

HOUSE BILL No. 2113

By Joint Committee on Corrections and Juvenile Justice Oversight

1-20

Proposed Amendments to HB 2113 - remove adults and juvenile restitution  
House Committee on Corrections and Juvenile Justice  
Prepared by the Office of Revisor of Statutes  
February 6, 2023

1 AN ACT concerning expungement; relating to ~~expungement under the~~  
2 ~~Kansas code of procedure for municipal courts, the Kansas criminal~~  
3 ~~code and the revised Kansas juvenile justice code; prohibiting denial of~~  
4 ~~a petition for expungement due to the petitioner's inability to pay~~  
5 ~~outstanding costs, fees, fines or restitution, providing that the waiting~~  
6 ~~period for expungement starts on the date of conviction or adjudication;~~  
7 ~~authorizing expungement of a juvenile adjudication if the juvenile has~~  
8 ~~not committed a felony offense in the previous two years; amending~~  
9 ~~K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614 and~~  
10 ~~repealing the existing sections.~~

strike

or

authorizing the court to grant a petition for  
expungement when restitution is outstanding;

strike

section

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

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

Remove Sections 1 and 2 and renumber  
sections accordingly

18 ~~(A) Satisfied the sentence imposed; or~~  
19 ~~(B) was discharged from probation, parole or a suspended sentence~~  
20 ~~was convicted of such violation.~~

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

27 ~~(b) Any person convicted of a violation of any ordinance that is~~  
28 ~~prohibited by either K.S.A. 12-16,134(a) or (b), and amendments thereto,~~  
29 ~~and which that was adopted prior to July 1, 2014, or who entered into a~~  
30 ~~diversion agreement in lieu of further criminal proceedings for such~~  
31 ~~violation, may petition the convicting court for the expungement of such~~  
32 ~~conviction or diversion agreement and related arrest records.~~

33 ~~(c) Any person convicted of the violation of a city ordinance which~~  
34 ~~that would also constitute a violation of K.S.A. 21-3512, prior to its repeal,~~  
35 ~~or a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto, or~~  
36

1 ~~who entered into a diversion agreement in lieu of further criminal~~  
2 ~~proceedings for such violation, may petition the convicting court for the~~  
3 ~~expungement of such conviction or diversion agreement and related arrest~~  
4 ~~records if:~~

5 ~~(1) One or more years have elapsed since the person was convicted of~~  
6 ~~such violation or satisfied the sentence imposed or the terms of a such~~  
7 ~~diversion agreement or was discharged from probation, parole, conditional~~  
8 ~~release or a suspended sentence; and~~

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

15 ~~(d) No person may petition for expungement until five or more years~~  
16 ~~have elapsed since the person satisfied the sentence imposed or the terms~~  
17 ~~of a diversion agreement or was discharged from probation, parole,~~  
18 ~~conditional release or a suspended sentence, if such person was Any~~  
19 ~~person convicted of the violation of a city ordinance which that would also~~  
20 ~~constitute a violation of any of the following statutes, or who entered into~~  
21 ~~a diversion agreement in lieu of further criminal proceedings for such~~  
22 ~~violation, shall not petition for expungement until five or more years have~~  
23 ~~elapsed since the person was convicted of such violation or satisfied the~~  
24 ~~terms of such diversion agreement:~~

25 ~~(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its~~  
26 ~~repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto;~~

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

30 ~~(3) perjury resulting from a violation of K.S.A. 8-261a, and~~  
31 ~~amendments thereto;~~

32 ~~(4) a violation of the provisions of K.S.A. 8-142 Fifth, and~~  
33 ~~amendments thereto, relating to fraudulent applications;~~

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

36 ~~(6) failing to stop at the scene of an accident and perform the duties~~  
37 ~~required by K.S.A. 8-1602, 8-1603, prior to its repeal, or K.S.A. 8-1602 or~~  
38 ~~8-1604, and amendments thereto;~~

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

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

42 ~~(e) (1) No person may petition for expungement until five or more~~  
43 ~~years have elapsed since the person satisfied the sentence imposed or the~~

~~1 terms of a diversion agreement or was discharged from probation, parole,  
2 conditional release or a suspended sentence, if such person was. Any person  
3 convicted of a first violation of a city ordinance which that would also  
4 constitute a first violation of K.S.A. 8-1567, and amendments thereto, or  
5 who entered into a diversion agreement in lieu of further criminal  
6 proceedings for such violation, shall not petition for expungement until  
7 five or more years have elapsed since the person was convicted of such  
8 violation or satisfied the terms of such diversion agreement.~~

~~9 (2) No person may petition for expungement until 10 or more years  
10 have elapsed since the person satisfied the sentence imposed or was  
11 discharged from probation, parole, conditional release or a suspended  
12 sentence, if such person was. Any person convicted of a second or  
13 subsequent violation of a city ordinance which that would also constitute a  
14 second or subsequent violation of K.S.A. 8-1567, and amendments  
15 thereto, shall not petition for expungement until 10 or more years have  
16 elapsed since the person was convicted of such violation.~~

~~17 (3) The provisions of this subsection shall apply to all violations  
18 committed on or after July 1, 2006.~~

~~19 (f) There shall be no expungement of convictions or diversions for a  
20 violation of a city ordinance which that would also constitute a violation  
21 of K.S.A. 8-2,144, and amendments thereto.~~

~~22 (g) (1) When a petition for expungement is filed, the court shall set a  
23 date for a hearing of such petition and shall cause notice of such hearing to  
24 be given to the prosecuting attorney and the arresting law enforcement  
25 agency. The petition shall state the:~~

~~26 (A) Defendant's full name;~~

~~27 (B) full name of the defendant at the time of arrest, conviction or  
28 diversion, if different than the defendant's current name;~~

~~29 (C) defendant's sex, race and date of birth;~~

~~30 (D) crime for which the defendant was arrested, convicted or  
31 diverted;~~

