointed and confirmed.

2 (f) The terms of members who are serving on the commission on the
3 effective date of this act shall expire on January 15, of the year in which
4 such member's term would have expired under the provisions of this
5 section prior to amendment by this act. Thereafter, members shall be
6 appointed for terms of four years and until their successors are appointed
7 and confirmed.

8 (g) A vacancy on the commission shall be filled for the unexpired
9 term by appointment by the governor.

10 (h) The commission shall meet at such times and places within this
11 state as the chairperson or a majority of the commission members
12 determines. A majority of the members shall constitute a quorum for the
13 conduct of commission business.

14 (i) The governor shall designate a member of the commission as
15 chairperson of the commission, to serve in that capacity at the pleasure of
16 the governor. The members of the commission annually shall elect a vice-
17 chairperson and secretary from the membership of the commission.

18 (j) Members of the commission shall receive such compensation as
19 determined by the governor, subject to the limitations of appropriations
20 therefor, and, when attending meetings of the commission, or a
21 subcommittee meeting thereof approved by the commission, shall be paid
22 subsistence allowances, mileage and other expenses as provided in K.S.A.
23 75-3223, and amendments thereto.

24 Sec. 80. K.S.A. 2023 Supp. 74-8804 is hereby amended to read as
25 follows: 74-8804.(a) During live race meetings or simulcast racing
26 operations, the commission and its designated employees may observe and
27 inspect all racetrack facilities operated by licensees, all racetracks
28 simulcasting races to racetrack facilities in Kansas and all historical horse
29 race machines, including, but not limited to, all machines, equipment and
30 facilities used for parimutuel wagering.

31 (b) Commission members and presiding officers may administer
32 oaths and take depositions to the same extent and subject to the same
33 limitations as would apply if the deposition was in aid of a civil action in
34 the district court.

35 (c) The commission may examine, or cause to be examined by any
36 agent or representative designated by the commission, any books, papers,
37 records or memoranda of any licensee, or of any racetrack or business
38 involved in simulcasting races to racetrack facilities in Kansas or operating
39 historical horse race machines, for the purpose of ascertaining compliance
40 with any provision of this act or any rule and regulation adopted
41 hereunder.

42 (d) The commission may issue subpoenas to compel access to or for
43 the production of any books, papers, records or memoranda in the custody

1 or control of any licensee or officer, member, employee or agent of any
2 licensee, or to compel the appearance of any licensee or officer, member,
3 employee or agent of any licensee, or of any racetrack or business
4 involved in simulcasting races to racetrack facilities in this state or
5 operating historical horse race machines, for the purpose of ascertaining
6 compliance with any of the provisions of this act or any rule and regulation
7 adopted hereunder. Subpoenas issued pursuant to this subsection may be
8 served upon individuals and corporations in the same manner provided in
9 K.S.A. 60-304, and amendments thereto, for the service of process by any
10 officer authorized to serve subpoenas in civil actions or by the commission
11 or an agent or representative designated by the commission. In the case of
12 the refusal of any person to comply with any such subpoena, the executive
13 director may make application to the district court of any county where
14 such books, papers, records, memoranda or person is located for an order
15 to comply.

16 (e) The commission shall allocate equitably race meeting dates,
17 racing days and hours to all organization licensees and assign such dates
18 and hours so as to minimize conflicting dates and hours within the same
19 geographic market area.

20 (f) The commission shall have the authority, after notice and an
21 opportunity for hearing in accordance with rules and regulations adopted
22 by the commission, to exclude, or cause to be expelled, from any race
23 meeting or racetrack facility, or to prohibit a licensee from conducting
24 business with any person:

25 (1) Who has violated the provisions of this act or any rule and
26 regulation or order of the commission;

27 (2) who has been convicted of a violation of the racing or gambling
28 laws of this or any other state or of the United States or has been
29 adjudicated of committing as a juvenile an act which, if committed by an
30 adult, would constitute such a violation; or

31 (3) whose presence, in the opinion of the commission, reflects
32 adversely on the honesty and integrity of horse or greyhound racing or
33 interferes with the orderly conduct of a race meeting.

34 (g) The commission shall review and approve all proposed
35 construction and major renovations to racetrack facilities owned or leased
36 by licensees.

37 (h) The commission shall review and approve all proposed contracts
38 with racetracks or businesses involved in simulcasting races to racetrack
39 facilities in Kansas or operating historical horse race machines.

40 (i) The commission may suspend a horse or greyhound from
41 participation in races if such horse or greyhound has been involved in any
42 violation of the provisions of this act or any rule and regulation or order of
43 the commission.

1 (j) The commission, within 72 hours after any action taken by a
2 steward or racing judge and upon appeal by any interested party or upon
3 its own initiative, may overrule any decision of a steward or racing judge,
4 other than a decision regarding disqualifications for interference during the
5 running of a race, if the preponderance of evidence indicates that:

- 6 (1) The steward or racing judge mistakenly interpreted the law;
- 7 (2) new evidence of a convincing nature is produced; or
- 8 (3) the best interests of racing and the state may be better served.

9 A decision of the commission to overrule any decision of a steward or
10 racing judge shall not change the distribution of parimutuel pools to the
11 holders of winning tickets. A decision of the commission which would
12 affect the distribution of purses in any race shall not result in a change in
13 that distribution unless a written claim is submitted to the commission
14 within 48 hours after completion of the contested race by one of the
15 owners or trainers of a horse or greyhound that participated in such race
16 and a preponderance of evidence clearly indicates to the commission that
17 one or more of the grounds for protest, as provided for in rules and
18 regulations of the commission, has been substantiated.

19 (k) The commission shall review and approve all proposed historical
20 horse race machines and all proposed types of wagering to be conducted
21 on such machines.

22 (l) The commission, after notice and a hearing in accordance with
23 rules and regulations adopted by the commission, may impose a civil fine
24 not exceeding \$5,000 for each violation of any provision of this act, or any
25 rule and regulation of the commission, for which no other penalty is
26 provided.

27 (m) The commission shall adopt rules and regulations specifying and
28 regulating:

29 (1) Those drugs and medications that may be administered, and
30 possessed for administration, to a horse or greyhound within the confines
31 of a racetrack facility; and

32 (2) that equipment for administering drugs or medications to horses
33 or greyhounds that may be possessed within the confines of a racetrack
34 facility.

35 (n) The commission may adopt rules and regulations providing for
36 the testing of any licensees of the commission, and any officers, directors
37 and employees thereof, to determine whether they are users of any
38 controlled substances.

39 (o) The commission shall require fingerprinting of all persons
40 necessary to verify qualification for employment by the commission or to
41 verify qualification for any license, including a simulcasting license,
42 issued pursuant to this act. The commission shall submit such fingerprints
43 to the Kansas bureau of investigation and to the federal bureau of

1 investigation for the purposes of verifying the identity of such persons and
2 obtaining records of criminal arrests and convictions.

3 (p) The commission, *in accordance with section 2, and amendments*
4 *thereto*, may receive from commission security personnel, the Kansas
5 bureau of investigation or other criminal justice agencies, including, but
6 not limited to, the federal bureau of investigation and the federal internal
7 revenue service, such criminal history record information—(, including
8 arrest and nonconviction data), criminal intelligence information and
9 information relating to criminal and background investigations as
10 necessary for the purpose of determining qualifications of ~~licensees of the~~
11 ~~commission, employees of the commission, applicants for employment by~~
12 ~~the commission, and applicants for licensure by the commission, including~~
13 ~~applicants for simuleasting licenses employees or licensees.~~ Upon the
14 written request of the chairperson of the commission, the commission may
15 receive from the district courts such information relating to juvenile
16 proceedings as necessary for the purpose of determining qualifications of
17 ~~employees of and applicants for employment by the commission and~~
18 ~~determining qualifications of or licensees of and applicants for licensure~~
19 ~~by the commission. Such information, other than conviction data, shall be~~
20 ~~confidential and shall not be disclosed except to members and employees~~
21 ~~of the commission as necessary to determine qualifications of such~~
22 ~~licensees, employees and applicants. Any other disclosure of such~~
23 ~~confidential information is a class A misdemeanor and shall constitute~~
24 ~~grounds for removal from office, termination of employment or denial,~~
25 ~~revocation or suspension of any license issued under this act.~~

26 (q) The commission, in accordance with K.S.A. 75-4319, and
27 amendments thereto, may recess for a closed or executive meeting to
28 receive and discuss information received by the commission pursuant to
29 subsection (o) and to negotiate with licensees of or applicants for licensure
30 by the commission regarding any such information.

31 (r) The commission may enter into agreements with the federal
32 bureau of investigation, the federal internal revenue service, the Kansas
33 attorney general or any state, federal or local agency as necessary to carry
34 out the duties of the commission under this act.

35 (s) The commission shall adopt such rules and regulations as
36 necessary to implement and enforce the provisions of this act.

37 Sec. 81. K.S.A. 74-8805 is hereby amended to read as follows: 74-
38 8805. (a) (1) The governor shall appoint, subject to confirmation by the
39 senate as provided by K.S.A. 75-4315b, and amendments thereto, an
40 executive director of the commission, to serve at the pleasure of the
41 governor and under the direction and supervision of the commission.
42 Except as provided by K.S.A. 46-2601, and amendments thereto, no
43 person appointed as executive director shall exercise any power, duty or

1 function as executive director until confirmed by the senate. Before
2 appointing any person as executive director, the governor shall cause the
3 Kansas bureau of investigation to conduct a criminal history record check
4 and background investigation of the person.

5 (2) The executive director shall: (A) Be in the unclassified service
6 under the Kansas civil service act; (B) devote full time to the executive
7 director's assigned duties; (C) receive such compensation as determined by
8 the governor, subject to the limitations of appropriations therefor; (D) be a
9 citizen of the United States and an actual resident of Kansas during
10 employment by the commission; (E) not have been convicted of a felony
11 under the laws of any state or of the United States prior to or during
12 employment by the commission; and (F) have familiarity with the horse
13 and dog racing industries sufficient to fulfill the duties of the office of
14 executive director.

15 (3) The executive director shall: (A) Recommend to the commission
16 the number and qualifications of employees necessary to implement and
17 enforce the provisions of this act; (B) employ persons for those positions
18 approved by the commission, subject to the limitations of appropriations
19 therefor; and (C) perform such other duties as directed by the commission.

