

SENATE BILL No. 61

By Committee on Judiciary

1-22

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to human trafficking; human trafficking advisory board; establishing
3 the human trafficking victim assistance fund; creating the crime of
4 commercial sexual exploitation of a child; relating to selling sexual
5 relations, promoting sexual relations, buying sexual relations; children
6 in need of care; staff secure facilities; amending K.S.A. 22-2530 and
7 K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-
8 5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-
9 6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-
10 3901, 22-4902, 22-4906, 38-2202, 38-2231, 38-2232, 38-2242, 38-
11 2243, 38-2255, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-
12 2255 and repealing the existing sections.

13

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

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16 New Section 1. The attorney general, in consultation with other
17 appropriate state agencies, is authorized to coordinate training regarding
18 human trafficking for law enforcement agencies throughout Kansas.

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20 New Sec. 2. (a) The human trafficking advisory board established by
21 the attorney general is hereby designated the official human trafficking
22 advisory board for the state of Kansas.

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(b) The board shall include representatives from:

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(1) The office of the governor;

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(2) the attorney general's office;

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(3) the department of labor;

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(4) the department for children and families;

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(5) the department of health and environment;

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(6) the juvenile justice authority;

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(7) the Kansas association of chiefs of police;

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(8) the Kansas sheriffs' association;

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(9) the highway patrol;

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(10) the Kansas bureau of investigation;

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(11) local law enforcement agencies;

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(12) the legislature;

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(13) nongovernmental organizations focused on human trafficking
issues, organizations representing diverse communities disproportionately
affected by human trafficking and organizations focused on child services

1 and runaway services;

2 (14) academic researchers who are dedicated to the subject of human
3 trafficking;

4 (15) any other federal, state, or local government entity deemed
5 necessary by the attorney general; and

6 (16) any other private sector or nongovernmental organization
7 deemed necessary by the attorney general.

8 New Sec. 3. There is hereby established in the state treasury the
9 human trafficking victim assistance fund. All moneys credited to such fund
10 shall be used to pay for the training authorized by section 1, and
11 amendments thereto, and to support care, treatment and other services for
12 victims of human trafficking and commercial sexual exploitation of a
13 child. All expenditures from such fund shall be made in accordance with
14 appropriation acts, upon warrants of the director of accounts and reports
15 issued pursuant to vouchers approved by the attorney general or the
16 attorney general's designee.

17 New Sec. 4. (a) Commercial sexual exploitation of a child is
18 knowingly:

19 (1) Giving, receiving, offering or agreeing to give, or offering or
20 agreeing to receive anything of value to perform any of the following acts:

21 (A) Procuring, recruiting, inducing, soliciting, hiring or otherwise
22 obtaining any person younger than 18 years of age to engage in sexual
23 intercourse, sodomy or manual or other bodily contact stimulation of the
24 genitals of any person with the intent to arouse or gratify the sexual desires
25 of the offender or another; or

26 (B) Procuring, recruiting, inducing, soliciting, hiring or otherwise
27 obtaining a patron where there is an exchange of value, for any person
28 younger than 18 years of age to engage in sexual intercourse, sodomy or
29 manual or other bodily contact stimulation of the genitals of any person
30 with the intent to arouse or gratify the sexual desires of the patron, the
31 offender or another;

32 (2) establishing, owning, maintaining or managing any property,
33 whether real or personal, where sexual relations are being sold or offered
34 for sale by a person younger than 18 years of age, or participating in the
35 establishment, ownership, maintenance or management thereof;

36 (3) permitting any property, whether real or personal, partially or
37 wholly owned or controlled by the defendant to be used as a place where
38 sexual relations are being sold or offered for sale by a person who is
39 younger than 18 years of age; or

40 (4) procuring transportation for, paying for the transportation of or
41 transporting any person younger than 18 years of age within this state with
42 the intent of causing, assisting or promoting that person's engaging in
43 selling sexual relations.

1 (b) (1) Commercial sexual exploitation of a child is a:

2 (A) Severity level 5, person felony, except as provided in subsections
3 (b)(1)(B) and (b)(2); and

4 (B) severity level 2, person felony when committed by a person who
5 has, prior to the commission of the crime, been convicted of a violation of
6 this section, except as provided in subsection (b)(2).

7 (2) Commercial sexual exploitation of a child or attempt, conspiracy
8 or criminal solicitation to commit commercial sexual exploitation of a
9 child is an off-grid person felony when the offender is 18 years of age or
10 older and the victim is less than 14 years of age.

11 (3) In addition to any other sentence imposed, a person convicted
12 under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more
13 than \$5,000. In addition to any other sentence imposed, a person convicted
14 under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than
15 \$5,000. All fines collected pursuant to this section shall be remitted to the
16 human trafficking victim assistance fund created by section 3, and
17 amendments thereto.

18 (4) In addition to any other sentence imposed, for any conviction
19 under this section, the court may order the person convicted to enter into
20 and complete a suitable educational and treatment program regarding
21 commercial sexual exploitation of a child.

22 (c) If the offender is 18 years of age or older and the victim is less
23 than 14 years of age, the provisions of:

24 (1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments
25 thereto, shall not apply to a violation of attempting to commit the crime of
26 commercial sexual exploitation of a child pursuant to this section;

27 (2) subsection (c) of K.S.A. 2012 Supp. 21-5302, and amendments
28 thereto, shall not apply to a violation of conspiracy to commit the crime of
29 commercial sexual exploitation of a child pursuant to this section; and

30 (3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments
31 thereto, shall not apply to a violation of criminal solicitation to commit the
32 crime of commercial sexual exploitation of a child pursuant to this section.

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

35 New Sec. 5. (a) Whenever a child is in custody, as defined in K.S.A.
36 2012 Supp. 38-2202, and amendments thereto, and such child has been
37 subjected to human trafficking or aggravated human trafficking, as defined
38 by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial
39 sexual exploitation of a child, as defined by section 4, and amendments
40 thereto, or the child committed an act which, if committed by an adult,
41 would constitute a violation of K.S.A. 2012 Supp. 21-6419, and
42 amendments thereto, the court shall refer the child to the secretary of the
43 department for children and families for an assessment to determine safety,

1 placement and treatment needs for the child. The secretary shall use a
2 research-based assessment tool to assess such needs and shall make
3 appropriate recommendations to the court.

4 (b) When any law enforcement officer takes into custody any child as
5 provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and
6 amendments thereto, the law enforcement officer shall contact the
7 department for children and families to begin an assessment to determine
8 safety, placement and treatment needs for the child. The secretary of the
9 department for children and families shall use a rapid response team to
10 begin such assessment for appropriate and timely placement.

11 (c) This section shall be part of and supplemental to the revised
12 Kansas code for care of children.

13 New Sec. 6. (a) A staff secure facility shall:

14 (1) Not include construction features designed to physically restrict
15 the movements and activities of residents, but shall have a design,
16 structure, interior and exterior environment, and furnishings to promote a
17 safe, comfortable and therapeutic environment for the residents;

18 (2) implement written policies and procedures that include the use of
19 a combination of supervision, inspection and accountability to promote
20 safe and orderly operations;

21 (3) rely on locked entrances and delayed-exit mechanisms to secure
22 the facility, and implement reasonable rules restricting entrance to and
23 egress from the facility;

24 (4) implement written policies and procedures for 24-hour-a-day staff
25 observation of all facility entrances and exits;

26 (5) implement written policies and procedures for the screening and
27 searching of both residents and visitors;

28 (6) implement written policies and procedures for knowing the
29 whereabouts of all residents at all times and for handling runaways and
30 unauthorized absences; and

31 (7) implement written policies and procedures for determining when
32 the movements and activities of individual residents may, for treatment
33 purposes, be restricted or subject to control through the use of intensive
34 staff supervision.

35 (b) A staff secure facility shall provide the following services to
36 children placed in such facility:

37 (1) Case management;

38 (2) life skills training;

39 (3) health care;

40 (4) mental health counseling;

41 (5) substance abuse screening and treatment; and

42 (6) any other appropriate services.

43 (c) Service providers in a staff secure facility shall be trained to

1 counsel and assist victims of human trafficking and sexual exploitation.

2 (d) The person responsible for 24-hour-a-day staff observation of all
3 facility entrances and exits shall be a retired or off-duty law enforcement
4 officer.

5 (1) As used in this subsection, "retired law enforcement officer"
6 means any former member of any duly organized federal, state, county or
7 municipal law enforcement organization who by virtue of office or public
8 employment was vested by law with a duty to maintain public order or to
9 make arrests for crimes, whether that duty extended to all crimes or was
10 limited to specific crimes.

11 (2) As used in this subsection, "off-duty law enforcement officer"
12 means any off-duty member of any duly organized federal, state, county or
13 municipal law enforcement organization who by virtue of office or public
14 employment is vested by law with a duty to maintain public order or to
15 make arrests for crimes, whether that duty extends to all crimes or is
16 limited to specific crimes.

17 (e) If the staff secure facility is on the same premises as that of
18 another licensed facility, the living unit of the staff secure facility shall be
19 maintained in a separate, self-contained unit. No staff secure facility shall
20 be in a city or county jail.

21 (f) The secretary of health and environment, in consultation with the
22 attorney general, shall promulgate rules and regulations to implement the
23 provisions of this section on or before January 1, 2014.

24 (g) This section shall be part of and supplemental to article 5 of
25 chapter 65 of the Kansas Statutes Annotated.

26 New Sec. 7. (a) A notice offering help to victims of human trafficking
27 shall be accessible on the official website of the attorney general, the
28 official website of the department for children and families and the official
29 website of the department of labor, and may be posted in a prominent and
30 accessible location in workplaces.

31 (b) The notice shall provide such information as the attorney general
32 determines appropriate to help and support victims of human trafficking,
33 including, but not limited to, information regarding the national human
34 trafficking resource center (NHTRC) hotline as follows:

35 "If you or someone you know is being forced to engage in any activity
36 and cannot leave — whether it is commercial sex, housework, farm work
37 or any other activity — call the toll-free National Human Trafficking
38 Resource Center Hotline at 1-888-373-7888 to access help and services.
39 The toll-free hotline is:

- 40 • Available 24 hours a day, 7 days a week
- 41 • Operated by a nonprofit, nongovernmental organization
- 42 • Anonymous and confidential
- 43 • Accessible in 170 languages

1 • Able to provide help, referral to services, training, and general
2 information."

3 (c) The notice described in this section shall be made available in
4 English, Spanish, and, if requested by an employer, another language.

5 (d) The secretary of labor, in consultation with the attorney general,
6 shall develop and implement an education plan to raise awareness among
7 Kansas employers about the problem of human trafficking, about the
8 hotline described in this section, and about other resources that may be
9 available to employers, employees, and potential victims of human
10 trafficking. On or before February 1, 2014, the secretary shall report to the
11 standing committees on judiciary in the senate and the house of
12 representatives, respectively, on the progress achieved in developing and
13 implementing the notice requirement and education plan required by this
14 section.

15 Sec. 8. K.S.A. 2012 Supp. 12-4106 is hereby amended to read as
16 follows: 12-4106. (a) The municipal judge shall have the power to
17 administer the oaths and enforce all orders, rules and judgments made by
18 such municipal judge, and may fine or imprison for contempt in the same
19 manner and to the same extent as a judge of the district court.

20 (b) The municipal judge shall have the power to hear and determine
21 all cases properly brought before such municipal judge to: Grant
22 continuances; sentence those found guilty to a fine or confinement in jail,
23 or both; commit accused persons to jail in default of bond; determine
24 applications for parole; release on probation; grant time in which a fine
25 may be paid; correct a sentence; suspend imposition of a sentence; set
26 aside a judgment; permit time for post trial motions; and discharge accused
27 persons.

28 (c) The municipal judge shall maintain a docket in which every cause
29 commenced before such municipal judge shall be entered. Such docket
30 shall contain the names of the accused persons and complainant, the nature
31 or character of the offense, the date of trial, the names of all witnesses
32 sworn and examined, the finding of the court, the judgment and sentence,
33 the date of payment, the date of issuing commitment, if any, and every
34 other fact necessary to show the full proceedings in each case.

35 (d) The municipal judge shall promptly make such reports and
36 furnish the information requested by any departmental justice or the
37 judicial administrator, in the manner and form prescribed by the supreme
38 court.

39 (e) The municipal judge shall ensure that information concerning
40 dispositions of city ordinance violations that result in convictions
41 comparable to convictions for class A and B misdemeanors under Kansas
42 criminal statutes is forwarded to the Kansas bureau of investigation central
43 repository. This information shall be transmitted, on a form or in a format

1 approved by the attorney general, within 30 days of final disposition.

2 (f) In all cases alleging a violation of a city ordinance prohibiting the
3 acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025,
4 and amendments thereto, the municipal court judge shall ensure that the
5 municipal court reports the filing and disposition of such case to the
6 Kansas bureau of investigation central repository, and, on and after July 1,
7 2013, reports the filing and disposition of such case electronically to the
8 Kansas bureau of investigation central repository.

9 (g) In all cases in which a fine is imposed for a violation of a city
10 ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or
11 K.S.A. 2012 Supp. 8-1025 *or 21-6421*, and amendments thereto, the
12 municipal court judge shall ensure that the municipal court remits the
13 appropriate amount of such fine to the state treasurer as provided in K.S.A.
14 2012 Supp. 12-4120, and amendments thereto.

15 Sec. 9. K.S.A. 2012 Supp. 12-4120 is hereby amended to read as
16 follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from
17 each fine imposed for a violation of a city ordinance prohibiting the acts
18 prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2012 Supp. 8-1025, and
19 amendments thereto, shall be remitted by the judge or clerk of the
20 municipal court to the state treasurer in accordance with the provisions of
21 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
22 remittance, the state treasurer shall credit the entire amount to the
23 community corrections supervision fund established by K.S.A. 2012 Supp.
24 75-52,113, and amendments thereto.

25 (b) *On and after July 1, 2013, the amount of \$2,500 from each fine*
26 *imposed for a violation of a city ordinance prohibiting the acts prohibited*
27 *by K.S.A. 2012 Supp. 21-6421, and amendments thereto, shall be remitted*
28 *by the judge or clerk of the municipal court to the state treasurer in*
29 *accordance with the provisions of K.S.A. 75-4215, and amendments*
30 *thereto. Upon receipt of each such remittance, the state treasurer shall*
31 *credit the entire amount to the human trafficking victim assistance fund*
32 *established by section 3, and amendments thereto.*

33 Sec. 10. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as
34 follows: 12-4516. (a) (1) Except as provided in ~~subsection (b), (c) and (d)~~
35 ~~subsections (b), (c), (d) and (e)~~, any person who has been convicted of a
36 violation of a city ordinance of this state may petition the convicting court
37 for the expungement of such conviction and related arrest records if three
38 or more years have elapsed since the person:

39 (A) Satisfied the sentence imposed; or

40 (B) was discharged from probation, parole or a suspended sentence.