~~32 (E) date of the defendant's arrest, conviction or diversion; and~~

~~33 (F) identity of the convicting court, arresting law enforcement agency  
34 or diverting authority.~~

~~35 (2) A municipal court may prescribe a fee to be charged as costs for a  
36 person petitioning for an order of expungement pursuant to this section.~~

~~37 (3) Any person who may have relevant information about the  
38 petitioner may testify at the hearing. The court may inquire into the  
39 background of the petitioner and shall have access to any reports or  
40 records relating to the petitioner that are on file with the secretary of  
41 corrections or the prisoner review board.~~

~~42 (h) (1) At the hearing on the petition, the court shall order the  
43 petitioner's arrest record, conviction or diversion expunged if the court~~

1 finds that:

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

5 ~~(2)(B) the circumstances and behavior of the petitioner warrant the~~  
6 ~~expungement; and~~

7 ~~(3)(C) the expungement is consistent with the public welfare.~~

8 ~~(2) The court shall not deny the petition for expungement due to the~~  
9 ~~petitioner's inability to pay outstanding costs, fees, fines or restitution. The~~  
10 ~~petitioner's unwillingness, rather than inability, to pay such costs, fees,~~  
11 ~~fines or restitution may be considered as a factor in denying the petition~~  
12 ~~for expungement.~~

13 ~~(i) When the court has ordered an arrest record, conviction or~~  
14 ~~diversion expunged, the order of expungement shall state the information~~  
15 ~~required to be contained in the petition. The clerk of the court shall send a~~  
16 ~~certified copy of the order of expungement to the Kansas bureau of~~  
17 ~~investigation which shall then notify the federal bureau of investigation,~~  
18 ~~the secretary of corrections and any other criminal justice agency which~~  
19 ~~that may have a record of the arrest, conviction or diversion. If the case~~  
20 ~~was appealed from municipal court, the clerk of the district court shall~~  
21 ~~send a certified copy of the order of expungement to the municipal court.~~  
22 ~~The municipal court shall order the case expunged once the certified copy~~  
23 ~~of the order of expungement is received. After the order of expungement is~~  
24 ~~entered, the petitioner shall be treated as not having been arrested,~~  
25 ~~convicted or diverted of the crime, except that:~~

26 ~~(1) Upon conviction for any subsequent crime, the conviction that~~  
27 ~~was expunged may be considered as a prior conviction in determining the~~  
28 ~~sentence to be imposed;~~

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

31 ~~(A) In any application for licensure as a private detective, private~~  
32 ~~detective agency, certification as a firearms trainer pursuant to K.S.A. 75-~~  
33 ~~7b21, and amendments thereto, or employment as a detective with a~~  
34 ~~private detective agency, as defined by K.S.A. 75-7b01, and amendments~~  
35 ~~thereto; as security personnel with a private patrol operator, as defined by~~  
36 ~~K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined~~  
37 ~~in K.S.A. 76-12a01, and amendments thereto, of the Kansas department~~  
38 ~~for aging and disability services;~~

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

41 ~~(C) to aid in determining the petitioner's qualifications for~~  
42 ~~employment with the Kansas lottery or for work in sensitive areas within~~  
43 ~~the Kansas lottery as deemed appropriate by the executive director of the~~

- 1 Kansas lottery;
- 2 ~~(D) to aid in determining the petitioner's qualifications for executive~~  
3 ~~director of the Kansas racing and gaming commission, for employment~~  
4 ~~with the commission or for work in sensitive areas in parimutuel racing as~~  
5 ~~deemed appropriate by the executive director of the commission, or to aid~~  
6 ~~in determining qualifications for licensure or renewal of licensure by the~~  
7 ~~commission;~~
- 8 ~~(E) to aid in determining the petitioner's qualifications for the~~  
9 ~~following under the Kansas expanded lottery act: (i) Lottery gaming~~  
10 ~~facility manager or prospective manager, racetrack gaming facility~~  
11 ~~manager or prospective manager, licensee or certificate holder; or (ii) an~~  
12 ~~officer, director, employee, owner, agent or contractor thereof;~~
- 13 ~~(F) upon application for a commercial driver's license under K.S.A.~~  
14 ~~8-2,125 through 8-2,142, and amendments thereto;~~
- 15 ~~(G) to aid in determining the petitioner's qualifications to be an~~  
16 ~~employee of the state gaming agency;~~
- 17 ~~(H) to aid in determining the petitioner's qualifications to be an~~  
18 ~~employee of a tribal gaming commission or to hold a license issued~~  
19 ~~pursuant to a tribal state gaming compact;~~
- 20 ~~(I) in any application for registration as a broker-dealer, agent,~~  
21 ~~investment adviser or investment adviser representative all as defined in~~  
22 ~~K.S.A. 17-12a102, and amendments thereto;~~
- 23 ~~(J) in any application for employment as a law enforcement officer, as~~  
24 ~~defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;~~
- 25 ~~(K) for applications received on and after July 1, 2006, to aid in~~  
26 ~~determining the petitioner's qualifications for a license to carry a concealed~~  
27 ~~weapon pursuant to the personal and family protection act, K.S.A. 75-7e01~~  
28 ~~et seq., and amendments thereto; or~~
- 29 ~~(L) for applications received on and after July 1, 2016, to aid in~~  
30 ~~determining the petitioner's qualifications for a license to act as a bail~~  
31 ~~enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and~~  
32 ~~amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and amendments~~  
33 ~~thereto;~~
- 34 ~~(3) the court, in the order of expungement, may specify other~~  
35 ~~circumstances under which the arrest, conviction or diversion is to be~~  
36 ~~disclosed; and~~
- 37 ~~(4) the conviction may be disclosed in a subsequent prosecution for~~  
38 ~~an offense which requires as an element of such offense a prior conviction~~  
39 ~~of the type expunged; and~~
- 40 ~~(5) the petitioner shall continue to be responsible for fully satisfying~~  
41 ~~any outstanding costs, fees, fines and restitution related to the arrest,~~  
42 ~~conviction or diversion. For the purpose of collecting such outstanding~~  
43 ~~costs, fees, fines or restitution, the following persons shall have access to~~