20 (b) (1) The executive director shall appoint an inspector of
21 parimutuels to serve at the pleasure of the executive director. Before
22 appointing any person as inspector of parimutuels, the executive director
23 shall cause the Kansas bureau of investigation to conduct a criminal
24 history record check and background investigation of the person.

25 (2) The inspector of parimutuels shall: (A) Be in the unclassified
26 service under the Kansas civil service act; (B) devote full time to the
27 inspector's assigned duties; (C) receive such compensation as determined
28 by the executive director, subject to the limitations of appropriations
29 therefor; (D) be a citizen of the United States and an actual resident of
30 Kansas during employment as inspector of parimutuels; (E) not have been
31 convicted of a felony under the laws of any state or of the United States
32 prior to or during employment by the commission; and (F) be a certified
33 public accountant with at least three years of auditing experience.

34 (3) The inspector of parimutuels shall: (A) Inspect and audit the
35 conduct of parimutuel wagering by organization licensees, including the
36 equipment and facilities used and procedures followed; (B) train and
37 supervise such personnel as employed by the executive director to assist
38 with such duties; and (C) perform such other duties as directed by the
39 executive director.

40 (c) (1) The executive director shall appoint a director of security to
41 serve at the pleasure of the executive director. Before appointing any
42 person as director of security, the executive director shall cause the Kansas
43 bureau of investigation to conduct a criminal history record check and

1 background investigation of the person *in accordance with section 3, and*
2 *amendments thereto.*

3 (2) The director of security shall: (A) Be in the unclassified service
4 under the Kansas civil service act; (B) devote full time to the security
5 director's assigned duties; (C) receive such compensation as determined by
6 the executive director, subject to the limitations of appropriations therefor;
7 (D) be a citizen of the United States and an actual resident of Kansas
8 during employment as director of security; (E) not have been convicted of
9 a felony under the laws of any state or of the United States prior to or
10 during employment by the commission; and (F) be a professional law
11 enforcement officer with a minimum of five years' experience in the field
12 of law enforcement and at least a bachelor's degree in law enforcement
13 administration, law, criminology or a related science or, in lieu thereof, a
14 minimum of 10 years' experience in the field of law enforcement.

15 (3) The director of security shall: (A) Conduct investigations relating
16 to compliance with the provisions of this act and rules and regulations of
17 the commission; (B) recommend proper security measures to organization
18 licensees; (C) train and supervise such personnel as employed by the
19 executive director to assist with such duties; and (D) perform such other
20 duties as directed by the executive director.

21 (d) (1) The executive director may appoint a director of racing
22 operations to serve at the pleasure of the executive director. Before
23 appointing any person as director of racing operations, the executive
24 director shall cause the Kansas bureau of investigation to conduct a
25 criminal history record check and background investigation of the person.

26 (2) The director of racing operations shall: (A) Be in the unclassified
27 service under the Kansas civil service act; (B) devote full time to the
28 director's assigned duties; (C) receive such compensation as determined by
29 the executive director, subject to the limitations of appropriations therefor;
30 (D) be a citizen of the United States and an actual resident of Kansas
31 during employment as director of racing operations; (E) not have been
32 convicted of a felony under the laws of any state or of the United States
33 prior to or during employment by the commission; and (F) have a
34 minimum of five years' experience in racing operations.

35 (3) The director of racing operations shall: (A) Supervise racing
36 operations, including stewards and racing judges; (B) be responsible for
37 training and education of stewards and racing judges; (C) advise the
38 commission on necessary or desirable changes in rules and regulations
39 relating to conduct of races; (D) train and supervise such personnel as
40 employed by the executive director to assist with such duties; and (E)
41 perform such other duties as directed by the executive director.

42 (e) The commission may appoint an advisory committee of persons
43 knowledgeable in the horse and greyhound breeding and racing industries

1 to provide information and recommendations to the commission regarding
2 the administration of this act. Members of such advisory committee shall
3 serve without compensation or reimbursement of expenses.

4 (f) Except as otherwise provided by this act, all employees of the
5 commission shall be in the classified service under the Kansas civil service
6 act.

7 (g) No employee of the commission shall have been convicted of a
8 felony under the laws of any state or of the United States prior to or during
9 employment by the commission. Before employing any person, the
10 commission shall cause a criminal history record check of the person to be
11 conducted.

12 (h) The commission shall cause the Kansas bureau of investigation to
13 conduct a criminal history record check and background investigation of a
14 person before employing the person in any of the following positions:

- 15 (1) Deputy director;
- 16 (2) accountant;
- 17 (3) computer systems analyst;
- 18 (4) legal assistant;
- 19 (5) auditor;
- 20 (6) racing judge;
- 21 (7) steward;
- 22 (8) enforcement agent;
- 23 (9) office supervisor;
- 24 (10) human resource manager;
- 25 (11) office specialist; or
- 26 (12) any other sensitive position, as determined by the commission.

27 Sec. 82. K.S.A. 74-8806 is hereby amended to read as follows: 74-
28 8806. (a) The commission shall employ an animal health officer and such
29 assistant animal health officers as needed to serve at the pleasure of the
30 commission. Before employing any person as the animal health officer, the
31 commission shall cause the Kansas bureau of investigation to conduct a
32 criminal history record check and background investigation of the person
33 *in accordance with section 3, and amendments thereto.*

34 (b) The animal health officer and assistant animal health officers
35 shall:

- 36 (1) Be doctors of veterinary medicine;
- 37 (2) be in the unclassified service under the Kansas civil service act;
- 38 (3) receive such compensation as determined by the commission,
39 subject to the limitations of appropriations therefor; and
- 40 (4) while employed by the commission, devote full time to the duties
41 of the office.

42 (c) The animal health officer shall:

- 43 (1) Supervise the formulation, administration and evaluation of all

- 1 medical tests the commission's rules and regulations require or authorize;
- 2 (2) advise the commission on all aspects of veterinary medicine
3 relating to its powers and duties;
- 4 (3) supervise all personnel involved in conducting physical
5 examinations and medical testing of racing animals, as directed by the
6 executive director; and
- 7 (4) perform such other duties as directed by the commission.
- 8 (d) The assistant animal health officers shall:
- 9 (1) Conduct physical examinations and medical tests of racing
10 animals as prescribed by the commission;
- 11 (2) administer emergency treatment of racing animals at race
12 meetings as authorized by the owners of such animals or their agents; and
- 13 (3) perform such other duties as directed by the commission.
- 14 (e) The animal health officer or an assistant animal health officer may
15 possess and administer drugs and medications to horses and greyhounds
16 within a racetrack facility as authorized by rules and regulations of the
17 commission.
- 18 (f) The commission may require an organization licensee to
19 reimburse the commission for services performed by assistant animal
20 health officers at race meetings conducted by the organization licensee.
- 21 (g) The commission may obtain medical services as required by
22 contract with an institution which teaches animal health sciences within
23 the state.
- 24 (h) The commission shall contract with one or more laboratory
25 facilities for the analysis of samples taken for the purpose of enforcing
26 compliance with K.S.A. 74-8811, and amendments thereto. In entering
27 into any contract under this subsection, the commission shall give
28 preference to laboratory facilities located in this state.
- 29 Sec. 83. K.S.A. 74-9802 is hereby amended to read as follows: 74-
30 9802. As used in the tribal gaming oversight act:
- 31 (a) "Class III gaming" means all tribal gaming activities defined as
32 class III gaming by the Indian gaming regulatory act (25 U.S.C. 2701 et
33 seq.), as in effect on the effective date of this act.
- 34 (b) "*Employee*" means a person who has applied for a position of
35 employment or is currently employed by the state gaming agency.
- 36 (c) "Executive director" means the executive director of the state
37 gaming agency.
- 38 ~~(d)~~ "*Licensee*" means a person who has submitted an application
39 for licesure or currently holds a license in tribal gaming issued pursuant
40 to a tribal-state gaming compact.
- 41 (e) "Tribal gaming" means any class III gaming conducted pursuant
42 to a tribal-state gaming compact. "Tribal gaming" does not include games
43 on video lottery machines, as defined by K.S.A. 74-8702, and amendments

1 thereto, that the Kansas lottery is prohibited from conducting under K.S.A.
2 74-8704, and amendments thereto.

3 ~~(d)~~(f) "Tribal gaming commission" means a commission created by a
4 native American tribe in accordance with a tribal-state gaming compact.

5 ~~(e)~~(g) "Tribal gaming facility" means a facility where tribal gaming is
6 conducted or operated.

7 ~~(f)~~(h) "Tribal-state gaming compact" means a compact entered into
8 between the state of Kansas and the Iowa Tribe of Kansas and Nebraska,
9 the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the
10 Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of
11 Missouri in Kansas and Nebraska with respect to the tribe's authority to
12 engage in class III gaming on the tribe's reservation property in the state of
13 Kansas.

14 Sec. 84. K.S.A. 74-9804 is hereby amended to read as follows: 74-
15 9804. (a) (1) The governor shall appoint, subject to confirmation by the
16 senate as provided by K.S.A. 75-4315b, and amendments thereto, an
17 executive director of the state gaming agency, to serve at the pleasure of
18 the governor. Except as provided by K.S.A. 46-2601, and amendments
19 thereto, no person appointed as executive director shall exercise any
20 power, duty or function as executive director until confirmed by the senate.
21 Before appointing any person as executive director, the governor shall
22 cause the Kansas bureau of investigation to conduct a criminal history
23 record check and background investigation of the person *in accordance*
24 *with section 3, and amendments thereto.*

25 (2) The executive director shall: (A) Be in the unclassified service
26 under the Kansas civil service act; (B) devote full time to the executive
27 director's assigned duties; (C) be a citizen of the United States and an
28 actual resident of Kansas during employment as executive director; (D)
29 not have been convicted of a felony under the laws of any state or of the
30 United States prior to or during employment; and (E) have familiarity with
31 gaming industries sufficient to fulfill the duties of the office of executive
32 director.

33 (3) The executive director shall: (A) Determine, subject to the
34 approval of the Kansas racing and gaming commission, the number and
35 qualifications of employees necessary to implement and enforce the
36 provisions of tribal-state gaming compacts and the provisions of the tribal
37 gaming oversight act; (B) employ persons for those positions; and (C)
38 perform such other duties as required by tribal-state gaming compacts.

39 (b) (1) The executive director may appoint a director of enforcement
40 and compliance to serve at the pleasure of the executive director. Before
41 appointing any person as director of enforcement and compliance, the
42 executive director shall cause the Kansas bureau of investigation to
43 conduct a criminal history record check and background investigation of

1 the person.