41 (2) Except as provided in ~~subsection (b), (c) and (d)~~ ~~subsections (b),~~
42 ~~(c), (d) and (e)~~, any person who has fulfilled the terms of a diversion
43 agreement based on a violation of a city ordinance of this state may

1 petition the court for the expungement of such diversion agreement and
2 related arrest records if three or more years have elapsed since the terms of
3 the diversion agreement were fulfilled.

4 *(b) Any person convicted of the violation of a city ordinance which*
5 *would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or*
6 *a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, or*
7 *who entered into a diversion agreement in lieu of further criminal*
8 *proceedings for such violation, may petition the convicting court for the*
9 *expungement of such conviction or diversion agreement and related arrest*
10 *records if:*

11 *(1) One or more years have elapsed since the person satisfied the*
12 *sentence imposed or the terms of a diversion agreement or was discharged*
13 *from probation, parole, conditional release or a suspended sentence; and*

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

20 ~~(b)~~ *(c) No person may petition for expungement until five or more*
21 *years have elapsed since the person satisfied the sentence imposed or the*
22 *terms of a diversion agreement or was discharged from probation, parole,*
23 *conditional release or a suspended sentence, if such person was convicted*
24 *of the violation of a city ordinance which would also constitute:*

25 *(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its*
26 *repeal, or K.S.A. 2012 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 the fifth clause of K.S.A. 8-142,*
33 *and 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 8-1604, and*
38 *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 ~~(b)~~ *(d) No person may petition for expungement until 10 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 convicted
3 of the violation of a city ordinance which would also constitute a violation
4 of K.S.A. 8-1567, and amendments thereto.

5 ~~(d)~~ (e) There shall be no expungement of convictions or diversions
6 for a violation of a city ordinance which would also constitute a violation
7 of K.S.A. 8-2,144, and amendments thereto.

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

12 ~~(1)~~ (A) ~~The~~ Defendant's full name;

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

15 ~~(3)~~ (C) ~~the~~ defendant's sex, race and date of birth;

16 ~~(4)~~ (D) ~~the~~ crime for which the defendant was arrested, convicted or
17 diverted;

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

19 ~~(6)~~ (F) ~~the~~ identity of the convicting court, arresting law enforcement
20 agency or diverting authority.

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

23 (3) Any person who may have relevant information about the
24 petitioner may testify at the hearing. The court may inquire into the
25 background of the petitioner and shall have access to any reports or
26 records relating to the petitioner that are on file with the secretary of
27 corrections or the prisoner review board.

28 ~~(f)~~ (g) At the hearing on the petition, the court shall order the
29 petitioner's arrest record, conviction or diversion expunged if the court
30 finds that:

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

34 (2) the circumstances and behavior of the petitioner warrant the
35 expungement; and

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

37 ~~(g)~~ (h) When the court has ordered an arrest record, conviction or
38 diversion expunged, the order of expungement shall state the information
39 required to be contained in the petition. The clerk of the court shall send a
40 certified copy of the order of expungement to the Kansas bureau of
41 investigation which shall notify the federal bureau of investigation, the
42 secretary of corrections and any other criminal justice agency which may
43 have a record of the arrest, conviction or diversion. After the order of

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

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

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

8 (A) In any application for employment as a detective with a private
9 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
10 as security personnel with a private patrol operator, as defined by K.S.A.
11 75-7b01, and amendments thereto; or with an institution, as defined in
12 K.S.A. 76-12a01, and amendments thereto, of the department of ~~social and~~
13 ~~rehabilitation services~~ *for children and families*;

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

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

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

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

31 (F) upon application for a commercial driver's license under K.S.A.
32 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

43 (K) for applications received on and after July 1, 2006, to aid in

1 determining the petitioner's qualifications for a license to carry a concealed
2 weapon pursuant to the personal and family protection act, K.S.A. 2012
3 Supp. 75-7c01 et seq., and amendments thereto;

4 (3) the court, in the order of expungement, may specify other
5 circumstances under which the arrest, conviction or diversion is to be
6 disclosed; and

7 (4) the conviction may be disclosed in a subsequent prosecution for
8 an offense which requires as an element of such offense a prior conviction
9 of the type expunged.

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

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

22 ~~(j)~~ (k) 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 of ~~social and rehabilitation services~~ *the department*
35 *for children and families*, or a designee of the secretary, for the purpose of
36 obtaining information relating to employment in an institution, as defined
37 in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social~~
38 ~~and rehabilitation services~~ *for children and families* of any person whose
39 record has been expunged;

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

42 (6) a prosecuting attorney, and such request is accompanied by a
43 statement that the request is being made in conjunction with a prosecution

1 of an offense that requires a prior conviction as one of the elements of such
2 offense;

3 (7) the supreme court, the clerk or disciplinary administrator thereof,
4 the state board for admission of attorneys or the state board for discipline
5 of attorneys, and the request is accompanied by a statement that the
6 request is being made in conjunction with an application for admission, or
7 for an order of reinstatement, to the practice of law in this state by the
8 person whose record has been expunged;

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

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

21 (10) the Kansas racing and gaming commission, or a designee of the
22 commission, and the request is accompanied by a statement that the
23 request is being made to aid in determining qualifications of the following
24 under the Kansas expanded lottery act: (A) Lottery gaming facility
25 managers and prospective managers, racetrack gaming facility managers
26 and prospective managers, licensees and certificate holders; and (B) their
27 officers, directors, employees, owners, agents and contractors;

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

33 (12) the Kansas securities commissioner, or a designee of the
34 commissioner, and the request is accompanied by a statement that the
35 request is being made in conjunction with an application for registration as
36 a broker-dealer, agent, investment adviser or investment adviser
37 representative by such agency and the application was submitted by the
38 person whose record has been expunged;

39 (13) the attorney general, and the request is accompanied by a
40 statement that the request is being made to aid in determining
41 qualifications for a license to carry a concealed weapon pursuant to the
42 personal and family protection act;

43 (14) the Kansas sentencing commission;

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

5 (16) a law enforcement agency and the request is accompanied by a
6 statement that the request is being made to aid in determining eligibility
7 for employment as a law enforcement officer as defined by K.S.A. 22-
8 2202, and amendments thereto.

9 Sec. 11. K.S.A. 2012 Supp. 21-5301 is hereby amended to read as
10 follows: 21-5301.(a) An attempt is any overt act toward the perpetration of
11 a crime done by a person who intends to commit such crime but fails in the
12 perpetration thereof or is prevented or intercepted in executing such crime.

13 (b) It shall not be a defense to a charge of attempt that the
14 circumstances under which the act was performed or the means employed
15 or the act itself were such that the commission of the crime was not
16 possible.

17 (c) (1) An attempt to commit an off-grid felony shall be ranked at
18 nondrug severity level 1. An attempt to commit any other nondrug felony
19 shall be ranked on the nondrug scale at two severity levels below the
20 appropriate level for the underlying or completed crime. The lowest
21 severity level for an attempt to commit a nondrug felony shall be a severity
22 level 10.

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

25 (A) Aggravated human trafficking, as defined in subsection (b) of
26 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18
27 years of age or older and the victim is less than 14 years of age;

28 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and
29 amendments thereto;

30 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
31 2012 Supp. 21-5422, and amendments thereto;

32 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
33 5503, and amendments thereto, if the offender is 18 years of age or older;

34 (E) aggravated indecent liberties with a child, as defined in
35 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
36 if the offender is 18 years of age or older;

37 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
38 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the
39 offender is 18 years of age or older;

40 ~~(G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
41 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
42 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
43 *child, as defined in section 4, and amendments thereto, if the offender is*

1 *18 years of age or older and the victim is less than 14 years of age; or*

2 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
3 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the
4 offender is 18 years of age or older and the child is less than 14 years of
5 age.

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

9 (2) The provisions of this subsection shall not apply to a violation of
10 attempting to commit a violation of K.S.A. 2012 Supp. 21-5703, and
11 amendments thereto.

12 (e) An attempt to commit a class A person misdemeanor is a class B
13 person misdemeanor. An attempt to commit a class A nonperson
14 misdemeanor is a class B nonperson misdemeanor.

15 (f) An attempt to commit a class B or C misdemeanor is a class C
16 misdemeanor.

17 Sec. 12. K.S.A. 2012 Supp. 21-5302 is hereby amended to read as
18 follows: 21-5302. (a) A conspiracy is an agreement with another person to
19 commit a crime or to assist in committing a crime. No person may be
20 convicted of a conspiracy unless an overt act in furtherance of such
21 conspiracy is alleged and proved to have been committed by such person
22 or by a co-conspirator.

23 (b) It is immaterial to the criminal liability of a person charged with
24 conspiracy that any other person with whom the defendant conspired
25 lacked the actual intent to commit the underlying crime provided that the
26 defendant believed the other person did have the actual intent to commit
27 the underlying crime.

28 (c) It shall be a defense to a charge of conspiracy that the accused
29 voluntarily and in good faith withdrew from the conspiracy, and
30 communicated the fact of such withdrawal to one or more of the accused
31 person's co-conspirators, before any overt act in furtherance of the
32 conspiracy was committed by the accused or by a co-conspirator.

33 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at
34 nondrug severity level 2. Conspiracy to commit any other nondrug felony
35 shall be ranked on the nondrug scale at two severity levels below the
36 appropriate level for the underlying or completed crime. The lowest
37 severity level for conspiracy to commit a nondrug felony shall be a
38 severity level 10.

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

41 (A) Aggravated human trafficking, as defined in subsection (b) of
42 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18
43 years of age or older and the victim is less than 14 years of age;

1 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and
2 amendments thereto;

3 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
4 2012 Supp. 21-5422, and amendments thereto;

5 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
6 5503, and amendments thereto, if the offender is 18 years of age or older;

7 (E) aggravated indecent liberties with a child, as defined in
8 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
9 if the offender is 18 years of age or older;

10 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
11 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the
12 offender is 18 years of age or older;

13 (G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
14 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
15 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
16 *child, as defined in section 4, and amendments thereto, if the offender is*
17 *18 years of age or older and the victim is less than 14 years of age;* or

18 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
19 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the
20 offender is 18 years of age or older and the child is less than 14 years of
21 age.

22 (e) Conspiracy to commit a felony which prescribes a sentence on the
23 drug grid shall reduce the prison term prescribed in the drug grid block for
24 an underlying or completed crime by six months.

25 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

26 Sec. 13. K.S.A. 2012 Supp. 21-5303 is hereby amended to read as
27 follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or
28 requesting another person to commit a felony, attempt to commit a felony
29 or aid and abet in the commission or attempted commission of a felony for
30 the purpose of promoting or facilitating the felony.

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

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

38 (d) (1) Criminal solicitation to commit an off-grid felony shall be
39 ranked at nondrug severity level 3. Criminal solicitation to commit any
40 other nondrug felony shall be ranked on the nondrug scale at three severity
41 levels below the appropriate level for the underlying or completed crime.
42 The lowest severity level for criminal solicitation to commit a nondrug
43 felony shall be a severity level 10.

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

3 (A) Aggravated human trafficking, as defined in subsection (b) of
4 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18
5 years of age or older and the victim is less than 14 years of age;

6 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and
7 amendments thereto;

8 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
9 2012 Supp. 21-5422, and amendments thereto;

10 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
11 5503, and amendments thereto, if the offender is 18 years of age or older;

12 (E) aggravated indecent liberties with a child, as defined in
13 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
14 if the offender is 18 years of age or older;

15 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
16 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the
17 offender is 18 years of age or older;

18 ~~(G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
19 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
20 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
21 *child, as defined in section 4, and amendments thereto, if the offender is*
22 *18 years of age or older and the victim is less than 14 years of age; or*

23 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
24 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the
25 offender is 18 years of age or older and the child is less than 14 years of
26 age.

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

30 Sec. 14. K.S.A. 2012 Supp. 21-5401 is hereby amended to read as
31 follows: 21-5401. (a) Capital murder is the:

32 (1) Intentional and premeditated killing of any person in the
33 commission of kidnapping, as defined in subsection (a) of K.S.A. 2012
34 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as
35 defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
36 thereto, when the kidnapping or aggravated kidnapping was committed
37 with the intent to hold such person for ransom;

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

41 (3) intentional and premeditated killing of any person by an inmate or
42 prisoner confined in a state correctional institution, community
43 correctional institution or jail or while in the custody of an officer or

1 employee of a state correctional institution, community correctional
2 institution or jail;

3 (4) intentional and premeditated killing of the victim of one of the
4 following crimes in the commission of, or subsequent to, such crime:
5 Rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto,
6 criminal sodomy, as defined in subsections (a)(3) or (a)(4) of K.S.A. 2012
7 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy,
8 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and
9 amendments thereto, or any attempt thereof, as defined in K.S.A. 2012
10 Supp. 21-5301, and amendments thereto;

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

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

16 (7) intentional and premeditated killing of a child under the age of 14
17 in the commission of kidnapping, as defined in subsection (a) of K.S.A.
18 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping,
19 as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and
20 amendments thereto, when the kidnapping or aggravated kidnapping was
21 committed with intent to commit a sex offense upon or with the child or
22 with intent that the child commit or submit to a sex offense.

23 (b) For purposes of this section, "sex offense" means rape, as defined
24 in K.S.A. 2012 Supp. 21-5503, and amendments thereto, aggravated
25 indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012
26 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as
27 defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments
28 thereto, ~~prostitution selling sexual relations~~, as defined in K.S.A. 2012
29 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ *the sale*
30 *of sexual relations*, as defined in K.S.A. 2012 Supp. 21-6420, and
31 amendments thereto, *commercial sexual exploitation of a child, as defined*
32 *in section 4, and amendments thereto*, or sexual exploitation of a child, as
33 defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

34 (c) Capital murder is an off-grid person felony.