1 ~~the expunged case file notwithstanding any expungement:~~

2 ~~(A) The clerk of the court;~~

3 ~~(B) a contracting agent as defined in K.S.A. 12-4119, and~~  
4 ~~amendments thereto;~~

5 ~~(C) the petitioner and the petitioner's attorney;~~

6 ~~(D) the beneficiary under an order of restitution as defined in K.S.A.~~  
7 ~~12-4119, and amendments thereto, and such beneficiary's attorney; and~~

8 ~~(E) any other person as authorized by a court order if the court finds~~  
9 ~~it is necessary for the person to have access to the expunged case file for~~  
10 ~~the purpose of collecting the outstanding costs, fees, fines or restitution.~~

11 ~~(j) Whenever a person is convicted of an ordinance violation, pleads~~  
12 ~~guilty and pays a fine for such a violation, is placed on parole or probation~~  
13 ~~or is granted a suspended sentence for such a violation, the person shall be~~  
14 ~~informed of the ability to expunge the arrest records or conviction.~~  
15 ~~Whenever a person enters into a diversion agreement, the person shall be~~  
16 ~~informed of the ability to expunge the diversion.~~

17 ~~(k) Subject to the disclosures required pursuant to subsection (i), in~~  
18 ~~any application for employment, license or other civil right or privilege, or~~  
19 ~~any appearance as a witness, a person whose arrest records, conviction or~~  
20 ~~diversion of an offense has been expunged under this statute may state that~~  
21 ~~such person has never been arrested, convicted or diverted of such offense.~~

22 ~~(l) Whenever the record of any arrest, conviction or diversion has~~  
23 ~~been expunged under the provisions of this section or under the provisions~~  
24 ~~of any other existing or former statute, the custodian of the records of~~  
25 ~~arrest, conviction, diversion and incarceration relating to that crime shall~~  
26 ~~not disclose the existence of such records, except when requested by:~~

27 ~~(1) The person whose record was expunged;~~

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

32 ~~(3) a court, upon a showing of a subsequent conviction of the person~~  
33 ~~whose record has been expunged;~~

34 ~~(4) the secretary for aging and disability services, or a designee of the~~  
35 ~~secretary, for the purpose of obtaining information relating to employment~~  
36 ~~in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,~~  
37 ~~of the Kansas department for aging and disability services of any person~~  
38 ~~whose record has been expunged;~~

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

41 ~~(6) a prosecuting attorney, and such request is accompanied by a~~  
42 ~~statement that the request is being made in conjunction with a prosecution~~  
43 ~~of an offense that requires a prior conviction as one of the elements of such~~

- 1 offense;
- 2 ~~(7) the supreme court, the clerk or disciplinary administrator thereof,~~  
3 ~~the state board for admission of attorneys or the state board for discipline~~  
4 ~~of attorneys, and the request is accompanied by a statement that the~~  
5 ~~request is being made in conjunction with an application for admission, or~~  
6 ~~for an order of reinstatement, to the practice of law in this state by the~~  
7 ~~person whose record has been expunged;~~
- 8 ~~(8) the Kansas lottery, and the request is accompanied by a statement~~  
9 ~~that the request is being made to aid in determining qualifications for~~  
10 ~~employment with the Kansas lottery or for work in sensitive areas within~~  
11 ~~the Kansas lottery as deemed appropriate by the executive director of the~~  
12 ~~Kansas lottery;~~
- 13 ~~(9) the governor or the Kansas racing and gaming commission, or a~~  
14 ~~designee of the commission, and the request is accompanied by a~~  
15 ~~statement that the request is being made to aid in determining~~  
16 ~~qualifications for executive director of the commission, for employment~~  
17 ~~with the commission, for work in sensitive areas in parimutuel racing as~~  
18 ~~deemed appropriate by the executive director of the commission or for~~  
19 ~~licensure, renewal of licensure or continued licensure by the commission;~~
- 20 ~~(10) the Kansas racing and gaming commission, or a designee of the~~  
21 ~~commission, and the request is accompanied by a statement that the~~  
22 ~~request is being made to aid in determining qualifications of the following~~  
23 ~~under the Kansas expanded lottery act:~~
- 24 ~~(A) Lottery gaming facility managers and prospective managers,~~  
25 ~~racetrack gaming facility managers and prospective managers, licensees~~  
26 ~~and certificate holders; and~~
- 27 ~~(B) their officers, directors, employees, owners, agents and~~  
28 ~~contractors;~~
- 29 ~~(11) the state gaming agency, and the request is accompanied by a~~  
30 ~~statement that the request is being made to aid in determining~~  
31 ~~qualifications:~~
- 32 ~~(A) To be an employee of the state gaming agency; or~~  
33 ~~(B) to be an employee of a tribal gaming commission or to hold a~~  
34 ~~license issued pursuant to a tribal-state gaming compact;~~
- 35 ~~(12) the Kansas securities commissioner, or a designee of the~~  
36 ~~commissioner, and the request is accompanied by a statement that the~~  
37 ~~request is being made in conjunction with an application for registration as~~  
38 ~~a broker-dealer, agent, investment adviser or investment adviser~~  
39 ~~representative by such agency and the application was submitted by the~~  
40 ~~person whose record has been expunged;~~
- 41 ~~(13) the attorney general, and the request is accompanied by a~~  
42 ~~statement that the request is being made to aid in determining~~  
43 ~~qualifications for a license to:~~

1 ~~(A) Carry a concealed weapon pursuant to the personal and family~~  
2 ~~protection act; or~~

3 ~~(B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01~~  
4 ~~through 75-7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-~~  
5 ~~6,141, and amendments thereto;~~