2 (2) The director of enforcement and compliance shall: (A) Be in the
3 unclassified service under the Kansas civil service act; (B) devote full time
4 to the director's assigned duties; (C) receive such compensation as
5 determined by the executive director, subject to the limitations of
6 appropriations therefor; (D) be a citizen of the United States and an actual
7 resident of Kansas during employment as director of enforcement and
8 compliance; (E) not have been convicted of a felony under the laws of any
9 state or of the United States prior to and during employment as director of
10 compliance; and (F) have been a professional law enforcement officer with
11 a minimum of five years' experience in the field of law enforcement and at
12 least a bachelor's degree in law enforcement administration, law,
13 criminology or a related science or, in lieu thereof, a minimum of 10 years'
14 experience in the field of law enforcement.

15 (3) The director of enforcement and compliance shall: (A) Be vested
16 with law enforcement authority;

17 (B) conduct investigations relating to compliance with the provisions
18 of tribal-state gaming compacts and the provisions of the tribal gaming
19 oversight act;

20 (C) recommend proper compliance measures to tribal gaming
21 commissions;

22 (D) train and supervise such personnel as employed by the executive
23 director to assist with such duties; and

24 (E) perform such other duties as directed by the executive director.

25 (c) (1) The executive director may appoint enforcement agents.
26 Before appointing any person as an enforcement agent, the executive
27 director shall cause the Kansas bureau of investigation to conduct a
28 criminal history record check and background investigation of the person.

29 (2) Each enforcement agent shall: (A) Be vested with law
30 enforcement authority;

31 (B) be in the classified service under the Kansas civil service act;

32 (C) not have been convicted of a felony under the laws of any state or
33 of the United States prior to or during employment as enforcement agent;
34 and

35 (D) be a professional law enforcement officer with a minimum of two
36 years' experience in the field of law enforcement or, in lieu thereof, a
37 bachelor's degree from an accredited university or college.

38 (3) Enforcement agents shall: (A) Conduct investigations relating to
39 compliance with the provisions of tribal-state gaming compacts or the
40 provisions of the tribal gaming oversight act; and (B) perform such other
41 duties as directed by the executive director or the director of enforcement
42 and compliance.

43 Sec. 85. K.S.A. 74-9805 is hereby amended to read as follows: 74-

1 9805. (a) The state gaming agency shall be responsible for oversight of
2 class III gaming conducted pursuant to tribal-state compacts and, as such,
3 shall monitor compliance with tribal-state gaming compacts and perform
4 the duties of the state gaming agency as provided by tribal-state gaming
5 compacts.

6 (b) The state gaming agency may examine and inspect all tribal
7 gaming facilities and facilities linked to Kansas tribal gaming facilities for
8 gaming, including but not limited to all machines and equipment used for
9 tribal gaming.

10 (c) The state gaming agency may examine, or cause to be examined
11 by any agent or representative designated by the executive director, any
12 books, papers, records, electronic records, computer records or
13 surveillance and security tapes and logs of any tribal gaming facility in
14 accordance with tribal-state gaming compacts.

15 (d) The executive director may issue subpoenas to compel access to
16 or for the production of any books, papers, records, electronic records,
17 computer records or surveillance and security tapes and logs in the custody
18 or control of a tribal gaming facility or any officer, employee or agent of a
19 tribal gaming facility, or to compel the appearance of any officer,
20 employee or agent of a tribal gaming facility, for the purpose of
21 ascertaining compliance with any of the provisions of a tribal-state gaming
22 compact or the tribal gaming oversight act. Subpoenas issued pursuant to
23 this subsection may be served upon individuals and corporations in the
24 same manner provided in K.S.A. 60-304, and amendments thereto for the
25 service of process by any officer authorized to serve subpoenas in civil
26 actions or by the executive director or an agent or representative
27 designated by the executive director. In the case of the refusal of any
28 person to comply with any such subpoena, the executive director may
29 make application to any court of competent jurisdiction.

30 (e) The state gaming agency may institute the dispute resolution
31 procedure, in accordance with a tribal-state gaming compact, to ensure
32 production of the documents required by the tribal-state gaming compact
33 and to ensure compliance with all provisions of the compact.

34 (f) The state gaming agency shall monitor, examine and inspect tribal
35 gaming to ensure that tribal gaming is conducted in compliance with
36 tribal-state gaming compacts.

37 (g) The state gaming agency shall review all licensing and
38 disciplinary actions taken by tribal gaming commissions or any party
39 involved in the tribal gaming and assess if the action complies with the
40 terms of the applicable tribal-state gaming compact.

41 (h) The executive director, or a designated employee, shall report any
42 substantial noncompliance with a tribal-state gaming compact to the
43 governor.

1 (i) The state gaming agency may negotiate a resolution between any
2 tribe conducting or operating tribal gaming and any local or county
3 governmental entity regarding the allocation or payment of additional
4 expenses or costs incurred by the governmental entity as a result of tribal
5 gaming, as provided by the applicable tribal-state gaming compacts.

6 (j) The state gaming agency may adopt background investigation and
7 fingerprinting policies or procedures in accordance with the terms of
8 tribal-state gaming compacts.

9 (k) The state gaming agency shall perform all functions and duties
10 required to comply with and ensure tribal compliance with tribal-state
11 gaming compacts.

12 (l) The state gaming agency shall require fingerprinting of all persons
13 necessary to verify qualifications for employment by the state gaming
14 agency or to verify qualification for any license issued pursuant to a tribal-
15 state gaming compact *employees or licensees*. The state gaming agency
16 shall submit such fingerprints to the Kansas bureau of investigation ~~and to~~
17 ~~the federal bureau of investigation in accordance with section 2, and~~
18 ~~amendments thereto~~, for the purposes of verifying the identity of such
19 persons and obtaining records of criminal arrests and convictions.

20 (m) (1) ~~The state gaming agency may receive from the Kansas bureau~~
21 ~~of investigation or other criminal justice agencies, including but not~~
22 ~~limited to the federal bureau of investigation and the federal internal~~
23 ~~revenue service, such criminal history record information (including arrest~~
24 ~~and noneconviction data), criminal intelligence information and information~~
25 ~~relating to criminal and background investigations as necessary for the~~
26 ~~purpose of determining qualifications of employees of and applicants for~~
27 ~~employment by the state gaming agency and determining qualifications of~~
28 ~~licensees and applicants for licensure in tribal gaming. Upon the written~~
29 ~~request of the executive director, the state gaming agency may receive~~
30 ~~from the district courts such information relating to juvenile proceedings~~
31 ~~as necessary for the purpose of determining qualifications of employees of~~
32 ~~and applicants for employment by the state gaming agency and~~
33 ~~determining qualifications of licensees of and applicants for licensure in~~
34 ~~tribal gaming.~~

35 (2) The state gaming agency may disclose information received
36 pursuant to subsection ~~(m)(1)~~ (l) to a tribal gaming commission as
37 necessary for the purpose of determining qualifications of employees of or
38 applicants for employment by such tribal gaming commission or
39 qualifications of licensees or applicants for licensure by such tribal gaming
40 commission.

41 (3)(2) Any information, other than conviction data, received by the
42 state gaming agency pursuant to subsection ~~(m)(1)~~ (l) or by a tribal gaming
43 commission pursuant to *this* subsection ~~(m)(2)~~ shall be confidential and

1 shall not be disclosed except to the executive director, employees of the
2 state gaming agency and members and employees of the tribal gaming
3 commission as necessary for the purposes specified by ~~subsections (m)(1)~~
4 ~~and (m)(2) subsection (l) and this subsection. Any other disclosure of such~~
5 ~~confidential information is a class A nonperson misdemeanor and shall~~
6 ~~constitute grounds for removal from office, termination of employment or~~
7 ~~denial, revocation or suspension of any license issued by the tribal gaming~~
8 ~~commission.~~

9 (n) The executive director may adopt rules and regulations to
10 implement, administer and enforce the provisions of the tribal gaming
11 oversight act.

12 Sec. 86. K.S.A. 75-712 is hereby amended to read as follows: 75-712.

13 (a) It is the duty of the members of the bureau to make full and complete
14 investigations at the direction of the attorney general. Each member of the
15 bureau shall possess all powers and privileges which are now or may be
16 hereafter given to the sheriffs of Kansas.

17 (b) (1) The bureau shall acquire, collect, classify and preserve
18 criminal identification and other crime records, and may exchange such
19 criminal identification records with the duly authorized officials of
20 governmental agencies, of states, cities and penal institutions.

21 (2) The bureau shall make available to the governor's domestic
22 violence fatality review board crime record information related to
23 domestic violence, including, but not limited to, type of offense, type of
24 victim and victim relationship to offender, as found on the Kansas standard
25 offense report. Such crime record information shall be made available only
26 in a manner that does not identify individual offenders or victims.

27 (c) For purposes of carrying out the powers and duties of the bureau,
28 the director may request and accept grants or donations from any person,
29 firm, association or corporation or from the federal government or any
30 federal agency and may enter into contracts or other transactions with any
31 federal agency in connection therewith.

32 (d) (1) The bureau shall conduct background investigations of:

33 ~~(1)-(A)~~ (A) Appointees to positions which are subject to confirmation by
34 the senate of the state of Kansas; and

35 ~~(2)-(B)~~ (B) at the direction of the governor, all judicial appointments.

36 (2) The bureau shall require the appointee to be fingerprinted *in*
37 *accordance with section 2, and amendments thereto.* ~~The fingerprints shall~~
38 ~~be submitted to the bureau and to the federal bureau of investigation for~~
39 ~~the identification of the appointee and to obtain criminal history record~~
40 ~~information, including arrest and nonconviction data. Background reports~~
41 ~~may include criminal intelligence information and information relating to~~
42 ~~criminal and background investigations. Except as provided by this~~
43 ~~subsection, information received pursuant to this subsection shall be~~

1 ~~confidential and shall not be disclosed except to the appointing authority~~
2 ~~or as provided by K.S.A. 75-4315d, and amendments thereto.~~ If the
3 appointing authority is the governor, information received pursuant to this
4 subsection also may be disclosed to the governor's staff as necessary to
5 determine the appointee's qualifications.

6 (e) Reports of all investigations made by the members of the bureau
7 shall be made to the attorney general of Kansas.