35 Sec. 15. K.S.A. 2012 Supp. 21-5502 is hereby amended to read as
36 follows: 21-5502. (a) The provisions of this section shall apply only in a
37 prosecution for:

38 (1) Rape, as defined ~~by~~ *in* K.S.A. 2012 Supp. 21-5503, and
39 amendments thereto;

40 (2) indecent liberties with a child, as defined in subsection (a) of
41 K.S.A. 2012 Supp. 21-5506, and amendments thereto;

42 (3) aggravated indecent liberties with a child, as defined in subsection
43 (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

1 (4) criminal sodomy, as defined in subsections (a)(3) and (a)(4) of
2 K.S.A. 2012 Supp. 21-5504, and amendments thereto;

3 (5) aggravated criminal sodomy, as defined in subsection (b) of
4 K.S.A. 2012 Supp. 21-5504, and amendments thereto;

5 (6) aggravated indecent solicitation of a child, as defined in
6 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

7 (7) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-
8 5510, and amendments thereto;

9 (8) aggravated sexual battery, as defined in subsection (b) of K.S.A.
10 2012 Supp. 21-5505, and amendments thereto;

11 (9) incest, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5604,
12 and amendments thereto;

13 (10) aggravated incest, as defined in subsection (b) of K.S.A. 2012
14 Supp. 21-5604, and amendments thereto;

15 (11) indecent solicitation of a child, as defined in subsection (a) of
16 K.S.A. 2012 Supp. 21-5508, and amendments thereto;

17 (12) aggravated assault, as defined in subsection (b) of K.S.A. 2012
18 Supp. 21-5412, and amendments thereto, with intent to commit any crime
19 specified above;

20 (13) sexual battery, as defined in subsection (a) of K.S.A. 2012 Supp.
21 21-5505, and amendments thereto;

22 (14) unlawful voluntary sexual relations, as defined in K.S.A. 2012
23 Supp. 21-5507, and amendments thereto;

24 (15) aggravated *human* trafficking, as defined in subsections ~~(b)(1)~~
25 ~~(B)~~ and (b)(2) and (b)(4) of K.S.A. 2012 Supp. 21-5426, and amendments
26 thereto;

27 (16) *commercial sexual exploitation of a child*, as defined in section
28 4, and amendments thereto;

29 ~~(16)~~ (17) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-
30 5509, and amendments thereto; or

31 ~~(17)~~ (18) attempt, as defined in K.S.A. 2012 Supp. 21-5301, and
32 amendments thereto, or conspiracy, as defined in K.S.A. 2012 Supp. 21-
33 5302, and amendments thereto, to commit any crime specified above.

34 (b) Except as provided in subsection (c), in any prosecution to which
35 this section applies, evidence of the complaining witness' previous sexual
36 conduct with any person including the defendant shall not be admissible,
37 and no reference shall be made thereto in any proceeding before the court,
38 except under the following conditions: The defendant shall make a written
39 motion to the court to admit evidence or testimony concerning the
40 previous sexual conduct of the complaining witness. The motion shall be
41 made at least seven days before the commencement of the proceeding
42 unless that requirement is waived by the court. The motion shall state the
43 nature of such evidence or testimony and its relevancy and shall be

1 accompanied by an affidavit in which an offer of proof of the previous
2 sexual conduct of the complaining witness is stated. The motion, affidavits
3 and any supporting or responding documents of the motion shall not be
4 made available for examination without a written order of the court except
5 that such motion, affidavits and supporting and responding documents or
6 testimony when requested shall be made available to the defendant or the
7 defendant's counsel and to the prosecutor. The defendant, defendant's
8 counsel and prosecutor shall be prohibited from disclosing any matters
9 relating to the motion, affidavits and any supporting or responding
10 documents of the motion. The court shall conduct a hearing on the motion
11 in camera. At the conclusion of the hearing, if the court finds that evidence
12 proposed to be offered by the defendant regarding the previous sexual
13 conduct of the complaining witness is relevant and is not otherwise
14 inadmissible as evidence, the court may make an order stating what
15 evidence may be introduced by the defendant and the nature of the
16 questions to be permitted. The defendant may then offer evidence and
17 question witnesses in accordance with the order of the court.

18 (c) In any prosecution for a crime designated in subsection (a), the
19 prosecutor may introduce evidence concerning any previous sexual
20 conduct of the complaining witness, and the complaining witness may
21 testify as to any such previous sexual conduct. If such evidence or
22 testimony is introduced, the defendant may cross-examine the witness who
23 gives such testimony and offer relevant evidence limited specifically to the
24 rebuttal of such evidence or testimony introduced by the prosecutor or
25 given by the complaining witness.

26 (d) As used in this section, "complaining witness" means the alleged
27 victim of any crime designated in subsection (a), the prosecution of which
28 is subject to this section.

29 Sec. 16. K.S.A. 2012 Supp. 21-6419 is hereby amended to read as
30 follows: 21-6419. (a) ~~Prostitution~~ *Selling sexual relations* is performing
31 for hire, or offering or agreeing to perform for hire where there is an
32 exchange of value, any of the following acts:

- 33 (1) Sexual intercourse;
- 34 (2) sodomy; or
- 35 (3) manual or other bodily contact stimulation of the genitals of any
36 person with the intent to arouse or gratify the sexual desires of the offender
37 or another.

38 (b) ~~Prostitution~~ *Selling sexual relations* is a class B nonperson
39 misdemeanor.

40 (c) *It shall be an affirmative defense to any prosecution under this*
41 *section that the defendant committed the violation of this section because*
42 *such defendant was subjected to human trafficking or aggravated human*
43 *trafficking as defined by K.S.A. 2012 Supp. 21-5426, and amendments*

1 *thereto, or commercial sexual exploitation of a child as defined by section*
 2 *4, and amendments thereto.*

3 Sec. 17. K.S.A. 2012 Supp. 21-6420 is hereby amended to read as
 4 follows: 21-6420. (a) Promoting ~~prostitution~~ *the sale of sexual relations* is
 5 knowingly:

6 (1) Establishing, owning, maintaining or managing ~~a house of~~
 7 ~~prostitution~~ *any property, whether real or personal, where sexual relations*
 8 *are being sold or offered for sale by a person who is 18 years of age or*
 9 *older, or participating in the establishment, ownership, maintenance or*
 10 *management thereof;*

11 (2) permitting any ~~place~~ *property, whether real or personal, partially*
 12 *or wholly owned or controlled by the defendant to be used as a house of*
 13 ~~prostitution~~ *place where sexual relations are being sold or offered for sale*
 14 *by a person who is 18 years of age or older;*

15 (3) procuring a ~~prostitute for a house of prostitution~~ *person selling*
 16 *sexual relations who is 18 years of age or older for a place where sexual*
 17 *relations are being sold or offered for sale;*

18 (4) inducing another ~~to become a prostitute~~ *who is 18 years of age or*
 19 *older to become a person who sells sexual relations;*

20 (5) soliciting a patron for a ~~prostitute or for a house of prostitution~~ *a*
 21 *person 18 years of age or older who is selling sexual relations or for a*
 22 *place where sexual relations are being sold or offered for sale;*

23 (6) procuring a ~~prostitute~~ *person 18 years of age or older who is*
 24 *selling sexual relations for a patron;*

25 (7) procuring transportation for, paying for the transportation of, or
 26 transporting a person *18 years of age or older* within this state with the
 27 intention of assisting or promoting that person's engaging in ~~prostitution~~
 28 *the sale of sexual relations; or*

29 (8) being employed to perform any act which is prohibited by this
 30 section.

31 (b) (1) Promoting ~~prostitution~~ *the sale of sexual relations* is a:

32 (A) ~~Class A person misdemeanor when the prostitute is 16 or more~~
 33 ~~years of age~~ *Severity level 9, person felony, except as provided in*
 34 *subsection (b)(1)(B);*

35 (B) *severity level 7, person felony when the prostitute is 16 or more*
 36 ~~years of age and committed by a person who has, prior to the commission~~
 37 ~~of the crime, been convicted of promoting prostitution a violation of this~~
 38 ~~section, or any prior version of this section ; and~~

39 ~~(C) severity level 6, person felony when the prostitute is under 16~~
 40 ~~years of age, except as provided in subsection (b)(2).~~

41 ~~(b) (2) Promoting prostitution or attempt, conspiracy or criminal~~
 42 ~~solicitation to commit promoting prostitution is an off-grid person felony~~
 43 ~~when the offender is 18 years of age or older and the prostitute is less than~~

1 14 years of age.

2 (e) If the offender is 18 years of age or older and the victim is less
3 than 14 years of age, the provisions of:

4 (1) ~~Subsection (e) of K.S.A. 2012 Supp. 21-5301, and amendments~~
5 ~~thereto, shall not apply to a violation of attempting to commit the crime of~~
6 ~~promoting prostitution as described in subsection (b)(2);~~

7 (2) ~~subsection (e) of K.S.A. 2012 Supp. 21-5302, and amendments~~
8 ~~thereto, shall not apply to a violation of conspiracy to commit the crime of~~
9 ~~promoting prostitution as described in subsection (b)(2); and~~

10 (3) ~~subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments~~
11 ~~thereto, shall not apply to a violation of criminal solicitation to commit the~~
12 ~~crime of promoting prostitution as described in subsection (b)(2).~~

13 (2) *In addition to any other sentence imposed, a person convicted*
14 *under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more*
15 *than \$5,000. In addition to any other sentence imposed, a person*
16 *convicted under subsection (b)(1)(B) shall be fined not less than \$5,000.*
17 *All fines collected pursuant to this section shall be remitted to the human*
18 *trafficking victim assistance fund created by section 3, and amendments*
19 *thereto.*

20 Sec. 18. K.S.A. 2012 Supp. 21-6421 is hereby amended to read as
21 follows: 21-6421. (a) ~~Patronizing a prostitute~~ *Buying sexual relations* is
22 knowingly:

23 (1) ~~Entering or remaining in a house of prostitution place where~~
24 ~~sexual relations are being sold or offered for sale with intent to engage in~~
25 ~~manual or other bodily contact stimulation of the genitals of any person~~
26 ~~with the intent to arouse or gratify the sexual desires of the offender or~~
27 ~~another; sexual intercourse, sodomy or any unlawful sexual act with a~~
28 ~~prostitute person selling sexual relations who is 18 years of age or older;~~
29 or

30 (2) hiring a ~~prostitute~~ *person selling sexual relations who is 18 years*
31 *of age or older to engage in manual or other bodily contact stimulation of*
32 *the genitals of any person with the intent to arouse or gratify the sexual*
33 *desires of the offender or another, sexual intercourse, sodomy or any*
34 *unlawful sexual act.*

35 (b) ~~Patronizing a prostitute is a class C misdemeanor~~

36 (b) (1) *Buying sexual relations is a:*

37 (A) *Class A person misdemeanor, except as provided in subsection (b)*
38 *(1)(B);*

39 (B) *severity level 9, person felony when committed by a person who*
40 *has, prior to the commission of the crime, been convicted of a violation of*
41 *this section, or any prior version of this section.*

42 (2) *In addition to any other sentence imposed, a person convicted*
43 *under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other*

1 *sentence imposed, a person convicted under subsection (b)(1)(B) shall be*
2 *fined not less than \$5,000. All fines collected pursuant to this section shall*
3 *be remitted to the human trafficking victim assistance fund created by*
4 *section 3, and amendments thereto.*

5 *(3) In addition to any other sentence imposed, for any conviction*
6 *under this section, the court ~~shall~~ **may** order the person convicted to enter*
7 *into and complete a suitable educational and treatment program regarding*
8 *commercial sexual exploitation.*

9 *(c) (1) Nothing contained in this section shall be construed as*
10 *preventing any city from enacting ordinances, or any county from adopting*
11 *resolutions, declaring acts prohibited or made unlawful by this act as*
12 *unlawful or prohibited in such city or county and prescribing penalties for*
13 *violation thereof.*

14 *(2) The minimum penalty prescribed by any such ordinance or*
15 *resolution shall not be less than the minimum penalty prescribed by this*
16 *section for the same violation, and the maximum penalty in any such*
17 *ordinance or resolution shall not exceed the maximum penalty prescribed*
18 *for the same violation.*

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

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

38 *(b) Any person convicted of prostitution as defined in K.S.A. 21-3512,*
39 *prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-6419,*
40 *and amendments thereto, or who entered into a diversion agreement in*
41 *lieu of further criminal proceedings for such violation, may petition the*
42 *convicting court for the expungement of such conviction or diversion*
43 *agreement and related arrest records if:*

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

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

11 ~~(b)~~ (c) Except as provided in subsections ~~(e)~~, ~~(d)~~ and (e) and (f), no
12 person may petition for expungement until five or more years have elapsed
13 since the person satisfied the sentence imposed, the terms of a diversion
14 agreement or was discharged from probation, a community correctional
15 services program, parole, postrelease supervision, conditional release or a
16 suspended sentence, if such person was convicted of a class A, B or C
17 felony, or for crimes committed on or after July 1, 1993, if convicted of an
18 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
19 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
20 any felony ranked in severity levels 1 through 3 of the drug grid, or for
21 crimes committed on or after July 1, 2012, any felony ranked in severity
22 levels 1 through 4 of the drug grid, or:

23 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
24 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
25 prohibited by any law of another state which is in substantial conformity
26 with that statute;

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, or as prohibited by
30 any law of another state which is in substantial conformity with that
31 statute;

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

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

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

41 (6) failing to stop at the scene of an accident and perform the duties
42 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
43 amendments thereto, or required by a law of another state which is in

1 substantial conformity with those statutes;

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

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

5 ~~(e)~~ (d) No person may petition for expungement until 10 or more
6 years have elapsed since the person satisfied the sentence imposed, the
7 terms of a diversion agreement or was discharged from probation, a
8 community correctional services program, parole, postrelease supervision,
9 conditional release or a suspended sentence, if such person was convicted
10 of a violation of K.S.A. 8-1567, and amendments thereto, including any
11 diversion for such violation.

12 ~~(d)~~ (e) There shall be no expungement of convictions for the
13 following offenses or of convictions for an attempt to commit any of the
14 following offenses:

15 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
16 2012 Supp. 21-5503, and amendments thereto;

17 (2) indecent liberties with a child or aggravated indecent liberties
18 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
19 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

20 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
21 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
22 2012 Supp. 21-5504, and amendments thereto;

23 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
24 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

25 (5) indecent solicitation of a child or aggravated indecent solicitation
26 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
27 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

28 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
29 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

30 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
31 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

32 (8) endangering a child or aggravated endangering a child, as defined
33 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
34 21-5601, and amendments thereto;

35 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
36 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;

37 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
38 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

39 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
40 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

41 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
42 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

43 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to

1 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

2 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
3 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

4 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
5 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim
6 was less than 18 years of age at the time the crime was committed;

7 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
8 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

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

11 (18) any conviction for any offense in effect at any time prior to July
12 1, 2011, that is comparable to any offense as provided in this subsection.

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

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

23 (A) Defendant's full name;

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

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

27 (D) crime for which the defendant was arrested, convicted or
28 diverted;

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

30 (F) identity of the convicting court, arresting law enforcement
31 authority or diverting authority.