6 ~~(14) the Kansas sentencing commission;~~

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

11 ~~(16) a law enforcement agency and the request is accompanied by a~~  
12 ~~statement that the request is being made to aid in determining eligibility~~  
13 ~~for employment as a law enforcement officer as defined by K.S.A. 22-~~  
14 ~~2202, and amendments thereto.~~

15 ~~Sec. 2. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as~~  
16 ~~follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)~~  
17 ~~and (f), any person convicted in this state of a traffic infraction, cigarette~~  
18 ~~or tobacco infraction, misdemeanor or a class D or E felony, or for crimes~~  
19 ~~committed on or after July 1, 1993, any nongrid felony or felony ranked in~~  
20 ~~severity levels 6 through 10 of the nondrug grid, or for crimes committed~~  
21 ~~on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in~~  
22 ~~severity level 4 of the drug grid, or for crimes committed on or after July~~  
23 ~~1, 2012, any felony ranked in severity level 5 of the drug grid may petition~~  
24 ~~the convicting court for the expungement of such conviction or and related~~  
25 ~~arrest records if three or more years have elapsed since the person: (A)~~  
26 ~~Satisfied the sentence imposed; or (B) was discharged from probation, a~~  
27 ~~community correctional services program, parole, postrelease supervision,~~  
28 ~~conditional release or a suspended sentence was convicted of such offense.~~

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

34 ~~(b) Any person convicted of prostitution, as defined in K.S.A. 21-~~  
35 ~~3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-~~  
36 ~~6419, and amendments thereto, or who entered into a diversion agreement~~  
37 ~~in lieu of further criminal proceedings for such violation, may petition the~~  
38 ~~convicting court for the expungement of such conviction or diversion~~  
39 ~~agreement and related arrest records if:~~

40 ~~(1) One or more years have elapsed since the person satisfied the~~  
41 ~~sentence imposed was convicted of such offense or fulfilled the terms of a~~  
42 ~~such diversion agreement or was discharged from probation, a community~~  
43 ~~correctional services program, parole, postrelease supervision, conditional~~



1 ~~release or a suspended sentence; and~~

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

8 ~~(c) Except as provided in subsections (e) and (f), no person may~~  
9 ~~petition for expungement until five or more years have elapsed since the~~  
10 ~~person satisfied the sentence imposed or the terms of a diversion~~  
11 ~~agreement or was discharged from probation, a community correctional~~  
12 ~~services program, parole, postrelease supervision, conditional release or a~~  
13 ~~suspended sentence, if such person was convicted of any person convicted~~  
14 ~~of a violation described in this subsection, or who entered into a diversion~~  
15 ~~agreement in lieu of further criminal proceedings for such violation, shall~~  
16 ~~not petition for expungement until five or more years have elapsed since~~  
17 ~~the person was convicted of such violation or satisfied the terms of such~~  
18 ~~diversion agreement.~~

19 ~~(1) A class A, B or C felony, or for crimes committed on or after July~~  
20 ~~1, 1993, if convicted of an off-grid felony or any felony ranked in severity~~  
21 ~~levels 1 through 5 of the nondrug grid, or for crimes committed on or after~~  
22 ~~July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels~~  
23 ~~1 through 3 of the drug grid, or for crimes committed on or after July 1,~~  
24 ~~2012, any felony ranked in severity levels 1 through 4 of the drug grid,~~  
25 ~~or;~~

26 ~~(1)(2) vehicular homicide, as defined in K.S.A. 21-3405, prior to its~~  
27 ~~repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as~~  
28 ~~prohibited by any law of another state that is in substantial conformity~~  
29 ~~with that statute;~~

30 ~~(2)(3) driving while the privilege to operate a motor vehicle on the~~  
31 ~~public highways of this state has been canceled, suspended or revoked, as~~  
32 ~~prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by~~  
33 ~~any law of another state that is in substantial conformity with that statute;~~

34 ~~(3)(4) perjury resulting from a violation of K.S.A. 8-261a, and~~  
35 ~~amendments thereto, or resulting from the violation of a law of another~~  
36 ~~state that is in substantial conformity with that statute;~~

37 ~~(4)(5) violating the provisions of K.S.A. 8-142 Fifth, and~~  
38 ~~amendments thereto, relating to fraudulent applications or violating the~~  
39 ~~provisions of a law of another state that is in substantial conformity with~~  
40 ~~that statute;~~

41 ~~(5)(6) any crime punishable as a felony wherein a motor vehicle was~~  
42 ~~used in the perpetration of such crime;~~

43 ~~(6)(7) failing to stop at the scene of an accident and perform the~~

1 ~~duties required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or~~  
2 ~~8-1604, and amendments thereto, or required by a law of another state that~~  
3 ~~is in substantial conformity with those statutes;~~

4 ~~(7)(8) violating the provisions of K.S.A. 40-3104, and amendments~~  
5 ~~thereto, relating to motor vehicle liability insurance coverage; or~~

6 ~~(8)(9) a violation of K.S.A. 21-3405b, prior to its repeal.~~

7 ~~(d) (1) No person may petition for expungement until five or more~~  
8 ~~years have elapsed since the person satisfied the sentence imposed or the~~  
9 ~~terms of a diversion agreement or was discharged from probation, a~~  
10 ~~community correctional services program, parole, postrelease supervision,~~  
11 ~~conditional release or a suspended sentence, if such person was *Any person*~~  
12 ~~convicted of a first violation of K.S.A. 8-1567, and amendments thereto,~~  
13 ~~including any diversion for such violation or who entered into a diversion~~  
14 ~~agreement in lieu of further criminal proceedings for such violation, shall~~  
15 ~~not petition for expungement until five or more years have elapsed since~~  
16 ~~the person was convicted of such violation or satisfied the terms of such~~  
17 ~~diversion agreement.~~