8 Sec. 87. K.S.A. 75-7b01 is hereby amended to read as follows: 75-
9 7b01. As used in this act:

10 (a) *"Applicant" means a person who has submitted an application for*
11 *licensure as a private detective or private detective agency pursuant to*
12 *this act or a person who has submitted an application to become certified*
13 *to train private detectives in the handling of firearms and the lawful use of*
14 *force.*

15 (b) "Detective business" means the furnishing of, making of or
16 agreeing to make any investigation for the purpose of obtaining
17 information with reference to:

18 (1) Crime or wrongs done or threatened against the United States or
19 any state or territory of the United States, or any political subdivision
20 thereof when furnished or made by persons other than law enforcement
21 officers;

22 (2) the identity, habits, conduct, business, occupation, honesty,
23 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
24 activity, movement, whereabouts, affiliations, associations, transactions,
25 acts, reputation or character of any person;

26 (3) the location, disposition or recovery of lost or stolen property;

27 (4) the cause or responsibility for fires, libels, losses, frauds,
28 accidents or damage or injury to persons or to property; or

29 (5) securing evidence to be used before any court, board, officer or
30 investigating committee.

31 ~~(b)~~(c) "Private detective" means any person who, for any
32 consideration whatsoever, engages in detective business.

33 ~~(e)~~(d) "Private detective agency" means a person who regularly
34 employs any other person, other than an organization, to engage in
35 detective business.

36 ~~(d)~~(e) "Private patrol operator" means a person who, for any
37 consideration whatsoever, agrees to furnish or furnishes a watchman,
38 guard, patrolman or other person to protect persons or property or to
39 prevent the theft, unlawful taking, loss, embezzlement, misappropriation
40 or concealment of any goods, wares, merchandise, money, bonds, stocks,
41 notes, documents, papers or property of any kind, or performs the service
42 of such watchman, guard, patrolman or other person for any such
43 purposes.

1 ~~(e)~~(f) "Law enforcement officer" means a law enforcement officer as
2 defined in K.S.A. 21-5111, and amendments thereto.

3 ~~(f)~~(g) "Organization" means a corporation, trust, estate, partnership,
4 cooperative or association.

5 ~~(g)~~(h) "Person" means an individual or organization.

6 ~~(h)~~(i) "Firearm permit" means a permit for the limited authority to
7 carry a firearm concealed on or about the person by one licensed as a
8 private detective.

9 ~~(i)~~(j) "Firearm" means:

10 (1) A pistol or revolver which is designed to be fired by the use of a
11 single hand and which is designed to fire or capable of firing fixed
12 cartridge ammunition; or

13 (2) any other weapon which will or is designed to expel a projectile
14 by the action of an explosive and which is designed to be fired by the use
15 of a single hand.

16 ~~(j)~~(k) "Client" means any person who engages the services of a
17 private detective.

18 ~~(k)~~(l) "Dishonesty or fraud" means, in addition to other acts not
19 specifically enumerated herein:

20 (1) Knowingly making a false statement relating to evidence or
21 information obtained in the course of employment, or knowingly
22 publishing a slander or a libel in the course of business;

23 (2) using illegal means in the collection or attempted collection of a
24 debt or obligation;

25 (3) manufacturing or producing any false evidence; and

26 (4) acceptance of employment adverse to a client or former client
27 relating to a matter with respect to which the licensee has obtained
28 confidential information by reason of or in the course of the licensee's
29 employment by such client or former client.

30 Sec. 88. K.S.A. 75-7b04 is hereby amended to read as follows: 75-
31 7b04. (a) Every person desiring to be licensed in Kansas as a private
32 detective or private detective agency shall make application therefor to the
33 attorney general. An application for a license under this act shall be on a
34 form prescribed by the attorney general and accompanied by the required
35 application fee. An application shall be verified and shall include:

36 (1) The full name and business address of the applicant;

37 (2) the name under which the applicant intends to do business;

38 (3) a statement as to the general nature of the business in which the
39 applicant intends to engage;

40 (4) a statement as to the classification or classifications under which
41 the applicant desires to be qualified;

42 (5) if the applicant is an organization, the full name and residence
43 address of each of its partners, officers, directors or associates;

1 (6) two photographs of the applicant taken within 30 days before the
2 date of application, of a type prescribed by the attorney general, and two
3 classifiable sets of the applicant's fingerprints one of which shall be
4 submitted to the ~~federal bureau of investigation for a fingerprint check~~
5 *Kansas bureau of investigation for ~~any~~ a state and national* criminal
6 history ~~of the applicant~~ **record check** in accordance with section 2, and
7 *amendments thereto*;

8 (7) a statement of the applicant's employment history; and

9 (8) such other information, evidence, statements or documents as may
10 be required by the attorney general.

11 (b) The application shall be accompanied by a certificate of reference
12 signed by five or more reputable persons who have known the applicant
13 for a period of at least 5 years. The certificate of reference shall be verified
14 and acknowledged by such persons before an officer authorized to take
15 oaths and acknowledgment of deeds.

16 Each person signing the certificate of reference shall subscribe and
17 affirm as true, under the penalties of perjury, that:

18 (1) The person has known the applicant personally for a period of at
19 least five years prior to the filing of the application. The attorney general
20 may lessen such period if the applicant has been discharged honorably
21 from the military service of the United States within the six-year period
22 immediately preceding the date the application is submitted;

23 (2) the person has read such application and believes each of the
24 statements made therein to be true;

25 (3) the applicant is honest, of good character and competent and not
26 related or connected by blood or marriage to such person.

27 (c) Before an application for a license may be granted, the applicant
28 or, if the applicant is an organization, all of the officers, directors, partners
29 or associates shall:

30 (1) Be at least 21 years of age;

31 (2) be a citizen of the United States;

32 (3) be of good moral character; and

33 (4) comply with such other qualifications as the attorney general
34 adopts by rules and regulations.

35 (d) In accordance with the summary proceedings provisions of the
36 Kansas administrative procedure act, the attorney general may deny a
37 license if the applicant has:

38 (1) Committed any act which, if committed by a licensee, would be
39 grounds for the suspension or revocation of a license under this act;

40 (2) committed any act constituting dishonesty or fraud;

41 (3) a bad moral character or a bad reputation for truth, honesty, and
42 integrity;

43 (4) been convicted of a felony or, within 10 years immediately prior

1 to the date of application, been convicted of any crime involving moral
2 turpitude, dishonesty, vehicular homicide, assault, battery, assault of a law
3 enforcement officer, misdemeanor battery against a law enforcement
4 officer, criminal restraint, sexual battery, endangering a child, intimidation
5 of a witness or victim or illegally using, carrying, or possessing a
6 dangerous weapon;

7 (5) been refused a license under this act or had a license suspended or
8 revoked in this state or in any other jurisdiction or had a license censured,
9 limited or conditioned two or more times in this state or in any other
10 jurisdiction;

11 (6) been an officer, director, partner or associate of any person who
12 has been refused a license under this act or whose license has been
13 suspended or revoked in this state or in any other jurisdiction or had a
14 license censured, limited or conditioned two or more times in this state or
15 in any other jurisdiction;

16 (7) while unlicensed, committed or aided and abetted the commission
17 of any act for which a license is required by this act; or

18 (8) knowingly made any false statement in the application.

19 (e) The attorney general may charge a fee for initial application forms
20 and materials in an amount fixed by the attorney general pursuant to
21 K.S.A. 75-7b22, and amendments thereto. Such fee shall be credited
22 against the application fee of any person who subsequently submits an
23 application.

24 Sec. 89. K.S.A. 75-7b21 is hereby amended to read as follows: 75-
25 7b21. (a) The attorney general shall certify persons who are qualified to
26 train private detectives in the handling of firearms and the lawful use of
27 force.

28 (b) In order to be certified as a trainer under this section, an applicant
29 shall:

30 (1) Be 21 or more years of age;

31 (2) have a minimum of one-year supervisory experience with a
32 private detective agency, a private patrol operator, a proprietary
33 investigative or security organization or any federal, United States
34 military, state, county or city law enforcement agency;

35 (3) be personally qualified to train private detectives in the handling
36 of firearms and the lawful use of force; and

37 (4) not have been convicted of a felony or, within 10 years
38 immediately prior to the date of application, been convicted of a
39 misdemeanor. If the applicant is not licensed as a private detective, the
40 applicant shall submit two classifiable sets of the applicant's fingerprints
41 one of which shall be submitted to the ~~federal bureau of investigation for a~~
42 ~~fingerprint check~~ *Kansas bureau of investigation for any a state and*
43 *national criminal history-of-the applicant record check in accordance with*

1 *section 2, and amendments thereto.*

2 (c) Persons wishing to become certified trainers shall make
3 application to the attorney general on a form prescribed by the attorney
4 general. Applications for a firearm training certificate shall be
5 accompanied by a fee in an amount fixed by the attorney general pursuant
6 to K.S.A. 75-7b22, and amendments thereto. The application shall contain
7 a statement of the plan of operation for the training offered by the
8 applicant and the materials and aids to be used and any other information
9 required by the attorney general.

10 (d) A certificate shall be granted to a trainer if the attorney general
11 finds that the applicant:

12 (1) Meets the requirements of subsection (b);

13 (2) is a person of good character and reputation;

14 (3) has sufficient knowledge of private detective business, firearms
15 training and the lawful use of force to be a suitable person to train private
16 detectives in the handling of firearms and the lawful use of force;

17 (4) has supplied all required information to the attorney general; and

18 (5) has paid the required fee.

19 (e) The certificate issued pursuant to this section shall expire on
20 December 31 of the year following the year when issued except that, on
21 and after July 1, 2004, a certificate issued pursuant to this section shall
22 expire two years from the date of issuance. A certificate may be renewed
23 on a biennial basis upon application and payment of a fee in an amount
24 fixed by the attorney general pursuant to K.S.A. 75-7b22, and amendments
25 thereto.