32 (2) Except as otherwise provided by law, a petition for expungement
33 shall be accompanied by a docket fee in the amount of \$100. On and after
34 April 12, 2012, through June 30, 2013, the supreme court may impose a
35 charge, not to exceed \$19 per case, to fund the costs of non-judicial
36 personnel. The charge established in this section shall be the only fee
37 collected or moneys in the nature of a fee collected for the case. Such
38 charge shall only be established by an act of the legislature and no other
39 authority is established by law or otherwise to collect a fee.

40 (3) All petitions for expungement shall be docketed in the original
41 criminal action. Any person who may have relevant information about the
42 petitioner may testify at the hearing. The court may inquire into the
43 background of the petitioner and shall have access to any reports or

1 records relating to the petitioner that are on file with the secretary of
2 corrections or the prisoner review board.

3 ~~(g)~~ (h) At the hearing on the petition, the court shall order the
4 petitioner's arrest record, conviction or diversion expunged if the court
5 finds that:

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

9 (2) the circumstances and behavior of the petitioner warrant the
10 expungement; and

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

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

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

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

26 (A) In any application for licensure as a private detective, private
27 detective agency, certification as a firearms trainer pursuant to K.S.A.
28 2012 Supp. 75-7b21, and amendments thereto, or employment as a
29 detective with a private detective agency, as defined by K.S.A. 75-7b01,
30 and amendments thereto; as security personnel with a private patrol
31 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
32 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
33 the department of ~~social and rehabilitation services for children and~~
34 *families*;

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

37 (C) to aid in determining the petitioner's qualifications for
38 employment with the Kansas lottery or for work in sensitive areas within
39 the Kansas lottery as deemed appropriate by the executive director of the
40 Kansas lottery;

41 (D) to aid in determining the petitioner's qualifications for executive
42 director of the Kansas racing and gaming commission, for employment
43 with the commission or for work in sensitive areas in parimutuel racing as

1 deemed appropriate by the executive director of the commission, or to aid
2 in determining qualifications for licensure or renewal of licensure by the
3 commission;

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

9 (F) upon application for a commercial driver's license under K.S.A.
10 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

21 (K) for applications received on and after July 1, 2006, to aid in
22 determining the petitioner's qualifications for a license to carry a concealed
23 weapon pursuant to the personal and family protection act, K.S.A. 2012
24 Supp. 75-7c01 et seq., and amendments thereto;

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

27 (4) the conviction may be disclosed in a subsequent prosecution for
28 an offense which requires as an element of such offense a prior conviction
29 of the type expunged; and

30 (5) upon commitment to the custody of the secretary of corrections,
31 any previously expunged record in the possession of the secretary of
32 corrections may be reinstated and the expungement disregarded, and the
33 record continued for the purpose of the new commitment.

34 (†) (j) Whenever a person is convicted of a crime, pleads guilty and
35 pays a fine for a crime, is placed on parole, postrelease supervision or
36 probation, is assigned to a community correctional services program, is
37 granted a suspended sentence or is released on conditional release, the
38 person shall be informed of the ability to expunge the arrest records or
39 conviction. Whenever a person enters into a diversion agreement, the
40 person shall be informed of the ability to expunge the diversion.

41 (†) (k) Subject to the disclosures required pursuant to subsection (h),
42 in any application for employment, license or other civil right or privilege,
43 or any appearance as a witness, a person whose arrest records, conviction

1 or diversion of a crime has been expunged under this statute may state that
2 such person has never been arrested, convicted or diverted of such crime,
3 but the expungement of a felony conviction does not relieve an individual
4 of complying with any state or federal law relating to the use or possession
5 of firearms by persons convicted of a felony.

6 ~~(k)~~ (l) Whenever the record of any arrest, conviction or diversion has
7 been expunged under the provisions of this section or under the provisions
8 of any other existing or former statute, the custodian of the records of
9 arrest, conviction, diversion and incarceration relating to that crime shall
10 not disclose the existence of such records, except when requested by:

11 (1) The person whose record was expunged;

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

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

18 (4) ~~the secretary of social and rehabilitation services~~ *the department*
19 *for children and families*, or a designee of the secretary, for the purpose of
20 obtaining information relating to employment in an institution, as defined
21 in K.S.A. 76-12a01, and amendments thereto, of the department ~~of social~~
22 ~~and rehabilitation services for children and families~~ of any person whose
23 record has been expunged;

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

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

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

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

40 (9) the governor or the Kansas racing and gaming commission, or a
41 designee of the commission, and the request is accompanied by a
42 statement that the request is being made to aid in determining
43 qualifications for executive director of the commission, for employment

- 1 with the commission, for work in sensitive areas in parimutuel racing as
2 deemed appropriate by the executive director of the commission or for
3 licensure, renewal of licensure or continued licensure by the commission;
- 4 (10) the Kansas racing and gaming commission, or a designee of the
5 commission, and the request is accompanied by a statement that the
6 request is being made to aid in determining qualifications of the following
7 under the Kansas expanded lottery act: (A) Lottery gaming facility
8 managers and prospective managers, racetrack gaming facility managers
9 and prospective managers, licensees and certificate holders; and (B) their
10 officers, directors, employees, owners, agents and contractors;
- 11 (11) the Kansas sentencing commission;
- 12 (12) the state gaming agency, and the request is accompanied by a
13 statement that the request is being made to aid in determining
14 qualifications: (A) To be an employee of the state gaming agency; or (B)
15 to be an employee of a tribal gaming commission or to hold a license
16 issued pursuant to a tribal-gaming compact;
- 17 (13) the Kansas securities commissioner or a designee of the
18 commissioner, and the request is accompanied by a statement that the
19 request is being made in conjunction with an application for registration as
20 a broker-dealer, agent, investment adviser or investment adviser
21 representative by such agency and the application was submitted by the
22 person whose record has been expunged;
- 23 (14) the Kansas commission on peace officers' standards and training
24 and the request is accompanied by a statement that the request is being
25 made to aid in determining certification eligibility as a law enforcement
26 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;
- 27 (15) a law enforcement agency and the request is accompanied by a
28 statement that the request is being made to aid in determining eligibility
29 for employment as a law enforcement officer as defined by K.S.A. 22-
30 2202, and amendments thereto;
- 31 (16) the attorney general and the request is accompanied by a
32 statement that the request is being made to aid in determining
33 qualifications for a license to carry a concealed weapon pursuant to the
34 personal and family protection act; or
- 35 (17) the Kansas bureau of investigation for the purposes of:
- 36 (A) Completing a person's criminal history record information within
37 the central repository, in accordance with K.S.A. 22-4701 et seq., and
38 amendments thereto; or
- 39 (B) providing information or documentation to the federal bureau of
40 investigation, in connection with the national instant criminal background
41 check system, to determine a person's qualification to possess a firearm.
- 42 (†) (m) The provisions of subsection (k)(17) shall apply to records
43 created prior to, on and after July 1, 2011.

1 Sec. 20. K.S.A. 2012 Supp. 21-6626 is hereby amended to read as
2 follows: 21-6626. (a) An aggravated habitual sex offender shall be
3 sentenced to imprisonment for life without the possibility of parole. Such
4 offender shall spend the remainder of the offender's natural life
5 incarcerated and in the custody of the secretary of corrections. An offender
6 who is sentenced to imprisonment for life without the possibility of parole
7 shall not be eligible for parole, probation, assignment to a community
8 correctional services program, conditional release, postrelease supervision,
9 or suspension, modification or reduction of sentence.

10 (b) Upon sentencing a defendant to imprisonment for life without the
11 possibility of parole, the court shall commit the defendant to the custody of
12 the secretary of corrections and the court shall state in the sentencing order
13 of the judgment form or journal entry, whichever is delivered with the
14 defendant to the correctional institution, that the defendant has been
15 sentenced to imprisonment for life without the possibility of parole.

16 (c) As used in this section:

17 (1) "Aggravated habitual sex offender" means a person who, on and
18 after July 1, 2006: (A) Has been convicted in this state of a sexually
19 violent crime, as described in subsection (c)(2)(A) through ~~(e)(2)(H) or~~ (c)
20 (2)(J) *or* (c)(2)(L); and (B) prior to the conviction of the felony under
21 subparagraph (A), has been convicted of two or more sexually violent
22 crimes;

23 (2) "Sexually violent crime" means:

24 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
25 2012 Supp. 21-5503, and amendments thereto;

26 (B) indecent liberties with a child or aggravated indecent liberties
27 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
28 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

29 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
30 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
31 2012 Supp. 21-5504, and amendments thereto;

32 (D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
33 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

34 (E) indecent solicitation of a child or aggravated indecent solicitation
35 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
36 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;

37 (F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
38 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

39 (G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
40 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

41 (H) aggravated incest, as defined in K.S.A. 21-3603, prior to its
42 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;

43 (I) *aggravated human trafficking, as defined in K.S.A. 21-3447, prior*

1 *to its repeal, or K.S.A. 2012 Supp. 21-5426, and amendments thereto, if*
2 *committed in whole or in part for the purpose of the sexual gratification of*
3 *the defendant or another;*

4 (J) *commercial sexual exploitation of a child, as defined in section 4,*
5 *and amendments thereto;*

6 (⊕) (K) any federal or other state conviction for a felony offense that
7 under the laws of this state would be a sexually violent crime as defined in
8 this section;

9 (⊕) (L) an attempt, conspiracy or criminal solicitation, as defined in
10 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
11 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a
12 sexually violent crime as defined in this section; or

13 (⊕) (M) any act which at the time of sentencing for the offense has
14 been determined beyond a reasonable doubt to have been sexually
15 motivated. As used in this subparagraph, "sexually motivated" means that
16 one of the purposes for which the defendant committed the crime was for
17 the purpose of the defendant's sexual gratification.

18 Sec. 21. K.S.A. 2012 Supp. 21-6627 is hereby amended to read as
19 follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a
20 defendant who is 18 years of age or older and is convicted of the following
21 crimes committed on or after July 1, 2006, shall be sentenced to a term of
22 imprisonment for life with a mandatory minimum term of imprisonment of
23 not less than 25 years unless the court determines that the defendant
24 should be sentenced as determined in subsection (a)(2):

25 (A) Aggravated human trafficking, as defined in *subsection (b) of*
26 *K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less*
27 *than 14 years of age;*

28 (B) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
29 5503, and amendments thereto;

30 (C) aggravated indecent liberties with a child, as defined in
31 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

32 (D) aggravated criminal sodomy, as defined in subsection (b)(1) or
33 (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

34 ~~(E) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
35 ~~and amendments thereto, if the prostitute is less than 14 years of age-~~
36 *commercial sexual exploitation of a child, as defined in section 4, and*
37 *amendments thereto, if the victim is less than 14 years of age;*

38 (F) sexual exploitation of a child, as defined in subsection (a)(1) or
39 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the child
40 is less than 14 years of age; and

41 (G) an attempt, conspiracy or criminal solicitation, as defined in
42 K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments
43 thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F).

1 (2) The provision of subsection (a)(1) requiring a mandatory
2 minimum term of imprisonment of not less than 25 years shall not apply if
3 the court finds:

4 (A) The defendant is an aggravated habitual sex offender and
5 sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments
6 thereto; or

7 (B) the defendant, because of the defendant's criminal history
8 classification, is subject to presumptive imprisonment pursuant to the
9 sentencing guidelines grid for nondrug crimes and the sentencing range
10 exceeds 300 months. In such case, the defendant is required to serve a
11 mandatory minimum term equal to the sentence established pursuant to the
12 sentencing range.

13 (b) (1) On and after July 1, 2006, if a defendant who is 18 years of
14 age or older is convicted of a crime listed in subsection (a)(1) and such
15 defendant has previously been convicted of a crime listed in subsection (a)
16 (1), a crime in effect at any time prior to July 1, 2011, which is
17 substantially the same as a crime listed in subsection (a)(1) or a crime
18 under a law of another jurisdiction which is substantially the same as a
19 crime listed in subsection (a)(1), the court shall sentence the defendant to a
20 term of imprisonment for life with a mandatory minimum term of
21 imprisonment of not less than 40 years. The provisions of this paragraph
22 shall not apply to a crime committed under K.S.A. 2012 Supp. 21-5507,
23 and amendments thereto, or a crime under a law of another jurisdiction
24 which is substantially the same as K.S.A. 2012 Supp. 21-5507, and
25 amendments thereto.

26 (2) The provision of subsection (b)(1) requiring a mandatory
27 minimum term of imprisonment of not less than 40 years shall not apply if
28 the court finds:

29 (A) The defendant is an aggravated habitual sex offender and
30 sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments
31 thereto; or

32 (B) the defendant, because of the defendant's criminal history
33 classification, is subject to presumptive imprisonment pursuant to the
34 sentencing guidelines grid for nondrug crimes and the sentencing range
35 exceeds 480 months. In such case, the defendant is required to serve a
36 mandatory minimum term equal to the sentence established pursuant to the
37 sentencing range.

38 (c) When a person is sentenced pursuant to subsection (a) or (b), such
39 person shall be sentenced to a mandatory minimum term of imprisonment
40 of not less than 25 years, 40 years or be sentenced as determined in
41 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
42 not be eligible for probation or suspension, modification or reduction of
43 sentence. In addition, a person sentenced pursuant to this section shall not

1 be eligible for parole prior to serving such mandatory term of
2 imprisonment, and such imprisonment shall not be reduced by the
3 application of good time credits.

4 (d) (1) On or after July 1, 2006, for a first time conviction of an
5 offense listed in subsection (a)(1), the sentencing judge shall impose the
6 mandatory minimum term of imprisonment provided by subsection (a),
7 unless the judge finds substantial and compelling reasons, following a
8 review of mitigating circumstances, to impose a departure. If the
9 sentencing judge departs from such mandatory minimum term of
10 imprisonment, the judge shall state on the record at the time of sentencing
11 the substantial and compelling reasons for the departure. The departure
12 sentence shall be the sentence pursuant to the revised Kansas sentencing
13 guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated,
14 and amendments thereto, and, subject to the provisions of K.S.A. 2012
15 Supp. 21-6818, and amendments thereto, no sentence of a mandatory
16 minimum term of imprisonment shall be imposed hereunder.

17 (2) As used in this subsection, "mitigating circumstances" shall
18 include, but are not limited to, the following:

19 (A) The defendant has no significant history of prior criminal
20 activity;

21 (B) the crime was committed while the defendant was under the
22 influence of extreme mental or emotional disturbances;

23 (C) the victim was an accomplice in the crime committed by another
24 person, and the defendant's participation was relatively minor;

25 (D) the defendant acted under extreme distress or under the
26 substantial domination of another person;

27 (E) the capacity of the defendant to appreciate the criminality of the
28 defendant's conduct or to conform the defendant's conduct to the
29 requirements of law was substantially impaired; and

30 (F) the age of the defendant at the time of the crime.