18 ~~(2) No person may petition for expungement until 10 or more years~~  
19 ~~have elapsed since the person satisfied the sentence imposed or was~~  
20 ~~discharged from probation, a community correctional services program,~~  
21 ~~parole, postrelease supervision, conditional release or a suspended~~  
22 ~~sentence, if such person was *Any person* convicted of a second or~~  
23 ~~subsequent violation of K.S.A. 8-1567, and amendments thereto, shall not~~  
24 ~~petition for expungement until 10 or more years have elapsed since the~~  
25 ~~person was convicted of such violation.~~

26 ~~(3) Except as provided further, the provisions of this subsection shall~~  
27 ~~apply to all violations committed on or after July 1, 2006. The provisions~~  
28 ~~of subsection (d)(2) shall not apply to violations committed on or after~~  
29 ~~July 1, 2014, but prior to July 1, 2015.~~

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

33 ~~(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.~~  
34 ~~2022 Supp. 21-5503, and amendments thereto;~~

35 ~~(2) indecent liberties with a child or aggravated indecent liberties~~  
36 ~~with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,~~  
37 ~~or K.S.A. 2022 Supp. 21-5506, and amendments thereto;~~

38 ~~(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),~~  
39 ~~prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and~~  
40 ~~amendments thereto;~~

41 ~~(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior~~  
42 ~~to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;~~

43 ~~(5) indecent solicitation of a child or aggravated indecent solicitation~~

1 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
2 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;

3 ~~(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
4 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;~~

5 ~~(7) internet trading in child pornography or aggravated internet  
6 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,  
7 and amendments thereto;~~

8 ~~(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
9 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;~~

10 ~~(9) endangering a child or aggravated endangering a child, as defined  
11 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.  
12 21-5601, and amendments thereto;~~

13 ~~(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
14 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;~~

15 ~~(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
16 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;~~

17 ~~(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
18 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;~~

19 ~~(13) murder in the second degree, as defined in K.S.A. 21-3402, prior  
20 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;~~

21 ~~(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to  
22 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;~~

23 ~~(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
24 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;~~

25 ~~(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
26 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim  
27 was less than 18 years of age at the time the crime was committed;~~

28 ~~(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
29 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;~~

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

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

34 ~~(f) Except as provided in K.S.A. 22-4908, and amendments thereto,  
35 for any offender who is required to register as provided in the Kansas  
36 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,  
37 there shall be no expungement of any conviction or any part of the  
38 offender's criminal record while the offender is required to register as  
39 provided in the Kansas offender registration act.~~

40 ~~(g) (1) When a petition for expungement is filed, the court shall set a  
41 date for a hearing of such petition and shall cause notice of such hearing to  
42 be given to the prosecutor and the arresting law enforcement agency. The  
43 petition shall state the:~~

- 1     ~~(A) Defendant's full name;~~  
2     ~~(B) full name of the defendant at the time of arrest, conviction or~~  
3 ~~diversion, if different than the defendant's current name;~~  
4     ~~(C) defendant's sex, race and date of birth;~~  
5     ~~(D) crime for which the defendant was arrested, convicted or~~  
6 ~~diverted;~~  
7     ~~(E) date of the defendant's arrest, conviction or diversion; and~~  
8     ~~(F) identity of the convicting court, arresting law enforcement~~  
9 ~~authority or diverting authority.~~
- 10     ~~(2) Except as otherwise provided by law, a petition for expungement~~  
11 ~~shall be accompanied by a docket fee in the amount of \$176. On and after~~  
12 ~~July 1, 2019, through June 30, 2025, the supreme court may impose a~~  
13 ~~charge, not to exceed \$19 per case, to fund the costs of non-judicial~~  
14 ~~personnel. The charge established in this section shall be the only fee~~  
15 ~~collected or moneys in the nature of a fee collected for the case. Such~~  
16 ~~charge shall only be established by an act of the legislature and no other~~  
17 ~~authority is established by law or otherwise to collect a fee.~~
- 18     ~~(3) All petitions for expungement shall be docketed in the original~~  
19 ~~criminal action. Any person who may have relevant information about the~~  
20 ~~petitioner may testify at the hearing. The court may inquire into the~~  
21 ~~background of the petitioner and shall have access to any reports or~~  
22 ~~records relating to the petitioner that are on file with the secretary of~~  
23 ~~corrections or the prisoner review board.~~
- 24     ~~(h) (1) At the hearing on the petition, the court shall order the~~  
25 ~~petitioner's arrest record, conviction or diversion expunged if the court~~  
26 ~~finds that:~~
- 27     ~~(1)(A) The petitioner has not been convicted of a felony in the past~~  
28 ~~two years and no proceeding involving any such crime is presently~~  
29 ~~pending or being instituted against the petitioner;~~
- 30     ~~(2)(B) the circumstances and behavior of the petitioner warrant the~~  
31 ~~expungement;~~
- 32     ~~(3)(C) the expungement is consistent with the public welfare; and~~  
33     ~~(4)(D) with respect to petitions seeking expungement of a felony~~  
34 ~~conviction, possession of a firearm by the petitioner is not likely to pose a~~  
35 ~~threat to the safety of the public.~~
- 36     ~~(2) The court shall not deny the petition for expungement due to the~~  
37 ~~petitioner's inability to pay outstanding costs, fees, fines or restitution.~~  
38 ~~The petitioner's unwillingness, rather than inability, to pay such costs,~~  
39 ~~fees, fines or restitution may be considered as a factor in denying the~~  
40 ~~petition for expungement.~~
- 41     ~~(i) When the court has ordered an arrest record, conviction or~~  
42 ~~diversion expunged, the order of expungement shall state the information~~  
43 ~~required to be contained in the petition. The clerk of the court shall send a~~