26 Sec. 90. K.S.A. 2023 Supp. 75-7c02 is hereby amended to read as
27 follows: 75-7c02. As used in the personal and family protection act, except
28 as otherwise provided:

29 (a) *"Applicant" means a person who has submitted an application for*
30 *a license to carry a concealed handgun pursuant to K.S.A. 75-7c03, and*
31 *amendments thereto.*

32 (b) *"Attorney general" means the attorney general of the state of*
33 *Kansas.*

34 ~~(b)~~(c) *"Handgun" means a "firearm," as defined in K.S.A. 75-7b01,*
35 *and amendments thereto.*

36 ~~(e)~~(d) *"Athletic event" means athletic instruction, practice or*
37 *competition held at any location and including any number of athletes.*

38 ~~(d)~~(e) *"Dependent" means a resident of the household of an active*
39 *duty member of any branch of the armed forces of the United States who*
40 *depends in whole or in substantial part upon the member for financial*
41 *support.*

42 ~~(e)~~(f) *"License" means a provisional or standard license issued by the*
43 *attorney general pursuant to K.S.A. 75-7c03, and amendments thereto.*

1 Sec. 91. K.S.A. 2023 Supp. 75-7c05 is hereby amended to read as
2 follows: 75-7c05. (a) The application for a license pursuant to this act shall
3 be completed, under oath, on a form prescribed by the attorney general and
4 shall only include:

5 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,
6 address, social security number, Kansas driver's license number or Kansas
7 nondriver's license identification number, place and date of birth, a
8 photocopy of the applicant's driver's license or nondriver's identification
9 card and a photocopy of the applicant's certificate of training course
10 completion; (B) in the case of an applicant who presents proof that such
11 person is on active duty with any branch of the armed forces of the United
12 States, or is the dependent of such a person, and who does not possess a
13 Kansas driver's license or Kansas nondriver's license identification, the
14 number of such license or identification shall not be required;

15 (2) a statement that the applicant is in compliance with criteria
16 contained within K.S.A. 75-7c04, and amendments thereto;

17 (3) a statement that the applicant has been furnished a copy of this act
18 and is knowledgeable of its provisions;

19 (4) a conspicuous warning that the application is executed under oath
20 and that a false answer to any question, or the submission of any false
21 document by the applicant, subjects the applicant to criminal prosecution
22 under K.S.A. 21-5903, and amendments thereto; and

23 (5) a statement that the applicant desires a concealed handgun license
24 as a means of lawful self-defense.

25 (b) Except as otherwise provided in subsection (i), the applicant shall
26 submit to the sheriff of the county where the applicant resides, during any
27 normal business hours:

28 (1) A completed application described in subsection (a);

29 (2) an amount of \$32.50 payable to the sheriff of the county where
30 the applicant resides for the purpose of covering the cost of taking
31 fingerprints pursuant to subsection (c);

32 (3) if applicable, a photocopy of the proof of training required by
33 K.S.A. 75-7c04(b)(1), and amendments thereto; and

34 (4) a full frontal view photograph of the applicant taken within the
35 preceding 30 days.

36 (c) (1) Except as otherwise provided in subsection (i), the sheriff,
37 upon receipt of the items listed in subsection (b), shall provide for the full
38 set of fingerprints of the applicant to be taken and forwarded to the
39 attorney general for purposes of a criminal history records check as
40 provided by subsection (d). In addition, the sheriff shall forward the
41 application to the attorney general. Notwithstanding any provision in this
42 section to the contrary, an applicant shall not be required to submit
43 fingerprints for a renewal application under K.S.A. 75-7c08, and

1 amendments thereto.

2 (2) The sheriff of the applicant's county of residence or the chief law
3 enforcement officer of any law enforcement agency, at the sheriff's or chief
4 law enforcement officer's discretion, may participate in the process by
5 submitting a voluntary report to the attorney general containing readily
6 discoverable information, corroborated through public records, which,
7 when combined with another enumerated factor, establishes that the
8 applicant poses a significantly greater threat to law enforcement or the
9 public at large than the average citizen. Any such voluntary reporting shall
10 be made within 45 days after the date the sheriff receives the application.
11 Any sheriff or chief law enforcement officer submitting a voluntary report
12 shall not incur any civil or criminal liability as the result of the good faith
13 submission of such report.

14 (3) All funds retained by the sheriff pursuant to the provisions of this
15 section shall be credited to a special fund of the sheriff's office which shall
16 be used solely for the purpose of administering this act.

17 (d) Each applicant shall be subject to a state and national criminal
18 history records check ~~which conforms to applicable federal standards,~~
19 ~~including an inquiry of the national instant criminal background check~~
20 ~~system for the purpose of verifying the identity of the applicant and~~
21 ~~whether the applicant has been convicted of any crime or has been the~~
22 ~~subject of any restraining order or any mental health related finding that~~
23 ~~would disqualify the applicant from holding a license under this act. The~~
24 ~~attorney general is authorized to use the information obtained from the~~
25 ~~state or national criminal history record check to determine the applicant's~~
26 ~~eligibility for such license in accordance with section 2, and amendments~~
27 ~~thereto.~~

28 (e) Within 90 days after the date of receipt of the items listed in
29 subsection (b), the attorney general shall:

30 (1) (A) Issue the license and certify the issuance to the department of
31 revenue; and

32 (B) if it is impractical for the division of vehicles of the department of
33 revenue to issue physical cards consistent with the requirements of this act
34 and the attorney general has determined that the conditions for such
35 impracticality have existed for at least 30 days, the attorney general shall
36 issue an authorization document in accordance with K.S.A. 75-7c03(d),
37 and amendments thereto; or

38 (2) deny the application based solely on: (A) The report submitted by
39 the sheriff or other chief law enforcement officer under subsection (c)(2)
40 for good cause shown therein; or (B) the ground that the applicant is
41 disqualified under the criteria listed in K.S.A. 75-7c04, and amendments
42 thereto. If the attorney general denies the application, the attorney general
43 shall notify the applicant in writing, stating the ground for denial and

1 informing the applicant the opportunity for a hearing pursuant to the
2 Kansas administrative procedure act.

3 (f) No person who is issued a license or has such license renewed
4 shall be required to pay a fee for the cost of the license or renewal except
5 as otherwise provided in subsection (b) for the purpose of covering the
6 cost of taking fingerprints.

7 (g) (1) A person who is a retired law enforcement officer, as defined
8 in K.S.A. 21-5111, and amendments thereto, shall be: (A) Exempt from the
9 required completion of a handgun safety and training course if such person
10 was certified by the Kansas commission on peace officer's standards and
11 training, or similar body from another jurisdiction, not more than eight
12 years prior to submission of the application; and (B) required to comply
13 with the criminal history records check requirement of this section.

14 (2) Proof of retirement as a law enforcement officer shall be required
15 and provided to the attorney general in the form of a letter from the agency
16 head, or their designee, of the officer's retiring agency that attests to the
17 officer having retired in good standing from that agency as a law
18 enforcement officer for reasons other than mental instability and that the
19 officer has a nonforfeitable right to benefits under a retirement plan of the
20 agency.

21 (h) A person who is a corrections officer, a parole officer or a
22 corrections officer employed by the federal bureau of prisons, as defined
23 by K.S.A. 75-5202, and amendments thereto, shall be: (1) Exempt from
24 the required completion of a handgun safety and training course if such
25 person was issued a certificate of firearms training by the department of
26 corrections or the federal bureau of prisons or similar body not more than
27 one year prior to submission of the application; and (2) required to comply
28 with the criminal history records check requirement of this section.

29 (i) A person who presents proof that such person is on active duty
30 with any branch of the armed forces of the United States and is stationed at
31 a United States military installation located outside this state, may submit
32 by mail an application described in subsection (a) and the other materials
33 required by subsection (b) to the sheriff of the county where the applicant
34 resides. Provided the applicant is fingerprinted at a United States military
35 installation, the applicant may submit a full set of fingerprints of such
36 applicant along with the application. Upon receipt of such items, the
37 sheriff shall forward to the attorney general the application.

38 Sec. 92. K.S.A. 75-7e01 is hereby amended to read as follows: 75-
39 7e01. As used in K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2023 Supp.
40 50-6,141, and amendments thereto:

41 (a) "Surety" means a person or commercial surety, other than a
42 defendant in a criminal proceeding, that guarantees the appearance of a
43 defendant in a criminal proceeding, by executing an appearance bond.

1 (b) "Bail agent" means a person authorized by a surety to execute
2 surety bail bonds on its behalf.

3 (c) "Bail enforcement agent" means a person not performing the
4 duties of a law enforcement officer who tracks down, captures and
5 surrenders to the custody of a court a fugitive who has violated a surety or
6 bail bond agreement, commonly referred to as a bounty hunter.

7 (d) *"Applicant" means a person who has submitted an application for*
8 *licensure as a bail enforcement agent pursuant to this act.*

9 Sec. 93. K.S.A. 75-7e03 is hereby amended to read as follows: 75-
10 7e03. (a) Every person desiring to be licensed in Kansas as a bail
11 enforcement agent shall make application to the attorney general. An
12 application for a bail enforcement agent license shall be on a form
13 prescribed by the attorney general and accompanied by the required
14 application fee. An application shall be verified under penalty of perjury
15 and shall include:

- 16 (1) The full name and business address of the applicant;
- 17 (2) two photographs of the applicant taken within 30 days before the
18 date of application, of a type prescribed by the attorney general;
- 19 (3) a statement of the applicant's employment history;
- 20 (4) a statement of the applicant's criminal history, if any; and
- 21 (5) one classifiable set of the applicant's fingerprints.

22 (b) (1) Fingerprints submitted pursuant to this section shall be
23 released by the attorney general to the Kansas bureau of investigation for
24 the purpose of conducting **a state and national** criminal history-records
25 checks **record check** in accordance with section 2, and amendments
26 thereto, ~~utilizing the files and records of the Kansas bureau of~~
27 ~~investigation and the federal bureau of investigation.~~

28 ~~(2) Each applicant shall be subject to a state and national criminal~~
29 ~~history records check which conforms to applicable federal standards for~~
30 ~~the purpose of verifying the identity of the applicant and whether the~~
31 ~~applicant has been convicted of any crime that would disqualify the~~
32 ~~applicant from being licensed as a bail enforcement agent under K.S.A.~~
33 ~~75-7e01 through 75-7e09 and K.S.A. 2023 Supp. 50-6,141, and~~
34 ~~amendments thereto. The attorney general is authorized to use the~~
35 ~~information obtained from the state and national criminal history records~~
36 ~~check to determine the applicant's eligibility for such license.~~

37 (3) Each applicant shall pay a fee for the criminal history records
38 check in an amount necessary to reimburse the attorney general for the
39 cost of the criminal history records check. Such fee shall be in an amount
40 fixed by the attorney general pursuant to K.S.A. 75-7e08, and amendments
41 thereto, and shall be in addition to the applicable original or renewal
42 application fee amount fixed by the attorney general pursuant to K.S.A.
43 75-7e08, and amendments thereto.