31 (e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to
32 their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and
33 amendments thereto, shall not apply to any defendant sentenced pursuant
34 to this section.

35 Sec. 22. K.S.A. 2012 Supp. 21-6806 is hereby amended to read as
36 follows: 21-6806. (a) Sentences of imprisonment shall represent the
37 time a person shall actually serve, subject to a reduction of the primary
38 sentence for good time as authorized by K.S.A. 2012 Supp. 21-6821, and
39 amendments thereto.

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

41 (c) Violations of K.S.A. 2012 Supp. 21-5401, 21-5402, 21-5421, 21-
42 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
43 purpose of sentencing. Except as otherwise provided by K.S.A. 2012

1 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625, 21-6628
2 and 21-6629, and amendments thereto, the sentence shall be imprisonment
3 for life and shall not be subject to statutory provisions for suspended
4 sentence, community service or probation.

5 (d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504,
6 21-5506, 21-5510 and ~~21-6420~~ *section 4*, and amendments thereto, if the
7 offender is 18 years of age or older and the victim is under 14 years of age,
8 such violations are off-grid crimes for the purposes of sentencing. Except
9 as provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the
10 sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-
11 6627, and amendments thereto.

12 Sec. 23. K.S.A. 2012 Supp. 21-6815 is hereby amended to read as
13 follows: 21-6815. (a) Except as provided in subsection (b), the
14 sentencing judge shall impose the presumptive sentence provided by the
15 sentencing guidelines unless the judge finds substantial and compelling
16 reasons to impose a departure sentence. If the sentencing judge departs
17 from the presumptive sentence, the judge shall state on the record at the
18 time of sentencing the substantial and compelling reasons for the
19 departure.

20 (b) Subject to the provisions of subsection (b) of K.S.A. 2012 Supp.
21 21-6817, and amendments thereto, any fact that would increase the penalty
22 for a crime beyond the statutory maximum, other than a prior conviction,
23 shall be submitted to a jury and proved beyond a reasonable doubt.

24 (c) (1) Subject to the provisions of subsections (c)(3) and (e), the
25 following nonexclusive list of mitigating factors may be considered in
26 determining whether substantial and compelling reasons for a departure
27 exist:

28 (A) The victim was an aggressor or participant in the criminal
29 conduct associated with the crime of conviction.

30 (B) The offender played a minor or passive role in the crime or
31 participated under circumstances of duress or compulsion. This factor may
32 be considered when it is not sufficient as a complete defense.

33 (C) The offender, because of physical or mental impairment, lacked
34 substantial capacity for judgment when the offense was committed. The
35 voluntary use of intoxicants, drugs or alcohol does not fall within the
36 purview of this factor.

37 (D) The defendant, or the defendant's children, suffered a continuing
38 pattern of physical or sexual abuse by the victim of the offense and the
39 offense is a response to that abuse.

40 (E) The degree of harm or loss attributed to the current crime of
41 conviction was significantly less than typical for such an offense.

42 (2) Subject to the provisions of subsection (c)(3), the following
43 nonexclusive list of aggravating factors may be considered in determining

1 whether substantial and compelling reasons for departure exist:

2 (A) The victim was particularly vulnerable due to age, infirmity, or
3 reduced physical or mental capacity which was known or should have
4 been known to the offender.

5 (B) The defendant's conduct during the commission of the current
6 offense manifested excessive brutality to the victim in a manner not
7 normally present in that offense.

8 (C) The offense was motivated entirely or in part by the race, color,
9 religion, ethnicity, national origin or sexual orientation of the victim or the
10 offense was motivated by the defendant's belief or perception, entirely or
11 in part, of the race, color, religion, ethnicity, national origin or sexual
12 orientation of the victim whether or not the defendant's belief or perception
13 was correct.

14 (D) The offense involved a fiduciary relationship which existed
15 between the defendant and the victim.

16 (E) The defendant, 18 or more years of age, employed, hired, used,
17 persuaded, induced, enticed or coerced any individual under 16 years of
18 age to:

19 (i) Commit any person felony;

20 (ii) assist in avoiding detection or apprehension for commission of
21 any person felony; or

22 (iii) attempt, conspire or solicit, as defined in K.S.A. 2012 Supp. 21-
23 5301, 21-5302 and 21-5303, and amendments thereto, to commit any
24 person felony.

25 That the defendant did not know the age of the individual under 16
26 years of age shall not be a consideration.

27 (F) The defendant's current crime of conviction is a crime of extreme
28 sexual violence and the defendant is a predatory sex offender. As used in
29 this subsection:

30 (i) "Crime of extreme sexual violence" is a felony limited to the
31 following:

32 (a) A crime involving a nonconsensual act of sexual intercourse or
33 sodomy with any person;

34 (b) a crime involving an act of sexual intercourse, sodomy or lewd
35 fondling and touching with any child who is 14 or more years of age but
36 less than 16 years of age and with whom a relationship has been
37 established or promoted for the primary purpose of victimization; or

38 (c) a crime involving an act of sexual intercourse, sodomy or lewd
39 fondling and touching with any child who is less than 14 years of age; ;

40 (d) *aggravated human trafficking, as defined in K.S.A. 2012 Supp.*
41 *21-5426, and amendments thereto, if the victim is less than 14 years of*
42 *age; or*

43 (e) *commercial sexual exploitation of a child, as defined in section 4,*

1 *and amendments thereto, if the victim is less than 14 years of age.*

2 (ii) "Predatory sex offender" is an offender who has been convicted of
3 a crime of extreme sexual violence as the current crime of conviction and
4 who:

5 (a) Has one or more prior convictions of any crimes of extreme
6 sexual violence. Any prior conviction used to establish the defendant as a
7 predatory sex offender pursuant to this subsection shall also be counted in
8 determining the criminal history category; or

9 (b) suffers from a mental condition or personality disorder which
10 makes the offender likely to engage in additional acts constituting crimes
11 of extreme sexual violence.

12 (iii) "Mental condition or personality disorder" means an emotional,
13 mental or physical illness, disease, abnormality, disorder, pathology or
14 condition which motivates the person, affects the predisposition or desires
15 of the person, or interferes with the capacity of the person to control
16 impulses to commit crimes of extreme sexual violence.

17 (G) The defendant was incarcerated during the commission of the
18 offense.

19 (H) The crime involved two or more participants in the criminal
20 conduct, and the defendant played a major role in the crime as the
21 organizer, leader, recruiter, manager or supervisor.

22 In determining whether aggravating factors exist as provided in this
23 section, the court shall review the victim impact statement.

24 (3) If a factual aspect of a crime is a statutory element of the crime or
25 is used to subclassify the crime on the crime severity scale, that aspect of
26 the current crime of conviction may be used as an aggravating or
27 mitigating factor only if the criminal conduct constituting that aspect of the
28 current crime of conviction is significantly different from the usual
29 criminal conduct captured by the aspect of the crime.

30 (d) In determining aggravating or mitigating circumstances, the court
31 shall consider:

32 (1) Any evidence received during the proceeding;

33 (2) the presentence report;

34 (3) written briefs and oral arguments of either the state or counsel for
35 the defendant; and

36 (4) any other evidence relevant to such aggravating or mitigating
37 circumstances that the court finds trustworthy and reliable.

38 (e) Upon motion of the prosecutor stating that the defendant has
39 provided substantial assistance in the investigation or prosecution of
40 another person who is alleged to have committed an offense, the court may
41 consider such mitigation in determining whether substantial and
42 compelling reasons for a departure exist. In considering this mitigating
43 factor, the court may consider the following:

1 (1) The court's evaluation of the significance and usefulness of the
2 defendant's assistance, taking into consideration the prosecutor's
3 evaluation of the assistance rendered;

4 (2) the truthfulness, completeness and reliability of any information
5 or testimony provided by the defendant;

6 (3) the nature and extent of the defendant's assistance;

7 (4) any injury suffered, or any danger or risk of injury to the
8 defendant or the defendant's family resulting from such assistance; and

9 (5) the timeliness of the defendant's assistance.

10 Sec. 24. K.S.A. 2012 Supp. 22-2515 is hereby amended to read as
11 follows: 22-2515. (a) An ex parte order authorizing the interception of a
12 wire, oral or electronic communication may be issued by a judge of
13 competent jurisdiction. The attorney general, district attorney or county
14 attorney may make an application to any judge of competent jurisdiction
15 for an order authorizing the interception of a wire, oral or electronic
16 communication by an investigative or law enforcement officer and agency
17 having responsibility for the investigation of the offense regarding which
18 the application is made, when such interception may provide evidence of
19 the commission of any of the following offenses:

20 (1) Any crime directly and immediately affecting the safety of a
21 human life which is a felony;

22 (2) murder;

23 (3) kidnapping;

24 (4) treason;

25 (5) sedition;

26 (6) racketeering;

27 (7) commercial bribery;

28 (8) robbery;

29 (9) theft, if the offense would constitute a felony;

30 (10) bribery;

31 (11) any felony violation of K.S.A. 2012 Supp. 21-5701 through 21-
32 5717, and amendments thereto;

33 (12) commercial gambling;

34 (13) sports bribery;

35 (14) tampering with a sports contest;

36 (15) aggravated escape;

37 (16) aggravated failure to appear;

38 (17) arson;

39 (18) terrorism;

40 (19) illegal use of weapons of mass destruction; ~~or~~

41 (20) *human trafficking or aggravated human trafficking*;

42 (21) *sexual exploitation of a child*;

43 (22) *commercial sexual exploitation of a child*;

1 (23) *buying sexual relations or selling sexual relations; or*

2 ~~(20)~~ (24) any conspiracy to commit any of the foregoing offenses.

3 (b) Any investigative or law enforcement officer who, by any means
4 authorized by this act or by chapter 119 of title 18 of the United States
5 code, has obtained knowledge of the contents of any wire, oral or
6 electronic communication, or evidence derived therefrom, may disclose
7 such contents to another investigative or law enforcement officer to the
8 extent that such disclosure is appropriate to the proper performance of the
9 official duties of the officer making or receiving the disclosure.

10 (c) Any investigative or law enforcement officer who, by any means
11 authorized by this act or by chapter 119 of title 18 of the United States
12 code, has obtained knowledge of the contents of any wire, oral or
13 electronic communication, or evidence derived therefrom, may use such
14 contents to the extent such use is appropriate to the proper performance of
15 such officer's official duties.

16 (d) Any person who has received, by any means authorized by this
17 act or by chapter 119 of title 18 of the United States code or by a like
18 statute of any other state, any information concerning a wire, oral or
19 electronic communication, or evidence derived therefrom, intercepted in
20 accordance with the provisions of this act, may disclose the contents of
21 such communication or such derivative evidence while giving testimony
22 under oath or affirmation in any criminal proceeding in any court, or
23 before any grand jury, of this state or of the United States or of any other
24 state.

25 (e) No otherwise privileged wire, oral or electronic communication
26 intercepted in accordance with, or in violation of, the provisions of this act
27 or of chapter 119 of title 18 of the United States code shall lose its
28 privileged character.

29 (f) When an investigative or law enforcement officer, while engaged
30 in intercepting wire, oral or electronic communications in the manner
31 authorized by this act, intercepts wire, oral or electronic communications
32 relating to offenses other than those specified in the order authorizing the
33 interception of the wire, oral or electronic communication, the contents
34 thereof and evidence derived therefrom may be disclosed or used as
35 provided in subsections (b) and (c) of this section. Such contents and
36 evidence derived therefrom may be used under subsection (d) of this
37 section when authorized or approved by a judge of competent jurisdiction,
38 where such judge finds on subsequent application, made as soon as
39 practicable, that the contents were otherwise intercepted in accordance
40 with the provisions of this act, or with chapter 119 of title 18 of the United
41 States code.

42 Sec. 25. K.S.A. 22-2530 is hereby amended to read as follows: 22-
43 2530. If a search warrant is executed which authorizes a search of real

1 property based upon an alleged offense involving gambling, obscenity,
 2 ~~prostitution~~ *selling sexual relations*, controlled substances or liquor, a copy
 3 of the warrant shall be delivered to the last known address of the owner of
 4 the property within two business days, excluding Saturdays, Sundays and
 5 legal holidays, after execution of the warrant if such address is different
 6 from the address of the property for which the warrant was issued.

7 Sec. 26. K.S.A. 2012 Supp. 22-3601 is hereby amended to read as
 8 follows: 22-3601. (a) Any appeal permitted to be taken from a district
 9 court's final judgment in a criminal case shall be taken to the court of
 10 appeals, except in those cases reviewable by law in the district court or in
 11 which a direct appeal to the supreme court is required. Whenever an
 12 interlocutory appeal is permitted in a criminal case in the district court,
 13 such appeal shall be taken to the court of appeals.

14 (b) Any appeal permitted to be taken from a district court's final
 15 judgment in a criminal case shall be taken directly to the supreme court in
 16 the following cases:

17 (1) Any case in which a statute of this state or of the United States
 18 has been held unconstitutional;

19 (2) any case in which the defendant has been convicted of a class A
 20 felony;

21 (3) any case in which a maximum sentence of life imprisonment has
 22 been imposed, unless the maximum sentence has been imposed pursuant to
 23 K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and
 24 amendments thereto; and

25 (4) except as provided further, any case in which the crime was
 26 committed on or after July 1, 1993, and the defendant has been convicted
 27 of an off-grid crime. The provisions of this paragraph shall not apply to
 28 any case in which the off-grid crime was:

29 (A) Aggravated human trafficking, subsection (c)(2)(B) of K.S.A.
 30 2012 Supp. 21-5426, and amendments thereto;

31 (B) rape, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5503, and
 32 amendments thereto;

33 (C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A.
 34 2012 Supp. 21-5504, and amendments thereto;

35 (D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii)
 36 of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

37 (E) sexual exploitation of a child, subsection (b)(2)(B) of K.S.A.
 38 2012 Supp. 21-5510, and amendments thereto;

39 (F) ~~promoting prostitution, subsection (b)(4) of K.S.A. 2012 Supp.~~
 40 ~~21-6420, and amendments thereto~~ *commercial sexual exploitation of a*
 41 *child, subsection (b)(2) of section 4, and amendments thereto;* or

42 (G) an attempt, conspiracy or criminal solicitation, as defined in
 43 K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-3503, and amendments

1 thereto, of any such felony.