1 ~~certified copy of the order of expungement to the Kansas bureau of~~  
2 ~~investigation that, which shall then notify the federal bureau of~~  
3 ~~investigation, the secretary of corrections and any other criminal justice~~  
4 ~~agency that may have a record of the arrest, conviction or diversion. If the~~  
5 ~~case was appealed from municipal court, the clerk of the district court shall~~  
6 ~~send a certified copy of the order of expungement to the municipal court.~~  
7 ~~The municipal court shall order the case expunged once the certified copy~~  
8 ~~of the order of expungement is received. After the order of expungement is~~  
9 ~~entered, the petitioner shall be treated as not having been arrested,~~  
10 ~~convicted or diverted of the crime, except that:~~

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

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

16 ~~(A) In any application for licensure as a private detective, private~~  
17 ~~detective agency, certification as a firearms trainer pursuant to K.S.A. 75-~~  
18 ~~7b21, and amendments thereto, or employment as a detective with a~~  
19 ~~private detective agency, as defined by K.S.A. 75-7b01, and amendments~~  
20 ~~thereto; as security personnel with a private patrol operator, as defined by~~  
21 ~~K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined~~  
22 ~~in K.S.A. 76-12a01, and amendments thereto, of the Kansas department~~  
23 ~~for aging and disability services;~~

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

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

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

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

41 ~~(F) upon application for a commercial driver's license under K.S.A.~~  
42 ~~8-2,125 through 8-2,142, and amendments thereto;~~

43 ~~(G) to aid in determining the petitioner's qualifications to be an~~

1 ~~employee of the state gaming agency;~~  
2 ~~(H) to aid in determining the petitioner's qualifications to be an~~  
3 ~~employee of a tribal gaming commission or to hold a license issued~~  
4 ~~pursuant to a tribal state gaming compact;~~  
5 ~~(I) in any application for registration as a broker-dealer, agent,~~  
6 ~~investment adviser or investment adviser representative all as defined in~~  
7 ~~K.S.A. 17-12a102, and amendments thereto;~~  
8 ~~(J) in any application for employment as a law enforcement officer as~~  
9 ~~defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or~~  
10 ~~(K) to aid in determining the petitioner's qualifications for a license to~~  
11 ~~act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-~~  
12 ~~7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and~~  
13 ~~amendments thereto;~~  
14 ~~(3) the court, in the order of expungement, may specify other~~  
15 ~~circumstances under which the conviction is to be disclosed;~~  
16 ~~(4) the conviction may be disclosed in a subsequent prosecution for~~  
17 ~~an offense that requires as an element of such offense a prior conviction of~~  
18 ~~the type expunged; and~~  
19 ~~(5) upon commitment to the custody of the secretary of corrections,~~  
20 ~~any previously expunged record in the possession of the secretary of~~  
21 ~~corrections may be reinstated and the expungement disregarded, and the~~  
22 ~~record continued for the purpose of the new commitment; and~~  
23 ~~(6) the petitioner shall continue to be responsible for fully satisfying~~  
24 ~~any outstanding costs, fees, fines and restitution related to the arrest,~~  
25 ~~conviction or diversion. For the purpose of collecting such outstanding~~  
26 ~~costs, fees, fines or restitution, the following persons shall have access to~~  
27 ~~the expunged case file notwithstanding any expungement:~~  
28 ~~(A) The clerk of the court;~~  
29 ~~(B) a contracting agent as defined in K.S.A. 12-4119, and~~  
30 ~~amendments thereto;~~  
31 ~~(C) the petitioner and the petitioner's attorney;~~  
32 ~~(D) the beneficiary under an order of restitution as defined in K.S.A.~~  
33 ~~12-4119, and amendments thereto, and such beneficiary's attorney; and~~  
34 ~~(E) any other person as authorized by a court order if the court finds~~  
35 ~~it is necessary for the person to have access to the expunged case file for~~  
36 ~~the purpose of collecting the outstanding costs, fees, fines or restitution.~~  
37 ~~(j) Whenever a person is convicted of a crime, pleads guilty and pays~~  
38 ~~a fine for a crime, is placed on parole, postrelease supervision or~~  
39 ~~probation, is assigned to a community correctional services program, is~~  
40 ~~granted a suspended sentence or is released on conditional release, the~~  
41 ~~person shall be informed of the ability to expunge the arrest records or~~  
42 ~~conviction. Whenever a person enters into a diversion agreement, the~~  
43 ~~person shall be informed of the ability to expunge the diversion.~~

1 ~~(k) (1) Subject to the disclosures required pursuant to subsection (i),~~  
2 ~~in any application for employment, license or other civil right or privilege,~~  
3 ~~or any appearance as a witness, a person whose arrest records, conviction~~  
4 ~~or diversion of a crime has been expunged under this statute may state that~~  
5 ~~such person has never been arrested, convicted or diverted of such crime.~~

6 ~~(2) A person whose arrest record, conviction or diversion of a crime~~  
7 ~~that resulted in such person being prohibited by state or federal law from~~  
8 ~~possessing a firearm has been expunged under this statute shall be deemed~~  
9 ~~to have had such person's right to keep and bear arms fully restored. This~~  
10 ~~restoration of rights shall include, but not be limited to, the right to use,~~  
11 ~~transport, receive, purchase, transfer and possess firearms. The provisions~~  
12 ~~of this paragraph shall apply to all orders of expungement, including any~~  
13 ~~orders issued prior to July 1, 2021.~~

14 ~~(1) Whenever the record of any arrest, conviction or diversion has~~  
15 ~~been expunged under the provisions of this section or under the provisions~~  
16 ~~of any other existing or former statute, the custodian of the records of~~  
17 ~~arrest, conviction, diversion and incarceration relating to that crime shall~~  
18 ~~not disclose the existence of such records, except when requested by:~~

19 ~~(1) The person whose record was expunged;~~

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

24 ~~(3) a court, upon a showing of a subsequent conviction of the person~~  
25 ~~whose record has been expunged;~~

26 ~~(4) the secretary for aging and disability services, or a designee of the~~  
27 ~~secretary, for the purpose of obtaining information relating to employment~~  
28 ~~in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,~~  
29 ~~of the Kansas department for aging and disability services of any person~~  
30 ~~whose record has been expunged;~~