1 (c) In accordance with the Kansas administrative procedure act, the
2 attorney general may deny a license if the applicant has:

3 (1) Committed any act on or after July 1, 2016, which, if committed
4 by a licensee, would be grounds for the censure, limitation, conditioning,
5 suspension or revocation of a license under K.S.A. 75-7e01 through 75-
6 7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto;

7 (2) been convicted of a felony, unless such conviction has been
8 expunged;

9 (3) in the 10 years immediately preceding the submission of the
10 application, been convicted of an offense classified as a person
11 misdemeanor offense, or a substantially similar offense from another
12 jurisdiction, unless such conviction has been expunged;

13 (4) while unlicensed, committed or aided and abetted the commission
14 of any act for which a license is required by K.S.A. 75-7e01 through 75-
15 7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto; or

16 (5) knowingly made any false statement in the application.

17 (d) The attorney general may charge a fee for initial application forms
18 and materials in an amount fixed by the attorney general pursuant to
19 K.S.A. 75-7e08, and amendments thereto. Such fee shall be credited
20 against the application fee of any person who subsequently submits an
21 application.

22 (e) Every application for an initial or a renewal license shall be
23 accompanied by a fee in an amount fixed by the attorney general pursuant
24 to K.S.A. 75-7e08, and amendments thereto.

25 Sec. 94. K.S.A. 75-3707e is hereby amended to read as follows: 75-
26 3707e. (a) As the infrastructure provider for information technology for
27 the state of Kansas, the office of information technology services must
28 insure the highest level of information security and privacy in order to
29 protect law enforcement, state agencies and the citizens of Kansas. ~~Toward~~
30 ~~this objective,~~ The department of administration or the office of
31 information technology services shall require ~~as a condition of~~
32 ~~employment that individuals who have unescorted physical access to the~~
33 ~~data center, telecommunications facilities and other security sensitive areas~~
34 ~~as designated by the secretary of administration or the executive chief~~
35 ~~information technology officer sensitive employees to be fingerprinted, and~~
36 ~~such fingerprints shall be submitted to the Kansas bureau of investigation~~
37 ~~and to the federal bureau of investigation in accordance with section 2,~~
38 ~~and amendments thereto,~~ for the purposes of verifying the identity of such
39 individuals and obtaining records of criminal arrests and convictions.

40 (b) *As used in this section, "sensitive employee" means a person who*
41 *has applied for a position of employment or is currently employed by the*
42 *department of administration or the office of information technology*
43 *services in a position with unescorted physical access to any state-*

1 *operated or contracted data center, telecommunications facility or other*
2 *security-sensitive area as designated by the secretary of administration or*
3 *the executive chief information technology officer.*

4 Sec. 95. K.S.A. 75-4315d is hereby amended to read as follows: 75-
5 4315d. (a) As used in this section:

6 (1) "Office" means any state office or board, commission, council,
7 committee, authority or other governmental body the members of which
8 are required by law to be appointed by an appointing authority, and which
9 appointment is subject to confirmation by the senate as provided in K.S.A.
10 75-4315b, and amendments thereto.

11 (2) "Appointing authority" means a person, other than the governor,
12 who is required by law to make an appointment to an office.

13 (3) "Chairperson" means the chairperson of the confirmation
14 oversight committee.

15 (4) "Committee" means the confirmation oversight committee
16 established by K.S.A. 46-2601, and amendments thereto.

17 (5) "Director" means the director of the Kansas legislative research
18 department or the director's designee.

19 (b) No person may be appointed to an office unless such person has
20 completed and submitted a nomination form as required by the rules of the
21 committee. No person may be appointed to an office unless such person
22 has filed a statement of substantial interest as required by K.S.A. 46-247,
23 and amendments thereto. A copy of the nomination form and the statement
24 of substantial interest shall be kept on file in the office of the director and
25 shall be subject to disclosure under the Kansas open records act.

26 (c) No person may be appointed to an office unless such person has
27 consented to a background investigation conducted by the Kansas bureau
28 of investigation. No person may be appointed to an office unless such
29 person is current in the payment of taxes and consents to the release of a
30 tax certification by the Kansas department of revenue which states whether
31 such person is, or is not, current in the payment of taxes.

32 (d) Any appointing authority who desires to appoint a person to an
33 office shall forward to the chairperson a completed copy of the nomination
34 form, the statement of substantial interest, the consent to the release of the
35 tax certification and a written request that a background investigation be
36 conducted on the person nominated for appointment to an office. Upon
37 receipt of such information, the chairperson shall forward such
38 information and a written direction to the director to request the Kansas
39 bureau of investigation to conduct a background investigation of such
40 nominee *in accordance with section 2, and amendments thereto*, and to
41 request the Kansas department of revenue to release the tax certification
42 for such person. ~~Upon written request of the director and the appointing~~
43 ~~authority who nominated the person for appointment to an office, it shall~~

1 be the duty of the Kansas bureau of investigation to conduct a background
2 investigation of any person nominated for appointment to an office. Any
3 person nominated for appointment to an office shall submit such person's
4 fingerprints to the Kansas bureau of investigation for the purposes of
5 verifying the identity of such person and obtaining records of criminal
6 arrests and convictions. Upon written request of the director, it shall be the
7 duty of the Kansas department of revenue to release to the director tax
8 certification requested pursuant to this section.

9 (e) ~~The director may receive from the Kansas bureau of investigation~~
10 ~~or other criminal justice agencies, including, but not limited to, the federal~~
11 ~~bureau of investigation and the federal internal revenue service, such~~
12 ~~criminal history record information (including arrest and nonconviction~~
13 ~~data), criminal intelligence information and information relating to~~
14 ~~criminal and background investigations as necessary for the purpose of~~
15 ~~determining qualifications of a person nominated to be appointed to an~~
16 ~~office. Upon the written request of the director, the director may receive~~
17 ~~from the district courts such information relating to juvenile proceedings~~
18 ~~as necessary for the purpose of determining qualifications of a person~~
19 ~~nominated to be appointed to an office.~~

20 (f)(e) Any information received by the director pursuant to this
21 section from the Kansas department of revenue or the Kansas bureau of
22 investigation shall be kept on file in the office of the director or in a secure
23 location under the control of the director within the Kansas legislative
24 research department. After receipt of information, the director shall notify
25 the appointing authority who nominated the person for appointment to an
26 office and the nominee that the information is available for review in the
27 office of the director. Upon the written request of such appointing
28 authority or the nominee, the director shall allow such appointing authority
29 and the nominee to review the information. Such information shall not be
30 removed from the office of the director and shall not be duplicated or
31 copied in any manner. If the appointing authority chooses to proceed with
32 the nomination of the person for appointment to an office, the director
33 shall notify the chairperson and the vice chairperson of the committee that
34 such information is available for review by either legislator, or both, upon
35 the written request of either legislator, or both.

36 (g) ~~Any information received by the director pursuant to this section~~
37 ~~from the Kansas department of revenue or the Kansas bureau of~~
38 ~~investigation, other than conviction data, shall be confidential. Except as~~
39 ~~provided by section 22 of article 2 of the Kansas constitution and~~
40 ~~subsection (f), such confidential information shall not be disclosed to any~~
41 ~~other person. Any other intentional disclosure of such confidential~~
42 ~~information is a class A nonperson misdemeanor. Any person who~~
43 ~~intentionally or unintentionally discloses confidential information in~~

1 violation of this section may be removed from office or employment.

2 (h)(f) Any information received by the director pursuant to this
3 section which relates to a person whose nomination for appointment to an
4 office is confirmed by the senate as provided by K.S.A. 75-4315b, and
5 amendments thereto, may be disposed of in the manner provided by
6 K.S.A. 75-3501 et seq., and amendments thereto. Any information
7 received by the director pursuant to this section which relates to a person
8 whose nomination is withdrawn or whose appointment is not confirmed by
9 the senate as provided by K.S.A. 75-4315b, and amendments thereto, shall
10 be destroyed by the director. The destruction of such records shall occur no
11 sooner than one year, and no later than two years, following the
12 withdrawal of the nomination of the appointment or the failure of the
13 senate to confirm the appointment of such person.

14 Sec. 96. K.S.A. 75-5133c is hereby amended to read as follows: 75-
15 5133c. (a) ~~The secretary of revenue may require, as a qualification for~~
16 ~~initial or continuing employment or contracting with the department of~~
17 ~~revenue, all persons having access to federal tax information received~~
18 ~~directly from the internal revenue service employees to be fingerprinted~~
19 ~~and submit to a state and national criminal history record check. The~~
20 ~~fingerprints shall be used to identify the person and to determine whether~~
21 ~~the person has a record of criminal arrests and convictions in this state or~~
22 ~~other jurisdictions. The secretary is authorized to submit the fingerprints to~~
23 ~~the Kansas bureau of investigation and the federal bureau of investigation~~
24 ~~for a state and national criminal history record check. Local and state law~~
25 ~~enforcement officers and agencies shall assist the secretary in the taking~~
26 ~~and processing of fingerprints of such persons and shall release all records~~
27 ~~of a person's arrests and convictions to the secretary.~~

28 ~~(b) The secretary may use the information obtained from~~
29 ~~fingerprinting and a person's criminal history only for the purposes of~~
30 ~~verifying the identification of such person and in the official determination~~
31 ~~of the fitness of such person's qualification for initial or continuing~~
32 ~~employment. Disclosure or use of any information received by the~~
33 ~~secretary or a designee of the secretary for any purpose other than the~~
34 ~~purpose provided for in this section shall be a class A nonperson~~
35 ~~misdemeanor and shall constitute grounds for removal from office or~~
36 ~~termination of employment. Nothing in this section shall prevent~~
37 ~~disclosure of any information received by the secretary pursuant to this~~
38 ~~section to the post auditor in accordance with the provisions of the~~
39 ~~legislative post audit act.~~

40 *(b) As used in this subsection, "employee" means a person who*
41 *makes an application for employment or is currently employed or*
42 *contracting with the department of revenue who has access to federal tax*
43 *information received directly from the internal revenue service.*

1 (c) Whenever the secretary requires fingerprinting, any associated
2 costs shall be paid by the agency or ~~contractor~~ employee.

3 Sec. 97. K.S.A. 75-5156 is hereby amended to read as follows: 75-
4 5156. (a) (1) The division of vehicles of the department of revenue shall
5 subject all ~~persons and examiners authorized to manufacture, produce or~~
6 ~~issue drivers' licenses and identification cards~~ employees to appropriate
7 security clearance requirements, as defined by rules and regulations
8 adopted by the secretary of revenue. To insure appropriate security
9 clearance requirements, the division of vehicles may require fingerprinting
10 of ~~any person authorized to manufacture, produce or issue drivers' licenses~~
11 ~~and identification cards~~ employees in accordance with section 2, and
12 ~~amendments thereto.~~ The division of vehicles may submit such
13 fingerprints to the Kansas bureau of investigation, federal bureau of
14 investigation or other law enforcement agency for the purposes of
15 verifying identity, level of security risk and obtaining records of criminal
16 arrests and convictions. Any person who is determined to be a security risk
17 by the division of vehicles shall not be eligible to manufacture, produce or
18 issue drivers' licenses or identification cards.