2 Sec. 27. K.S.A. 2012 Supp. 22-3717 is hereby amended to read as
3 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
4 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
5 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
6 prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-6623, 21-
7 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
8 and amendments thereto; an inmate, including an inmate sentenced
9 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012 Supp. 21-
10 6707, and amendments thereto, shall be eligible for parole after serving the
11 entire minimum sentence imposed by the court, less good time credits.

12 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
13 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
14 6625, and amendments thereto, an inmate sentenced to imprisonment for
15 the crime of capital murder, or an inmate sentenced for the crime of
16 murder in the first degree based upon a finding of premeditated murder,
17 committed on or after July 1, 1994, shall be eligible for parole after
18 serving 25 years of confinement, without deduction of any good time
19 credits.

20 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
21 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
22 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
23 6625, and amendments thereto, an inmate sentenced to imprisonment for
24 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
25 1999, shall be eligible for parole after serving 15 years of confinement,
26 without deduction of any good time credits and an inmate sentenced to
27 imprisonment for an off-grid offense committed on or after July 1, 1999,
28 shall be eligible for parole after serving 20 years of confinement without
29 deduction of any good time credits.

30 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
31 repeal, an inmate sentenced for a class A felony committed before July 1,
32 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
33 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
34 be eligible for parole after serving 15 years of confinement, without
35 deduction of any good time credits.

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

41 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
42 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
43 thereto, committed on or after July 1, 2006, shall be eligible for parole

1 after serving the mandatory term of imprisonment without deduction of
2 any good time credits.

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

7 (A) The aggregate minimum sentences, as determined pursuant to
8 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2012 Supp. 21-6606, and
9 amendments thereto, less good time credits for those crimes which are not
10 class A felonies; and

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

13 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
14 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
15 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
16 eligible for parole after serving the mandatory term of imprisonment.

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

22 (A) Except as provided in subparagraphs (D) and (E), persons
23 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
24 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
25 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
26 July 1, 2012, must serve 36 months, plus the amount of good time and
27 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
28 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on
29 postrelease supervision.

30 (B) Except as provided in subparagraphs (D) and (E), persons
31 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
32 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
33 drug severity level 4 crimes committed on or after July 1, 2012, must serve
34 24 months, plus the amount of good time and program credit earned and
35 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012
36 Supp. 21-6821, and amendments thereto, on postrelease supervision.

37 (C) Except as provided in subparagraphs (D) and (E), persons
38 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
39 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
40 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
41 must serve 12 months, plus the amount of good time and program credit
42 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or
43 K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease

1 supervision.

2 (D) (i) The sentencing judge shall impose the postrelease supervision
3 period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless
4 the judge finds substantial and compelling reasons to impose a departure
5 based upon a finding that the current crime of conviction was sexually
6 motivated. In that event, departure may be imposed to extend the
7 postrelease supervision to a period of up to 60 months.

8 (ii) If the sentencing judge departs from the presumptive postrelease
9 supervision period, the judge shall state on the record at the time of
10 sentencing the substantial and compelling reasons for the departure.
11 Departures in this section are subject to appeal pursuant to K.S.A. 21-
12 4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments
13 thereto.

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

16 (a) Written briefs or oral arguments submitted by either the defendant
17 or the state;

18 (b) any evidence received during the proceeding;

19 (c) the presentence report, the victim's impact statement and any
20 psychological evaluation as ordered by the court pursuant to subsection (e)
21 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2012
22 Supp. 21-6813, and amendments thereto; and

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

24 (iv) The sentencing judge may order that a psychological evaluation
25 be prepared and the recommended programming be completed by the
26 offender. The department of corrections or the prisoner review board shall
27 ensure that court ordered sex offender treatment be carried out.

28 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
29 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-
30 6817, and amendments thereto.

31 (vi) Upon petition, the prisoner review board may provide for early
32 discharge from the postrelease supervision period upon completion of
33 court ordered programs and completion of the presumptive postrelease
34 supervision period, as determined by the crime of conviction, pursuant to
35 subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from
36 postrelease supervision is at the discretion of the board.

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

40 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
41 repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto, shall be
42 required to participate in a treatment program for sex offenders during the
43 postrelease supervision period.

1 (E) The period of postrelease supervision provided in subparagraphs
2 (A) and (B) may be reduced by up to 12 months and the period of
3 postrelease supervision provided in subparagraph (C) may be reduced by
4 up to six months based on the offender's compliance with conditions of
5 supervision and overall performance while on postrelease supervision. The
6 reduction in the supervision period shall be on an earned basis pursuant to
7 rules and regulations adopted by the secretary of corrections.

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

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

17 (2) As used in this subsection, "sexually violent crime" means:

18 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp.
19 21-5503, and amendments thereto;

20 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
21 or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

22 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
23 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and
24 amendments thereto;

25 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
26 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-
27 5504, and amendments thereto;

28 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
29 or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

30 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
31 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

32 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
33 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and
34 amendments thereto;

35 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
36 or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

37 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
38 subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

39 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
40 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto; ~~or~~

41 (K) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
42 *prior to its repeal, or K.S.A. 2012 Supp. 21-5426, and amendments*
43 *thereto, if committed in whole or in part for the purpose of the sexual*

1 *gratification of the defendant or another;*

2 (L) *commercial sexual exploitation of a child, as defined in section 4,*
3 *and amendments thereto; or*

4 ~~(K)~~ (M) *an attempt, conspiracy or criminal solicitation, as defined in*
5 *K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012*
6 *Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a*
7 *sexually violent crime as defined in this section.*

8 (3) As used in this subsection, "sexually motivated" means that one of
9 the purposes for which the defendant committed the crime was for the
10 purpose of the defendant's sexual gratification.

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

18 (f) If a person is sentenced to prison for a crime committed on or after
19 July 1, 1993, while on probation, parole, conditional release or in a
20 community corrections program, for a crime committed prior to July 1,
21 1993, and the person is not eligible for retroactive application of the
22 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
23 4724, prior to its repeal, the new sentence shall not be aggregated with the
24 old sentence, but shall begin when the person is paroled or reaches the
25 conditional release date on the old sentence. If the offender was past the
26 offender's conditional release date at the time the new offense was
27 committed, the new sentence shall not be aggregated with the old sentence
28 but shall begin when the person is ordered released by the prisoner review
29 board or reaches the maximum sentence expiration date on the old
30 sentence, whichever is earlier. The new sentence shall then be served as
31 otherwise provided by law. The period of postrelease supervision shall be
32 based on the new sentence, except that those offenders whose old sentence
33 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
34 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
35 term of life imprisonment, for which there is no conditional release or
36 maximum sentence expiration date, shall remain on postrelease
37 supervision for life or until discharged from supervision by the prisoner
38 review board.

39 (g) Subject to the provisions of this section, the prisoner review board
40 may release on parole those persons confined in institutions who are
41 eligible for parole when: (1) The board believes that the inmate should be
42 released for hospitalization, deportation or to answer the warrant or other
43 process of a court and is of the opinion that there is reasonable probability

1 that the inmate can be released without detriment to the community or to
2 the inmate; or (2) the secretary of corrections has reported to the board in
3 writing that the inmate has satisfactorily completed the programs required
4 by any agreement entered under K.S.A. 75-5210a, and amendments
5 thereto, or any revision of such agreement, and the board believes that the
6 inmate is able and willing to fulfill the obligations of a law abiding citizen
7 and is of the opinion that there is reasonable probability that the inmate
8 can be released without detriment to the community or to the inmate.
9 Parole shall not be granted as an award of clemency and shall not be
10 considered a reduction of sentence or a pardon.

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

1 in prison; the reports of such physical and mental examinations as have
2 been made, including, but not limited to, risk factors revealed by any risk
3 assessment of the inmate; comments of the victim and the victim's family
4 including in person comments, contemporaneous comments and
5 prerecorded comments made by any technological means; comments of
6 the public; official comments; any recommendation by the staff of the
7 facility where the inmate is incarcerated; proportionality of the time the
8 inmate has served to the sentence a person would receive under the Kansas
9 sentencing guidelines for the conduct that resulted in the inmate's
10 incarceration; and capacity of state correctional institutions.

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

21 (j) (1) Before ordering the parole of any inmate, the prisoner review
22 board shall have the inmate appear either in person or via a video
23 conferencing format and shall interview the inmate unless impractical
24 because of the inmate's physical or mental condition or absence from the
25 institution. Every inmate while on parole shall remain in the legal custody
26 of the secretary of corrections and is subject to the orders of the secretary.
27 Whenever the board formally considers placing an inmate on parole and
28 no agreement has been entered into with the inmate under K.S.A. 75-
29 5210a, and amendments thereto, the board shall notify the inmate in
30 writing of the reasons for not granting parole. If an agreement has been
31 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
32 has not satisfactorily completed the programs specified in the agreement,
33 or any revision of such agreement, the board shall notify the inmate in
34 writing of the specific programs the inmate must satisfactorily complete
35 before parole will be granted. If parole is not granted only because of a
36 failure to satisfactorily complete such programs, the board shall grant
37 parole upon the secretary's certification that the inmate has successfully
38 completed such programs. If an agreement has been entered under K.S.A.
39 75-5210a, and amendments thereto, and the secretary of corrections has
40 reported to the board in writing that the inmate has satisfactorily
41 completed the programs required by such agreement, or any revision
42 thereof, the board shall not require further program participation.
43 However, if the board determines that other pertinent information

1 regarding the inmate warrants the inmate's not being released on parole,
2 the board shall state in writing the reasons for not granting the parole. If
3 parole is denied for an inmate sentenced for a crime other than a class A or
4 class B felony or an off-grid felony, the board shall hold another parole
5 hearing for the inmate not later than one year after the denial unless the
6 board finds that it is not reasonable to expect that parole would be granted
7 at a hearing if held in the next three years or during the interim period of a
8 deferral. In such case, the board may defer subsequent parole hearings for
9 up to three years but any such deferral by the board shall require the board
10 to state the basis for its findings. If parole is denied for an inmate
11 sentenced for a class A or class B felony or an off-grid felony, the board
12 shall hold another parole hearing for the inmate not later than three years
13 after the denial unless the board finds that it is not reasonable to expect
14 that parole would be granted at a hearing if held in the next 10 years or
15 during the interim period of a deferral. In such case, the board may defer
16 subsequent parole hearings for up to 10 years, but any such deferral shall
17 require the board to state the basis for its findings.

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

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

29 (2) Parolees and persons on postrelease supervision are, and shall
30 agree in writing to be, subject to search or seizure by a parole officer or a
31 department of corrections enforcement, apprehension and investigation
32 officer, at any time of the day or night, with or without a search warrant
33 and with or without cause. Nothing in this subsection shall be construed to
34 authorize such officers to conduct arbitrary or capricious searches or
35 searches for the sole purpose of harassment.

36 (3) Parolees and persons on postrelease supervision are, and shall
37 agree in writing to be, subject to search or seizure by any law enforcement
38 officer based on reasonable suspicion of the person violating conditions of
39 parole or postrelease supervision or reasonable suspicion of criminal
40 activity. Any law enforcement officer who conducts such a search shall
41 submit a written report to the appropriate parole officer no later than the
42 close of the next business day after such search. The written report shall
43 include the facts leading to such search, the scope of such search and any

1 findings resulting from such search.

2 (l) The prisoner review board shall promulgate rules and regulations
3 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
4 inconsistent with the law and as it may deem proper or necessary, with
5 respect to the conduct of parole hearings, postrelease supervision reviews,
6 revocation hearings, orders of restitution, reimbursement of expenditures
7 by the state board of indigents' defense services and other conditions to be
8 imposed upon parolees or releasees. Whenever an order for parole or
9 postrelease supervision is issued it shall recite the conditions thereof.

10 (m) Whenever the prisoner review board orders the parole of an
11 inmate or establishes conditions for an inmate placed on postrelease
12 supervision, the board:

13 (1) Unless it finds compelling circumstances which would render a
14 plan of payment unworkable, shall order as a condition of parole or
15 postrelease supervision that the parolee or the person on postrelease
16 supervision pay any transportation expenses resulting from returning the
17 parolee or the person on postrelease supervision to this state to answer
18 criminal charges or a warrant for a violation of a condition of probation,
19 assignment to a community correctional services program, parole,
20 conditional release or postrelease supervision;

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

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

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

34 (5) unless it finds compelling circumstances which would render a
35 plan of payment unworkable, shall order that the parolee or person on
36 postrelease supervision reimburse the state for all or part of the
37 expenditures by the state board of indigents' defense services to provide
38 counsel and other defense services to the person. In determining the
39 amount and method of payment of such sum, the prisoner review board
40 shall take account of the financial resources of the person and the nature of
41 the burden that the payment of such sum will impose. Such amount shall
42 not exceed the amount claimed by appointed counsel on the payment
43 voucher for indigents' defense services or the amount prescribed by the

1 board of indigents' defense services reimbursement tables as provided in
2 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
3 previous payments for such services;

4 (6) shall order that the parolee or person on postrelease supervision
5 agree in writing to be subject to search or seizure by a parole officer or a
6 department of corrections enforcement, apprehension and investigation
7 officer, at any time of the day or night, with or without a search warrant
8 and with or without cause. Nothing in this subsection shall be construed to
9 authorize such officers to conduct arbitrary or capricious searches or
10 searches for the sole purpose of harassment; and

11 (7) shall order that the parolee or person on postrelease supervision
12 agree in writing to be subject to search or seizure by any law enforcement
13 officer based on reasonable suspicion of the person violating conditions of
14 parole or postrelease supervision or reasonable suspicion of criminal
15 activity.

16 (n) If the court which sentenced an inmate specified at the time of
17 sentencing the amount and the recipient of any restitution ordered as a
18 condition of parole or postrelease supervision, the prisoner review board
19 shall order as a condition of parole or postrelease supervision that the
20 inmate pay restitution in the amount and manner provided in the journal
21 entry unless the board finds compelling circumstances which would render
22 a plan of restitution unworkable.

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

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

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

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

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

1 (t) For offenders sentenced prior to May 25, 2000, who are eligible
2 for modification of their postrelease supervision obligation, the department
3 of corrections shall modify the period of postrelease supervision as
4 provided for by this section for offenders convicted of severity levels 9 and
5 10 crimes on the sentencing guidelines grid for nondrug crimes and
6 severity level 4 crimes on the sentencing guidelines grid for drug crimes
7 on or before September 1, 2000; for offenders convicted of severity levels
8 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
9 before November 1, 2000; and for offenders convicted of severity levels 5
10 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
11 severity level 3 crimes on the sentencing guidelines grid for drug crimes
12 on or before January 1, 2001.