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

33 ~~(6) a prosecutor, and such request is accompanied by a statement that~~  
34 ~~the request is being made in conjunction with a prosecution of an offense~~  
35 ~~that requires a prior conviction as one of the elements of such offense;~~

36 ~~(7) the supreme court, the clerk or disciplinary administrator thereof,~~  
37 ~~the state board for admission of attorneys or the state board for discipline~~  
38 ~~of attorneys, and the request is accompanied by a statement that the~~  
39 ~~request is being made in conjunction with an application for admission, or~~  
40 ~~for an order of reinstatement, to the practice of law in this state by the~~  
41 ~~person whose record has been expunged;~~

42 ~~(8) the Kansas lottery, and the request is accompanied by a statement~~  
43 ~~that the request is being made to aid in determining qualifications for~~

1 ~~employment with the Kansas lottery or for work in sensitive areas within~~  
2 ~~the Kansas lottery as deemed appropriate by the executive director of the~~  
3 ~~Kansas lottery;~~

4 ~~(9) the governor or the Kansas racing and gaming commission, or a~~  
5 ~~designee of the commission, and the request is accompanied by a~~  
6 ~~statement that the request is being made to aid in determining~~  
7 ~~qualifications for executive director of the commission, for employment~~  
8 ~~with the commission, for work in sensitive areas in parimutuel racing as~~  
9 ~~deemed appropriate by the executive director of the commission or for~~  
10 ~~licensure, renewal of licensure or continued licensure by the commission;~~

11 ~~(10) the Kansas racing and gaming commission, or a designee of the~~  
12 ~~commission, and the request is accompanied by a statement that the~~  
13 ~~request is being made to aid in determining qualifications of the following~~  
14 ~~under the Kansas expanded lottery act: (A) Lottery gaming facility~~  
15 ~~managers and prospective managers, racetrack gaming facility managers~~  
16 ~~and prospective managers, licensees and certificate holders; and (B) their~~  
17 ~~officers, directors, employees, owners, agents and contractors;~~

18 ~~(11) the Kansas sentencing commission;~~

19 ~~(12) the state gaming agency, and the request is accompanied by a~~  
20 ~~statement that the request is being made to aid in determining~~  
21 ~~qualifications: (A) To be an employee of the state gaming agency; or (B)~~  
22 ~~to be an employee of a tribal gaming commission or to hold a license~~  
23 ~~issued pursuant to a tribal gaming compact;~~

24 ~~(13) the Kansas securities commissioner or a designee of the~~  
25 ~~commissioner, and the request is accompanied by a statement that the~~  
26 ~~request is being made in conjunction with an application for registration as~~  
27 ~~a broker-dealer, agent, investment adviser or investment adviser~~  
28 ~~representative by such agency and the application was submitted by the~~  
29 ~~person whose record has been expunged;~~

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

34 ~~(15) a law enforcement agency and the request is accompanied by a~~  
35 ~~statement that the request is being made to aid in determining eligibility~~  
36 ~~for employment as a law enforcement officer as defined by K.S.A. 22-~~  
37 ~~2202, and amendments thereto;~~

38 ~~(16) (A) the attorney general and the request is accompanied by a~~  
39 ~~statement that the request is being made to aid in determining~~  
40 ~~qualifications for a license to act as a bail enforcement agent pursuant to~~  
41 ~~K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.~~  
42 ~~2022 Supp. 50-6,141, and amendments thereto; or~~

43 ~~(B) the attorney general for any other purpose authorized by law,~~



1 ~~except that an expungement record shall not be the basis for denial of a~~  
2 ~~license to carry a concealed handgun under the personal and family~~  
3 ~~protection act; or~~

4 ~~(17) the Kansas bureau of investigation, for the purpose of~~  
5 ~~completing a person's criminal history record information within the~~  
6 ~~central repository, in accordance with K.S.A. 22-4701 et seq., and~~  
7 ~~amendments thereto.~~

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

10 ~~(2) Upon the issuance of an order of expungement that resulted in the~~  
11 ~~restoration of a person's right to keep and bear arms, the Kansas bureau of~~  
12 ~~investigation shall report to the federal bureau of investigation that such~~  
13 ~~expunged record be withdrawn from the national instant criminal~~  
14 ~~background check system. The Kansas bureau of investigation shall~~  
15 ~~include such order of expungement in the person's criminal history record~~  
16 ~~for purposes of documenting the restoration of such person's right to keep~~  
17 ~~and bear arms.~~

18 Sec. 3. K.S.A. 38-2312 is hereby amended to read as follows: 38-  
19 2312. (a) Except as provided in subsections (b) and (c), any records or files  
20 specified in this code concerning a juvenile may be expunged upon  
21 application to a judge of the court of the county in which the records or  
22 files are maintained. The application for expungement may be made by the  
23 juvenile, if 18 years of age or older or, if the juvenile is less than 18 years  
24 of age, by the juvenile's parent or next friend.

25 (b) There shall be no expungement of records or files concerning acts  
26 committed by a juvenile which, if committed by an adult, would constitute  
27 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-  
28 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,  
29 prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments  
30 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,  
31 or K.S.A. 2022 Supp. 21-5404, and amendments thereto, voluntary  
32 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2022 Supp.  
33 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-  
34 3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and amendments  
35 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2022  
36 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto, involuntary  
37 manslaughter while driving under the influence of alcohol or drugs; K.S.A.  
38 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and  
39 amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A.  
40 2022 Supp. 21-5506(a), and amendments thereto, indecent liberties with a  
41 child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-  
42 5506(b), and amendments thereto, aggravated indecent liberties with a  
43 child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-

1 5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A.  
2 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and  
3 amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior  
4 to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto,  
5 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its  
6 repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto, sexual  
7 exploitation of a child; K.S.A. 2022 Supp. 21-5514(a), and amendments  
8 thereto, internet trading in child pornography; K.S.A. 2022 Supp. 21-  
9 5514(b), and amendments thereto, aggravated internet trading in child  
10 pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-  
11 5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608,  
12 prior to its repeal, or K.S.A. 2022 Supp. 21-5601(a), and amendments  
13 thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A.  
14 2022 Supp. 21-5602, and amendments thereto, abuse of a child; or which  
15 would constitute an attempt to commit a violation of any of the offenses  
16 specified in this subsection.