19 (2) For the purposes of this subsection, "employee" means a person
20 authorized to manufacture, produce or issue driver's licenses and
21 identification cards.

22 (b) The division of vehicles shall establish training programs for
23 employees who engage in the issuance of drivers' license and identification
24 cards regarding document recognition and federal rules used to determine
25 lawful presence.

26 (c) The division of vehicles shall ensure the physical security of
27 locations where drivers' licenses and identification cards are produced and
28 the security of document materials and papers from which drivers' licenses
29 and identification cards are produced.

30 (d) In the event that a social security account number is already
31 registered or associated with another person to whom any state has issued
32 a driver's license or identification card, the division of vehicles shall
33 resolve the discrepancy and take appropriate action.

34 (e) The division of vehicles shall retain any documentation presented
35 to secure a license or identification card when the division of vehicles has
36 reasonable grounds to believe the documentation or the application is
37 fraudulent.

38 (f) The division of vehicles may disclose motor vehicle records,
39 including photographs or digital images maintained in connection with the
40 issuance of drivers' licenses, to any federal, state or local agency, including
41 any court or law enforcement agency, to assist such agency in carrying out
42 the functions required of such governmental agency. In January of each
43 year, the division shall report to the house committee on veterans, military

1 and homeland security regarding the utilization of the provisions of this
2 subsection.

3 Sec. 98. K.S.A. 2023 Supp. 75-5393a is hereby amended to read as
4 follows: 75-5393a. (a) A person seeking to interpret under K.S.A. 75-
5 4355a through 75-4355d, and amendments thereto, and K.S.A. 2023 Supp.
6 75-5393a through 75-5393d and 75-5397f, and amendments thereto, or to
7 comply with any state or federal law or rules and regulations shall obtain
8 registration in accordance with this section.

9 (b) To obtain registration as an interpreter, an applicant shall submit
10 an application on a form and in a manner prescribed by the commission
11 and shall pay the registration fee determined by the commission in rules
12 and regulations. The commission may grant registration to any person
13 who:

14 (1) Has obtained a high school diploma or its equivalent;
15 (2) is 18 years of age or older;
16 (3) has no other record of disqualifying conduct as determined by the
17 commission; and

18 (4) has obtained a certification or other appropriate credentials as
19 determined by the commission.

20 (c) (1) The commission may grant registration as an interpreter to an
21 applicant who has been duly licensed or registered as an interpreter by
22 examination under the laws of another state, territory or the District of
23 Columbia if, in the opinion of the commission, the applicant substantially
24 meets the qualifications for registration as an interpreter in this state. The
25 applicant shall provide satisfactory evidence of verification of the
26 applicant's licensure or registration from the original state of licensure or
27 registration.

28 (2) The commission may grant temporary registration to a
29 nonresident interpreter who holds a certificate or license in such
30 interpreter's state of residence. An interpreter granted a temporary
31 registration shall not interpret more than 20 separate days in a year in this
32 state.

33 (d) (1) Registrations issued under this section shall expire on the date
34 established by rules and regulations of the commission unless revoked
35 prior to that time. The commission shall send a notice for renewal of
36 registration to every interpreter at least 60 calendar days prior to the
37 expiration date of such person's registration.

38 (2) (A) A registered interpreter shall have a grace period of 30
39 calendar days after a registration has expired to renew such registration
40 without a late fee. The commission may charge a late fee for any renewal
41 application received after such grace period. The commission shall
42 determine the amount of the late fee in rules and regulations, but such fee
43 shall not exceed \$200.

1 (B) An interpreter whose registration has expired after failing to
2 submit a renewal application may renew registration upon payment of the
3 late fee and submission of satisfactory evidence of completion of
4 continuing education requirements established by the commission. For
5 renewals of expired registrations, the commission may require additional
6 testing, training or education to establish the interpreter's present ability to
7 perform the functions and responsibilities of an interpreter.

8 (3) An interpreter, as a condition for renewal of a registration, shall
9 attend not less than 30 hours of continuing education programming within
10 a two-year period. Upon receipt of such application, payment of fee and
11 evidence of satisfactory completion of the required continuing education,
12 the commission shall verify the accuracy of the application and grant
13 renewal of the registration.

14 (e) (1) The commission may require an applicant for registration as
15 an interpreter to be fingerprinted and to submit to a state and national
16 criminal history record check *in accordance with section 2, and*
17 *amendments thereto.* ~~The fingerprints shall be used to identify the~~
18 ~~applicant and to determine whether the applicant has a record of criminal~~
19 ~~history in this state or another jurisdiction. The commission is authorized~~
20 ~~to submit the fingerprints to the Kansas bureau of investigation and the~~
21 ~~federal bureau of investigation for a state and national criminal history~~
22 ~~record check. The commission may use the information obtained from~~
23 ~~fingerprinting and the applicant's criminal history for purposes of verifying~~
24 ~~the identification of the applicant and making the official determination of~~
25 ~~the qualifications and fitness of the application to be issued or maintain~~
26 ~~registration.~~

27 ~~(2) Local and state law enforcement officers and agencies shall assist~~
28 ~~the commission in taking the fingerprints of applicants for registration.~~
29 ~~Local and state law enforcement officers and agencies may charge a fee as~~
30 ~~reimbursement for expenses incurred in taking and processing fingerprints~~
31 ~~under this section. The Kansas bureau of investigation shall release all~~
32 ~~records of an applicant's adult convictions to the commission.~~

33 ~~(3) The commission may fix and collect a fee for fingerprinting and~~
34 ~~conducting a state and national criminal history record check of applicants~~
35 ~~or registrants as may be required by the commission in an amount equal to~~
36 ~~the cost of fingerprinting and the criminal history record check.~~

37 (f) The commission may refuse to issue, renew or reinstate a
38 registration, may condition, limit, revoke or suspend the registration of any
39 individual if the applicant or registrant:

40 (1) Has been found incompetent or negligent in the practice of
41 interpreting;

42 (2) has been convicted of a felony offense or a misdemeanor against
43 persons and has not demonstrated to the commission's satisfaction that

1 such person has been sufficiently rehabilitated to merit the public trust;

2 (3) submits an application that contains false, misleading or
3 incomplete information;

4 (4) fails or refuses to provide any information requested by the
5 commission;

6 (5) fails or refuses to pay the required fees;

7 (6) is currently listed on a child abuse registry or an adult protective
8 services registry as the result of a substantiated finding of abuse or neglect
9 by any state agency, agency of another state or the United States, territory
10 of the United States or another country, and the applicant or registrant has
11 not demonstrated to the commission's satisfaction that such person has
12 been sufficiently rehabilitated to merit the public trust; or

13 (7) has had a license, registration or certificate to practice as an
14 interpreter revoked, suspended or limited, or has been the subject of other
15 disciplinary action, or an application for a license, registration or
16 certificate denied, by the proper regulatory authority of another state,
17 territory, District of Columbia, or other country, a certified copy of the
18 record of the action of the other jurisdiction being conclusive evidence
19 thereof.

20 (g) Administrative proceedings and disciplinary actions regarding
21 interpreter registration under K.S.A. 2023 Supp. 75-5393a through 75-
22 5393c, and amendments thereto, shall be conducted in accordance with the
23 Kansas administrative procedure act. Judicial review and civil enforcement
24 of agency actions under K.S.A. 2023 Supp. 75-5393a through 75-5393c,
25 and amendments thereto, shall be in accordance with the Kansas judicial
26 review act.

27 (h) The executive director of the commission shall adopt rules and
28 regulations to effectuate the provisions of this section. Such rules and
29 regulations may include, but not be limited to:

30 (1) Fees, including, but not limited to, registration fees and late fees,
31 that are necessary to fund the expenses and operating costs incurred in the
32 administration and enforcement of this section;

33 (2) categories of interpreter certification and interpreter
34 endorsements, including necessary credentials or qualifications;

35 (3) continuing education requirements and programs for registered
36 interpreters;

37 (4) a code of professional conduct;

38 (5) a supervision and mentorship requirements and programs for
39 interpreters with provisional registration;

40 (6) suspension or revocation of interpreter registration; and

41 (7) any other matter deemed necessary by the executive director to
42 implement and administer this section.

43 Sec. 99. K.S.A. 2023 Supp. 75-5393c is hereby amended to read as

1 follows: 75-5393c. (a) The commission shall develop and administer a
2 program to provide guidelines for the utilization of communication
3 access services, communication access service providers and interpreter
4 service agencies. The executive director of the commission may adopt
5 rules and regulations to effectuate the provisions of this section. Such rules
6 and regulations may include, but not be limited to:

7 (1) Fees necessary to fund the expenses and operating costs incurred
8 in the administration and enforcement of this section;

9 (2) determination of the qualifications of communication access
10 service providers;

11 (3) minimum standards of training of communication access service
12 providers;

13 (4) registration of communication access service providers and
14 interpreter service agencies;

15 (5) a code of professional conduct governing communication access
16 service providers;

17 (6) standards for equipment or technology supporting communication
18 access services;

19 (7) a system of statewide coordination of communication access
20 services; and

21 (8) any other matter that the executive director deems necessary to
22 effectuate the provisions of this section.

23 (b) (1) The commission may require communication access service
24 providers to be fingerprinted and to submit to a state and national criminal
25 history record check *in accordance with section 2, and amendments*
26 *thereto.* ~~The fingerprints shall be used to identify the applicant and to~~
27 ~~determine whether the applicant has a record of criminal history in this~~
28 ~~state or another jurisdiction. The commission is authorized to submit the~~
29 ~~fingerprints to the Kansas bureau of investigation and the federal bureau of~~
30 ~~investigation for a state and national criminal history record check. The~~
31 ~~commission may use the information obtained from fingerprinting and the~~
32 ~~applicant's criminal history for purposes of verifying the identification of~~
33 ~~any individual and in the official determination of the qualifications and~~
34 ~~fitness of the individual to provide communication access services.~~

35 (2) ~~Local and state law enforcement officers and agencies shall assist~~
36 ~~the commission in taking the fingerprints of individuals. Local and state~~
37 ~~law enforcement officers and agencies may charge a fee as reimbursement~~
38 ~~for expenses incurred in taking and processing fingerprints under this~~
39 ~~section. The Kansas bureau of investigation shall release all records of an~~
40 ~~individual's adult convictions to the commission.~~

41 (3) The commission may fix and collect a fee for fingerprinting and
42 conducting a state and national criminal history record check of
43 individuals pursuant to this section as may be required by the commission

1 in an amount equal to the cost of fingerprinting and the criminal history
2 record check.