13 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
14 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
15 thereto, for crimes committed on or after July 1, 2006, shall be placed on
16 parole for life and shall not be discharged from supervision by the prisoner
17 review board. When the board orders the parole of an inmate pursuant to
18 this subsection, the board shall order as a condition of parole that the
19 inmate be electronically monitored for the duration of the inmate's natural
20 life.

21 (v) Whenever the prisoner review board orders a person to be
22 electronically monitored pursuant to this section, or the court orders a
23 person to be electronically monitored pursuant to subsection (r) of K.S.A.
24 2012 Supp. 21-6604, and amendments thereto, the board shall order the
25 person to reimburse the state for all or part of the cost of such monitoring.
26 In determining the amount and method of payment of such sum, the board
27 shall take account of the financial resources of the person and the nature of
28 the burden that the payment of such sum will impose.

29 (w) (1) On and after July 1, 2012, for any inmate who is a sex
30 offender, as defined in K.S.A. 22-4902, and amendments thereto,
31 whenever the prisoner review board orders the parole of such inmate or
32 establishes conditions for such inmate placed on postrelease supervision,
33 such inmate shall agree in writing to not possess pornographic materials.

34 (A) As used in this subsection, "pornographic materials" means: Any
35 obscene material or performance depicting sexual conduct, sexual contact
36 or a sexual performance; and any visual depiction of sexually explicit
37 conduct.

38 (B) As used in this subsection, all other terms have the meanings
39 provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

40 (2) The provisions of this subsection shall be applied retroactively to
41 every sex offender, as defined in K.S.A. 22-4902, and amendments
42 thereto, who is on parole or postrelease supervision on July 1, 2012. The
43 prisoner review board shall obtain the written agreement required by this

1 subsection from such offenders as soon as practicable.

2 Sec. 28. K.S.A. 2012 Supp. 22-3901 is hereby amended to read as
3 follows: 22-3901. The following unlawful activities and the use of real or
4 personal property in maintaining and carrying on such activities are hereby
5 declared to be common nuisances:

- 6 (a) Commercial gambling;
- 7 (b) dealing in gambling devices;
- 8 (c) possession of gambling devices;
- 9 (d) promoting obscenity;
- 10 (e) promoting ~~prostitution~~ *the sale of sexual relations*;
- 11 (f) habitually promoting ~~prostitution~~ *the sale of sexual relations*;
- 12 (g) violations of any law regulating controlled substances;
- 13 (h) habitual violations of any law regulating the sale or exchange of
14 alcoholic liquor or cereal malt beverages, by any person not licensed
15 pursuant to chapter 41 of the Kansas Statutes Annotated, and amendments
16 thereto;
- 17 (i) habitual violations of any law regulating the sale or exchange of
18 cigarettes or tobacco products, by any person not licensed pursuant to
19 article 33 of chapter 79 of the Kansas Statutes Annotated, and amendments
20 thereto;
- 21 (j) any felony committed for the benefit of, at the direction of, or in
22 association with any criminal street gang, with the specific intent to
23 promote, further or assist in any criminal conduct by gang members. As
24 used in this subsection, "criminal street gang" means any organization,
25 association or group, whether formal or informal:
 - 26 (1) Consisting of three or more persons;
 - 27 (2) having as one of its primary activities the commission of one or
28 more person felonies, person misdemeanors, felony violations of K.S.A.
29 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, article 57
30 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
31 any felony violation of any provision of the uniform controlled substances
32 act prior to July 1, 2009, or the comparable juvenile offenses, which if
33 committed by an adult would constitute the commission of such felonies or
34 misdemeanors;
 - 35 (3) which has a common name or common identifying sign or
36 symbol; and
 - 37 (4) whose members, individually or collectively engage in or have
38 engaged in the commission, attempted commission, conspiracy to commit
39 or solicitation of two or more person felonies, person misdemeanors,
40 felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior
41 to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated,
42 and amendments thereto, any felony violation of any provision of the
43 uniform controlled substances act prior to July 1, 2009, or the comparable

1 juvenile offenses, which if committed by an adult would constitute the
2 commission of such felonies or misdemeanors, or any substantially similar
3 offense from another jurisdiction; or

4 (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials
5 in violation of K.S.A. 2012 Supp. 31-170, and amendments thereto.

6 Any real property used as a place where any such activities are carried
7 on or permitted to be carried on and any effects, equipment, paraphernalia,
8 fixtures, appliances, musical instruments or other personal property
9 designed for and used on such premises in connection with such unlawful
10 activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-
11 3904, and amendments thereto.

12 Sec. 29. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as
13 follows: 22-4902. As used in the Kansas offender registration act, unless
14 the context otherwise requires:

15 (a) "Offender" means:

16 (1) A sex offender;

17 (2) a violent offender;

18 (3) a drug offender;

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

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

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

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

26 (2) On or after April 14, 1994, is adjudicated as a juvenile offender
27 for an act which if committed by an adult would constitute the commission
28 of a sexually violent crime, unless the court, on the record, finds that the
29 act involved non-forcible sexual conduct, the victim was at least 14 years
30 of age and the offender was not more than four years older than the victim;

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

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

34 (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
35 K.S.A. 2012 Supp. 21-5511, and amendments thereto;

36 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
37 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
38 Supp. 21-5504, and amendments thereto;

39 (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
40 repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto prior to its~~
41 ~~amendment by this act on July 1, 2013;~~

42 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
43 repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto prior to its~~

1 *amendment by this act on July 1, 2013; or*

2 (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
3 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;

4 (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior
5 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and
6 amendments thereto;

7 (6) is convicted of an attempt, conspiracy or criminal solicitation, as
8 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
9 K.S.A. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto,
10 of an offense defined in this subsection; or

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

14 (c) "Sexually violent crime" means:

15 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
16 2012 Supp. 21-5503, and amendments thereto;

17 (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
18 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
19 amendments thereto;

20 (3) aggravated indecent liberties with a child, as defined in K.S.A.
21 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
22 5506, and amendments thereto;

23 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
24 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
25 2012 Supp. 21-5504, and amendments thereto;

26 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
27 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
28 amendments thereto;

29 (6) indecent solicitation of a child, as defined in K.S.A. 21-3510,
30 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
31 amendments thereto;

32 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
33 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
34 5508, and amendments thereto;

35 (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
36 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

37 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
38 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
39 amendments thereto;

40 (10) aggravated incest, as defined in K.S.A. 21-3603, prior to its
41 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments
42 thereto;

43 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its

1 repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto,
2 committed on or after April 17, 2008;

3 (12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
4 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

5 (13) *aggravated human trafficking, as defined in K.S.A. 21-3447,*
6 *prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and*
7 *amendments thereto, if committed in whole or in part for the purpose of*
8 *the sexual gratification of the defendant or another;*

9 (14) *commercial sexual exploitation of a child, as defined in section*
10 *4, and amendments thereto;*

11 ~~(15)~~ (15) any conviction or adjudication for an offense that is
12 comparable to a sexually violent crime as defined in this subsection, or any
13 out of state conviction or adjudication for an offense that under the laws of
14 this state would be a sexually violent crime as defined in this subsection;

15 ~~(16)~~ (16) an attempt, conspiracy or criminal solicitation, as defined in
16 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
17 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually
18 violent crime, as defined in this subsection; or

19 ~~(17)~~ (17) any act which has been determined beyond a reasonable
20 doubt to have been sexually motivated, unless the court, on the record,
21 finds that the act involved non-forcible sexual conduct, the victim was at
22 least 14 years of age and the offender was not more than four years older
23 than the victim. As used in this paragraph, "sexually motivated" means that
24 one of the purposes for which the defendant committed the crime was for
25 the purpose of the defendant's sexual gratification.

26 (d) "Sexually violent predator" means any person who, on or after
27 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
28 59-29a01 et seq., and amendments thereto.

29 (e) "Violent offender" includes any person who:

30 (1) On or after May 29, 1997, is convicted of any of the following
31 crimes:

32 (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
33 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

34 (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to
35 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

36 (C) murder in the second degree, as defined in K.S.A. 21-3402, prior
37 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

38 (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
39 repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

40 (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
41 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

42 (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
43 subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

1 (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
2 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
3 thereto;

4 (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its
5 repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by
6 a parent, and only when the victim is less than 18 years of age; or

7 (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
8 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
9 amendments thereto, *if not committed in whole or in part for the purpose*
10 *of the sexual gratification of the defendant or another;*

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

14 (3) has been convicted of an offense that is comparable to any crime
15 defined in this subsection, any out of state conviction for an offense that
16 under the laws of this state would be an offense defined in this subsection;
17 or

18 (4) is convicted of an attempt, conspiracy or criminal solicitation, as
19 defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or
20 K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments
21 thereto, of an offense defined in this subsection.

22 (f) "Drug offender" means any person who has been convicted of:

23 (1) Unlawful manufacture or attempting such of any controlled
24 substance or controlled substance analog as defined in K.S.A. 65-4159,
25 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
26 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

27 (2) possession of ephedrine, pseudoephedrine, red phosphorus,
28 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
29 ammonia or phenylpropanolamine, or their salts, isomers or salts of
30 isomers with intent to use the product to manufacture a controlled
31 substance as defined in subsection (a) of K.S.A. 65-7006, prior to its
32 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
33 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

34 (3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
35 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
36 2012 Supp. 21-5705, and amendments thereto. The provisions of this
37 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)
38 or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1,
39 2009, through April 15, 2010;

40 (4) an offense that is comparable to any crime defined in this
41 subsection, any out of state conviction for an offense that under the laws of
42 this state would be an offense defined in this subsection; or

43 (5) an attempt, conspiracy or criminal solicitation, as defined in

1 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
2 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
3 offense defined in this subsection.

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

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

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

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

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

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

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

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

40 (o) "Registering entity" means any person, agency or other
41 governmental unit, correctional facility or registering law enforcement
42 agency responsible for obtaining the required information from, and
43 explaining the required registration procedures to, any person required to

1 register pursuant to the Kansas offender registration act. "Registering
2 entity" shall include, but not be limited to, sheriff's offices, tribal police
3 departments and correctional facilities.

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

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

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

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

16 Sec. 30. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as
17 follows: 22-4906.(a) (1) Except as provided in subsection (c), if convicted
18 of any of the following offenses, an offender's duration of registration shall
19 be, if confined, 15 years after the date of parole, discharge or release,
20 whichever date is most recent, or, if not confined, 15 years from the date of
21 conviction:

22 (A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
23 or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

24 (B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or
25 K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the
26 parties involved is less than 18 years of age;

27 (C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
28 repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto~~ *prior to its*
29 *amendment by this act on July 1, 2013*, when one of the parties involved is
30 less than 18 years of age;

31 (D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior
32 to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto,
33 when one of the parties involved is less than 18 years of age;

34 (E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
35 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

36 (F) murder in the first degree, as defined in K.S.A. 21-3401, prior to
37 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

38 (G) murder in the second degree, as defined in K.S.A. 21-3402, prior
39 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

40 (H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its
41 repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

42 (I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
43 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

1 (J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal,
2 or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a
3 parent, and only when the victim is less than 18 years of age;

4 (K) any act which has been determined beyond a reasonable doubt to
5 have been sexually motivated, unless the court, on the record, finds that
6 the act involved non-forcible sexual conduct, the victim was at least 14
7 years of age and the offender was not more than four years older than the
8 victim;

9 (L) conviction of any person required by court order to register for an
10 offense not otherwise required as provided in the Kansas offender
11 registration act;

12 (M) conviction of any person felony and the court makes a finding on
13 the record that a deadly weapon was used in the commission of such
14 person felony;

15 (N) unlawful manufacture or attempting such of any controlled
16 substance or controlled substance analog as defined in K.S.A. 65-4159,
17 prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or
18 K.S.A. 2012 Supp. 21-5703, and amendments thereto;

19 (O) possession of ephedrine, pseudoephedrine, red phosphorus,
20 lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized
21 ammonia or phenylpropanolamine, or their salts, isomers or salts of
22 isomers with intent to use the product to manufacture a controlled
23 substance as defined by subsection (a) of K.S.A. 65-7006, prior to its
24 repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer,
25 or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

26 (P) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
27 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
28 2012 Supp. 21-5705, and amendments thereto; or

29 (Q) any attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
31 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
32 offense defined in this subsection.

33 (2) Except as otherwise provided by the Kansas offender registration
34 act, the duration of registration terminates, if not confined, at the
35 expiration of 15 years from the date of conviction. Any period of time
36 during which any offender is incarcerated in any jail or correctional
37 facility or during which the offender does not comply with any and all
38 requirements of the Kansas offender registration act shall not count toward
39 the duration of registration.

40 (b) (1) Except as provided in subsection (c), if convicted of any of
41 the following offenses, an offender's duration of registration shall be, if
42 confined, 25 years after the date of parole, discharge or release, whichever
43 date is most recent, or, if not confined, 25 years from the date of

1 conviction:

2 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
3 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
4 Supp. 21-5504, and amendments thereto, when one of the parties involved
5 is less than 18 years of age;

6 (B) indecent solicitation of a child, as defined in K.S.A. 21-3510,
7 prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and
8 amendments thereto;

9 (C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
10 repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;

11 (D) aggravated incest, as defined in K.S.A. 21-3603, prior to its
12 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments
13 thereto;

14 (E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior
15 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and
16 amendments thereto;

17 (F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to
18 its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

19 (G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
20 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
21 the victim is 14 or more years of age but less than 18 years of age;

22 (H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
23 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
24 amendments thereto;

25 (I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
26 repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto~~ *prior to its*
27 *amendment by this act on July 1, 2013*, if the ~~prostitute~~ *person selling*
28 *sexual relations* is 14 or more years of age but less than 18 years of age; or

29 (J) any attempt, conspiracy or criminal solicitation, as defined in
30 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
31 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
32 offense defined in this subsection.

33 (2) Except as otherwise provided by the Kansas offender registration
34 act, the duration of registration terminates, if not confined, at the
35 expiration of 25 years from the date of conviction. Any period of time
36 during which any offender is incarcerated in any jail or correctional
37 facility or during which the offender does not comply with any and all
38 requirements of the Kansas offender registration act shall not count toward
39 the duration of registration.