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

23 (d) (1) When a petition for expungement is filed, the court shall set a  
24 date for a hearing on the petition and shall give notice thereof to the  
25 county or district attorney. The petition shall state *the*:

26 ~~(1) The (A)~~ Juvenile's full name;  
27 ~~(2) the (B)~~ full name of the juvenile as reflected in the court record, if  
28 different than ~~(1) subparagraph (A)~~;  
29 ~~(3) the (C)~~ juvenile's sex and date of birth;  
30 ~~(4) the (D)~~ offense for which the juvenile was adjudicated;  
31 ~~(5) the (E)~~ date of the trial; and  
32 ~~(6) the (F)~~ identity of the trial court.

33 (2) Except as otherwise provided by law, a petition for expungement  
34 shall be accompanied by a docket fee in the amount of \$176. On and after  
35 July 1, 2019, through June 30, 2025, the supreme court may impose a  
36 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
37 personnel. All petitions for expungement shall be docketed in the original  
38 action.

39 (3) Any person who may have relevant information about the  
40 petitioner may testify at the hearing. The court may inquire into the  
41 background of the petitioner.

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

1 (A) (i) The juvenile has reached 23 years of age or that two years  
2 have elapsed since the final ~~discharge~~ *adjudication*;

3 (ii) one year has elapsed since the final ~~discharge~~ for an adjudication  
4 concerning acts committed by a juvenile which, if committed by an adult,  
5 would constitute a violation of K.S.A. 2022 Supp. 21-6419, and  
6 amendments thereto; or

7 (iii) the juvenile is a victim of human trafficking, aggravated human  
8 trafficking or commercial sexual exploitation of a child, the adjudication  
9 concerned acts committed by the juvenile as a result of such victimization,  
10 including, but not limited to, acts which, if committed by an adult, would  
11 constitute a violation of K.S.A. 2022 Supp. 21-6203 or 21-6419, and  
12 amendments thereto, and the hearing on expungement occurred on or after  
13 the date of final ~~discharge~~ *adjudication*. The provisions of this clause shall  
14 not allow an expungement of records or files concerning acts described in  
15 subsection (b);

16 (B) ~~since the final discharge of the juvenile~~ *in the past two years*, the  
17 juvenile has not been convicted of a felony ~~or of a misdemeanor other than~~  
18 ~~a traffic offense~~ or adjudicated as a juvenile offender under the revised  
19 Kansas juvenile justice code *for a felony* and no proceedings are pending  
20 seeking such a conviction or adjudication; and

21 (C) the circumstances and behavior of the petitioner warrant  
22 expungement.

23 (2) The court ~~may require that all court costs, fees and restitution~~  
24 ~~shall be paid~~ *shall not deny the petition for expungement due to the*  
25 *juvenile's inability to pay outstanding costs, fees, fines or restitution. The*  
26 *petitioner's unwillingness, rather than inability, to pay such costs, fees,*  
27 *fines or restitution may be considered as a factor in denying the petition*  
28 *for expungement. Unless the court orders otherwise, expungement shall*  
29 *not release the juvenile from the obligation to pay outstanding costs, fees,*  
30 *fines or restitution.*

31 (f) Upon entry of an order expunging records or files, the offense  
32 which the records or files concern shall be treated as if it never occurred,  
33 except that upon conviction of a crime or adjudication in a subsequent  
34 action under this code the offense may be considered in determining the  
35 sentence to be imposed. The petitioner, the court and all law enforcement  
36 officers and other public offices and agencies shall properly reply on  
37 inquiry that no record or file exists with respect to the juvenile. Inspection  
38 of the expunged files or records thereafter may be permitted by order of  
39 the court upon petition by the person who is the subject thereof. The  
40 inspection shall be limited to inspection by the person who is the subject of  
41 the files or records and the person's designees.

42 (g) A certified copy of any order made pursuant to subsection (a) or  
43 (d) shall be sent to the Kansas bureau of investigation, which shall *then*

or

strike

or

The court may grant a petition for expungement when the the juvenile owes outstanding restitution.

1 notify every juvenile or criminal justice agency which may possess records  
2 or files ordered to be expunged. If the agency fails to comply with the  
3 order within a reasonable time after its receipt, such agency may be  
4 adjudged in contempt of court and punished accordingly.

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

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

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

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

18 (1) The person whose record was expunged;

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

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

25 (4) the secretary for aging and disability services, or a designee of the  
26 secretary, for the purpose of obtaining information relating to employment  
27 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,  
28 of the Kansas department for aging and disability services of any person  
29 whose record has been expunged;

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

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

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

1 (8) the Kansas sentencing commission; or  
2 (9) the Kansas bureau of investigation, for the purposes of:  
3 (A) Completing a person's criminal history record information within  
4 the central repository in accordance with K.S.A. 22-4701 et seq., and  
5 amendments thereto; or  
6 (B) providing information or documentation to the federal bureau of  
7 investigation, in connection with the national instant criminal background  
8 check system, to determine a person's qualification to possess a firearm.  
9 (l) The provisions of subsection (k)(9) shall apply to all records  
10 created prior to, on and after July 1, 2011.  
11 ~~Sec. 4. K.S.A. 12-4516 and 38-2312 and K.S.A. 2022 Supp. 21-6614~~  
12 ~~are~~ hereby repealed.  
13 Sec. 5. This act shall take effect and be in force from and after its  
14 publication in the statute book.

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