3 Sec. 100. K.S.A. 2023 Supp. 75-5397f is hereby amended to read as
4 follows: 75-5397f. As used in K.S.A 75-4355a through 75-4355d, and
5 amendments thereto, and K.S.A. 2023 Supp. 75-5393a through 75-5393d
6 and 75-5397f, and amendments thereto:

7 (a) *"Applicant" means a person who has submitted an application for*
8 *registration as an interpreter.*

9 (b) *"Commission" means the Kansas commission for the deaf and*
10 *hard of hearing.*

11 ~~(b)~~(c) *"Communication access services" includes, but is not limited*
12 *to:*

13 (1) Communication access realtime translation services;

14 (2) notetakers;

15 (3) open and closed captioning services;

16 (4) support service providers for the deaf-blind; and

17 (5) any other effective method of making aurally delivered
18 information available to individuals who are deaf or hard of hearing.

19 ~~(e)~~(d) *"Communication access service provider" means an individual*
20 *who is trained to offer a communication access service to communicate*
21 *aurally delivered information to individuals who are deaf, hard of hearing*
22 *or have speech and language impairments.*

23 ~~(d)~~(e) *"Employee" means a person registered as a communication*
24 *access service provider.*

25 (f) *"Executive director" means the executive director for the Kansas*
26 *commission for the deaf and hard of hearing.*

27 ~~(e)~~(g) *"Interpreter" means an individual who engages in the practice*
28 *of interpreting.*

29 ~~(f)~~(h) *"Interpreter service agency" means an entity that contracts with*
30 *or employs registered interpreters to provide interpreter services, whether*
31 *in person or remotely, for a fee.*

32 ~~(g)~~(i) *"Interpreting" means the translating or transliterating of English*
33 *concepts to any communication modes of individuals who are deaf, hard*
34 *of hearing or have speech and language impairments or the translating or*
35 *transliterating of the communication modes of individuals who are deaf,*
36 *hard of hearing or have speech and language impairments to English*
37 *language concepts. Communication modes include, but are not limited to,*
38 *American sign language, English-based sign language, cued speech, oral*
39 *transliterating and information received tactually.*

40 ~~(h)~~(j) *"Video remote interpreter" means an interpreter who engages in*
41 *the practice of video remote interpreting.*

42 ~~(i)~~(k) *"Video remote interpreting" means the process that allows an*
43 *individual who is deaf or hard of hearing to communicate with a hearing*

1 individual at the same location through an interpreter displayed through
2 videoconferencing or similar technology.

3 Sec. 101. K.S.A. 75-53,105 is hereby amended to read as follows: 75-
4 53,105. (a) As used in this section, "secretary" means the secretary for
5 children and families or the secretary for aging and disability services.

6 (b) The secretary shall upon request receive from the Kansas bureau
7 of investigation such criminal history record information *in accordance*
8 *with section 2, and amendments thereto*, as necessary for the purpose of
9 determining initial and continuing qualification for employment or for
10 participation in any program administered by the secretary for the
11 placement, safety, protection or treatment of vulnerable children or adults.

12 ~~(c) The secretary shall have access to any court orders or~~
13 ~~adjudications of any court of record, any records of such orders,~~
14 ~~adjudications, arrests, nonconvictions, convictions, expungements,~~
15 ~~juvenile records, juvenile expungements, diversions and any criminal~~
16 ~~history record information in the possession of the Kansas bureau of~~
17 ~~investigation concerning such employee or individual.~~

18 ~~(d) If a nationwide criminal records check of all records noted above~~
19 ~~is necessary, as determined by the secretary, the secretary's request will be~~
20 ~~based on the submission of fingerprints to the Kansas bureau of~~
21 ~~investigation and the federal bureau of investigation for the identification~~
22 ~~of the individual and to obtain criminal history record information,~~
23 ~~including arrest and nonconviction data.~~

24 ~~(e) Fees for such records checks shall be assessed to the secretary.~~

25 ~~(f) Disclosure or use of any such information received by the~~
26 ~~secretary or a designee of the secretary or of any record containing such~~
27 ~~information, for any purpose other than that provided by this act is a class~~
28 ~~A misdemeanor and shall constitute grounds for removal from office or~~
29 ~~termination of employment. Nothing in this act shall be construed to make~~
30 ~~unlawful or prohibit the disclosure of any such information in a hearing or~~
31 ~~court proceeding involving programs administered by the secretary or~~
32 ~~prohibit the disclosure of any such information to the post auditor in~~
33 ~~accordance with and subject to the provisions of the legislative post audit~~
34 ~~act.~~

35 Sec. 102. K.S.A. 75-5609a is hereby amended to read as follows: 75-
36 5609a. (a) The secretary of health and environment shall require any
37 person offered a position of employment in and any employee of the office
38 of laboratory services of the Kansas department of health and environment
39 that will have access to a secured biological laboratory *employee* to be
40 fingerprinted and submit to a state and national criminal history record
41 check *in accordance with section 2, and amendments thereto*. ~~Such person~~
42 ~~offered a position of employment or employee shall be given written~~
43 ~~notice that a fingerprinting and state and national criminal history record~~

1 check is required as a condition of initial and continued employment. The
2 fingerprints shall be used to identify such person offered a position of
3 employment or employee and to determine whether such person offered a
4 position of employment or employee has a record of criminal history in
5 this state or other jurisdiction. The secretary of health and environment
6 shall submit the fingerprints to the Kansas bureau of investigation and the
7 federal bureau of investigation for a state and national criminal history
8 record check. Local and state law enforcement officers and agencies shall
9 assist the secretary of health and environment in the taking and processing
10 of fingerprints of such persons offered positions of employment or
11 employees.

12 (b) The secretary of health and environment shall use the information
13 obtained from fingerprinting and criminal history for the purposes of
14 verifying the identification of any person offered a position of employment
15 or employee in the official determination of the eligibility of such person
16 or employee to perform tasks within the office of laboratory services. If
17 criminal history record information or results of drug screening is used to
18 disqualify a person offered a position of employment or terminate an
19 employee, such person offered a position of employment or employee
20 shall be informed in writing of the purpose of such disqualification or
21 termination from employment.

22 (e) As a condition of continued employment, any employee who has
23 access to a secured biological laboratory in the office of laboratory
24 services of the Kansas department of health and environment shall be
25 subject to state and national criminal history record checks at a frequency
26 determined by the secretary.

27 (b) *As used in this section, "employee" means a person who has been*
28 *offered a position of employment in or any employee of the office of*
29 *laboratory services of the Kansas department of health and environment*
30 *who has or will have access to a secured biological laboratory.*

31 Sec. 103. K.S.A. 75-7241 is hereby amended to read as follows: 75-
32 7241. (a) An executive branch agency head, with input from the CISO,
33 may shall require employees or contractors of executive branch agencies,
34 whose duties include collection, maintenance or access to personal
35 information, an employee to be fingerprinted and to submit to a state and
36 national criminal history record check *in accordance with section 2, and*
37 *amendments thereto*, at least every five years.

38 (b) The fingerprints shall be used to identify the employee and to
39 determine whether the employee or other such person has a record of
40 criminal history in this state or another jurisdiction. The executive director
41 or agency head shall submit the fingerprints to the Kansas bureau of
42 investigation and the federal bureau of investigation for a state and
43 national criminal history record check. The executive director or agency

1 head may use the information obtained from fingerprinting and the
2 criminal history record check for purposes of verifying the identity of the
3 employee or other such person and in the official determination of the
4 qualifications and fitness of the employee or other such person to work in
5 the position with access to personal information.

6 (e) Local and state law enforcement officers and agencies shall assist
7 the executive director or agency head in the taking and processing of
8 fingerprints of employees or other such persons. Local law enforcement
9 officers and agencies may charge a fee as reimbursement for expenses
10 incurred in taking and processing fingerprints under this section, to be paid
11 by the executive branch agency employing or contracting the individual
12 required to submit to fingerprinting and a criminal history record check *As*
13 *used in this section, "employee" means a person who has submitted an*
14 *application for employment or is currently employed by or contracting*
15 *with an executive branch agency whose duties include collection,*
16 *maintenance or access to personal information.*

17 Sec. 104. K.S.A. 2-3901, 2-3902, 2-3906, 2-3907, 2-3911, 7-127, 8-
18 2,142, 9-508, 9-509, 9-513e, 9-1719, 9-1722, 9-2201, 9-2209, 9-2301, 9-
19 2302, 12-1,120, 12-1679, 16a-6-104, 17-2234, 19-826, 39-969, 39-970,
20 39-2009, 40-5502, 40-5504, 41-311b, 46-1103, 46-3301, 65-503, 65-
21 1501a, 65-1505, 65-1696, 65-2401, 65-2402, 65-2802, 65-2839a, 65-
22 28,129, 65-2901, 65-3503, 65-4209, 65-5117, 73-1210a, 74-1112, 74-
23 2113, 74-4905, 74-50,182, 74-50,184, 74-5605, 74-5607, 74-7511, 74-
24 8704, 74-8705, 74-8763, 74-8769, 74-8803, 74-8805, 74-8806, 74-9802,
25 74-9804, 74-9805, 75-712, 75-7b01, 75-7b04, 75-7b21, 75-7e01, 75-7e03,
26 75-3707e, 75-4315d, 75-5133c, 75-5156, 75-53,105, 75-5609a and 75-
27 7241 and K.S.A. 2023 Supp. 40-4905, 40-5505, 41-102, 50-6,126, 50-
28 1128, 58-3035, 58-3039, 58-4102, 58-4127, 58-4703, 58-4709, 65-516,
29 65-1120, 65-1626, 65-2924, 65-3407, 65-6129, 74-5602, 74-8702, 74-
30 8802, 74-8804, 75-7c02, 75-7c05, 75-5393a, 75-5393c and 75-5397f are
31 hereby repealed.

32 Sec. 105. This act shall take effect and be in force from and after its
33 publication in the statute book.