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

43 (d) The duration of registration for any offender who has been

1 convicted of any of the following offenses shall be for such offender's
2 lifetime:

3 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
4 2012 Supp. 21-5503, and amendments thereto;

5 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
6 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
7 5508, and amendments thereto;

8 (3) aggravated indecent liberties with a child, as defined in K.S.A.
9 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
10 5506, and amendments thereto;

11 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
12 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
13 2012 Supp. 21-5504, and amendments thereto;

14 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
15 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
16 amendments thereto;

17 (6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior
18 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
19 amendments thereto;

20 (7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
21 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if
22 the victim is less than 14 years of age;

23 (8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its
24 repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto~~ *prior to its*
25 *amendment by this act on July 1, 2013*, if the ~~prostitute~~ *person selling*
26 *sexual relations* is less than 14 years of age;

27 (9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or
28 subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

29 (10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its
30 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments
31 thereto; ~~or~~

32 (11) *commercial sexual exploitation of a child, as defined in section*
33 *4, and amendments thereto; or*

34 ~~(H)~~ (12) any attempt, conspiracy or criminal solicitation, as defined
35 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
36 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
37 offense defined in this subsection.

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

41 (f) Notwithstanding any other provisions of this section, for an
42 offender less than 14 years of age who is adjudicated as a juvenile offender
43 for an act which if committed by an adult would constitute a sexually

1 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
2 amendments thereto, the court shall:

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

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

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

20 If such offender violates a condition of release during the term of the
21 conditional release, the court may require such offender to register
22 pursuant to paragraph (1).

23 (g) Notwithstanding any other provisions of this section, for an
24 offender 14 years of age or more who is adjudicated as a juvenile offender
25 for an act which if committed by an adult would constitute a sexually
26 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
27 amendments thereto, and such crime is not an off-grid felony or a felony
28 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
29 4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments
30 thereto, the court shall:

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

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

40 (3) require registration, but such registration information shall not be
41 open to inspection by the public or posted on any internet website, as
42 provided in K.S.A. 22-4909, and amendments thereto. If the court requires
43 registration but such registration is not open to the public, such offender

1 shall provide a copy of such court order to the registering law enforcement
2 agency at the time of registration. The registering law enforcement agency
3 shall forward a copy of such court order to the Kansas bureau of
4 investigation.

5 If such offender violates a condition of release during the term of the
6 conditional release, the court may require such offender to register
7 pursuant to paragraph (1).

8 (h) Notwithstanding any other provisions of this section, an offender
9 14 years of age or more who is adjudicated as a juvenile offender for an
10 act which if committed by an adult would constitute a sexually violent
11 crime set forth in subsection (c) of K.S.A. 22-4902, and amendments
12 thereto, and such crime is an off-grid felony or a felony ranked in severity
13 level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its
14 repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be
15 required to register for such offender's lifetime.

16 (i) Notwithstanding any other provision of law, if a diversionary
17 agreement or probation order, either adult or juvenile, or a juvenile
18 offender sentencing order, requires registration under the Kansas offender
19 registration act for an offense that would not otherwise require registration
20 as provided in subsection (a)(5) of K.S.A. 22-4902, and amendments
21 thereto, then all provisions of the Kansas offender registration act shall
22 apply, except that the duration of registration shall be controlled by such
23 diversionary agreement, probation order or juvenile offender sentencing
24 order.

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

28 (k) For any person moving to Kansas who has been convicted or
29 adjudicated in an out of state court, or who was required to register under
30 an out of state law, the duration of registration shall be the length of time
31 required by the out of state jurisdiction or by the Kansas offender
32 registration act, whichever length of time is longer. The provisions of this
33 subsection shall apply to convictions or adjudications prior to June 1,
34 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
35 convictions or adjudications on or after June 1, 2006, and to persons who
36 moved to Kansas on or after June 1, 2006.

37 (l) For any person residing, maintaining employment or attending
38 school in this state who has been convicted or adjudicated by an out of
39 state court of an offense that is comparable to any crime requiring
40 registration pursuant to the Kansas offender registration act, but who was
41 not required to register in the jurisdiction of conviction or adjudication, the
42 duration of registration shall be the duration required for the comparable
43 offense pursuant to the Kansas offender registration act. The duration of

1 registration shall begin upon establishing residency, beginning
2 employment or beginning school.

3 Sec. 31. K.S.A. 2012 Supp. 38-2202 is hereby amended to read as
4 follows: 38-2202. As used in the revised Kansas code for care of children,
5 unless the context otherwise indicates:

6 (a) "Abandon" or "abandonment" means to forsake, desert or, without
7 making appropriate provision for substitute care, cease providing care for
8 the child.

9 (b) "Adult correction facility" means any public or private facility,
10 secure or nonsecure, which is used for the lawful custody of accused or
11 convicted adult criminal offenders.

12 (c) "Aggravated circumstances" means the abandonment, torture,
13 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

14 (d) "Child in need of care" means a person less than 18 years of age
15 at the time of filing of the petition or issuance of an ex parte protective
16 custody order pursuant to K.S.A. 2012 Supp. 38-2242, and amendments
17 thereto, who:

18 (1) Is without adequate parental care, control or subsistence and the
19 condition is not due solely to the lack of financial means of the child's
20 parents or other custodian;

21 (2) is without the care or control necessary for the child's physical,
22 mental or emotional health;

23 (3) has been physically, mentally or emotionally abused or neglected
24 or sexually abused;

25 (4) has been placed for care or adoption in violation of law;

26 (5) has been abandoned or does not have a known living parent;

27 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,
28 and amendments thereto;

29 (7) except in the case of a violation of K.S.A. 41-727, subsection (j)
30 of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection
31 (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto, or, except
32 as provided in paragraph (12), does an act which, when committed by a
33 person under 18 years of age, is prohibited by state law, city ordinance or
34 county resolution but which is not prohibited when done by an adult;

35 (8) while less than 10 years of age, commits any act which if done by
36 an adult would constitute the commission of a felony or misdemeanor as
37 defined by K.S.A. 2012 Supp. 21-5102, and amendments thereto;

38 (9) is willfully and voluntarily absent from the child's home without
39 the consent of the child's parent or other custodian;

40 (10) is willfully and voluntarily absent at least a second time from a
41 court ordered or designated placement, or a placement pursuant to court
42 order, if the absence is without the consent of the person with whom the
43 child is placed or, if the child is placed in a facility, without the consent of

1 the person in charge of such facility or such person's designee;

2 (11) has been residing in the same residence with a sibling or another
3 person under 18 years of age, who has been physically, mentally or
4 emotionally abused or neglected, or sexually abused;

5 (12) while less than 10 years of age commits the offense defined in
6 subsection (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments
7 thereto; or

8 (13) has had a permanent custodian appointed and the permanent
9 custodian is no longer able or willing to serve.

10 (e) "Citizen review board" is a group of community volunteers
11 appointed by the court and whose duties are prescribed by K.S.A. 2012
12 Supp. 38-2207 and 38-2208, and amendments thereto.

13 (f) "Civil custody case" includes any case filed under chapter 23 of
14 the Kansas Statutes Annotated, and amendments thereto, the Kansas
15 family law code, article 11, of chapter 38 of the Kansas Statutes
16 Annotated, and amendments thereto, determination of parentage, article 21
17 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
18 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas
19 Statutes Annotated, and amendments thereto, guardians and conservators.

20 (g) "Court-appointed special advocate" means a responsible adult
21 other than an attorney guardian ad litem who is appointed by the court to
22 represent the best interests of a child, as provided in K.S.A. 2012 Supp.
23 38-2206, and amendments thereto, in a proceeding pursuant to this code.

24 (h) "Custody" whether temporary, protective or legal, means the
25 status created by court order or statute which vests in a custodian, whether
26 an individual or an agency, the right to physical possession of the child and
27 the right to determine placement of the child, subject to restrictions placed
28 by the court.

29 (i) "Extended out of home placement" means a child has been in the
30 custody of the secretary and placed with neither parent for 15 of the most
31 recent 22 months beginning 60 days after the date at which a child in the
32 custody of the secretary was removed from the home.

33 (j) "Educational institution" means all schools at the elementary and
34 secondary levels.

35 (k) "Educator" means any administrator, teacher or other professional
36 or paraprofessional employee of an educational institution who has
37 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and
38 amendments thereto.

39 (l) "Harm" means physical or psychological injury or damage.

40 (m) "Interested party" means the grandparent of the child, a person
41 with whom the child has been living for a significant period of time when
42 the child in need of care petition is filed, and any person made an
43 interested party by the court pursuant to K.S.A. 2012 Supp. 38-2241, and

1 amendments thereto, or Indian tribe seeking to intervene that is not a party.

2 (n) "Jail" means:

3 (1) An adult jail or lockup; or

4 (2) a facility in the same building or on the same grounds as an adult
5 jail or lockup, unless the facility meets all applicable standards and
6 licensure requirements under law and there is: (A) Total separation of the
7 juvenile and adult facility spatial areas such that there could be no
8 haphazard or accidental contact between juvenile and adult residents in the
9 respective facilities; (B) total separation in all juvenile and adult program
10 activities within the facilities, including recreation, education, counseling,
11 health care, dining, sleeping and general living activities; and (C) separate
12 juvenile and adult staff, including management, security staff and direct
13 care staff such as recreational, educational and counseling.

14 (o) "Juvenile detention facility" means any secure public or private
15 facility used for the lawful custody of accused or adjudicated juvenile
16 offenders which must not be a jail.

17 (p) "Juvenile intake and assessment worker" means a responsible
18 adult authorized to perform intake and assessment services as part of the
19 intake and assessment system established pursuant to K.S.A. 75-7023, and
20 amendments thereto.

21 (q) "Kinship care" means the placement of a child in the home of the
22 child's relative or in the home of another adult with whom the child or the
23 child's parent already has a close emotional attachment.

24 (r) "Law enforcement officer" means any person who by virtue of
25 office or public employment is vested by law with a duty to maintain
26 public order or to make arrests for crimes, whether that duty extends to all
27 crimes or is limited to specific crimes.

28 (s) "Multidisciplinary team" means a group of persons, appointed by
29 the court under K.S.A. 2012 Supp. 38-2228, and amendments thereto,
30 which has knowledge of the circumstances of a child in need of care.

31 (t) "Neglect" means acts or omissions by a parent, guardian or person
32 responsible for the care of a child resulting in harm to a child, or
33 presenting a likelihood of harm, and the acts or omissions are not due
34 solely to the lack of financial means of the child's parents or other
35 custodian. Neglect may include, but shall not be limited to:

36 (1) Failure to provide the child with food, clothing or shelter
37 necessary to sustain the life or health of the child;

38 (2) failure to provide adequate supervision of a child or to remove a
39 child from a situation which requires judgment or actions beyond the
40 child's level of maturity, physical condition or mental abilities and that
41 results in bodily injury or a likelihood of harm to the child; or

42 (3) failure to use resources available to treat a diagnosed medical
43 condition if such treatment will make a child substantially more

1 comfortable, reduce pain and suffering, or correct or substantially diminish
2 a crippling condition from worsening. A parent legitimately practicing
3 religious beliefs who does not provide specified medical treatment for a
4 child because of religious beliefs shall not for that reason be considered a
5 negligent parent; however, this exception shall not preclude a court from
6 entering an order pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 38-
7 2217, and amendments thereto.

8 (u) "Parent" when used in relation to a child or children, includes a
9 guardian and every person who is by law liable to maintain, care for or
10 support the child.

11 (v) "Party" means the state, the petitioner, the child, any parent of the
12 child and an Indian child's tribe intervening pursuant to the Indian child
13 welfare act.

14 (w) "Permanency goal" means the outcome of the permanency
15 planning process which may be reintegration, adoption, appointment of a
16 permanent custodian or another planned permanent living arrangement.

17 (x) "Permanent custodian" means a judicially approved permanent
18 guardian of a child pursuant to K.S.A. 2012 Supp. 38-2272, and
19 amendments thereto.

20 (y) "Physical, mental or emotional abuse" means the infliction of
21 physical, mental or emotional harm or the causing of a deterioration of a
22 child and may include, but shall not be limited to, maltreatment or
23 exploiting a child to the extent that the child's health or emotional well-
24 being is endangered.

25 (z) "Placement" means the designation by the individual or agency
26 having custody of where and with whom the child will live.

27 (aa) "Relative" means a person related by blood, marriage or adoption
28 but, when referring to a relative of a child's parent, does not include the
29 child's other parent.

30 (bb) "Secretary" means the secretary of ~~social and rehabilitation~~
31 ~~services~~ *the department for children and families* or the secretary's
32 designee.

33 (cc) "Secure facility" means a facility, *other than a staff secure*
34 *facility* which is operated or structured so as to ensure that all entrances
35 and exits from the facility are under the exclusive control of the staff of the
36 facility, whether or not the person being detained has freedom of
37 movement within the perimeters of the facility, or which relies on locked
38 rooms and buildings, fences or physical restraint in order to control
39 behavior of its residents. No secure facility shall be in a city or county jail.

40 (dd) "Sexual abuse" means any contact or interaction with a child in
41 which the child is being used for the sexual stimulation of the perpetrator,
42 the child or another person. Sexual abuse shall include allowing,
43 permitting or encouraging a child to engage in ~~prostitution~~ *the sale of*

1 *sexual relations or commercial sexual exploitation of a child, or to be*
2 *photographed, filmed or depicted in pornographic material.*

3 (ee) "Shelter facility" means any public or private facility or home,
4 other than a juvenile detention facility *or staff secure facility*, that may be
5 used in accordance with this code for the purpose of providing either
6 temporary placement for children in need of care prior to the issuance of a
7 dispositional order or longer term care under a dispositional order.

8 (ff) "*Staff secure facility*" means a facility described in section 6, and
9 amendments thereto: (1) That does not include construction features
10 designed to physically restrict the movements and activities of juvenile
11 residents who are placed therein; (2) that may establish reasonable rules
12 restricting entrance to and egress from the facility; and (3) in which the
13 movements and activities of individual juvenile residents may, for
14 treatment purposes, be restricted or subject to control through the use of
15 intensive staff supervision. No staff secure facility shall be in a city or
16 county jail.

17 (††) (gg) "Transition plan" means, when used in relation to a youth in
18 the custody of the secretary, an individualized strategy for the provision of
19 medical, mental health, education, employment and housing supports as
20 needed for the adult and, if applicable, for any minor child of the adult, to
21 live independently and specifically provides for the supports and any
22 services for which an adult with a disability is eligible including, but not
23 limited to, funding for home and community based services waivers.

24 (††) (hh) "Youth residential facility" means any home, foster home or
25 structure which provides 24-hour-a-day care for children and which is
26 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
27 Annotated, and amendments thereto.

28 Sec. 32. On January 1, 2014, K.S.A. 2012 Supp. 38-2231 is hereby
29 amended to read as follows: 38-2231. (a) A law enforcement officer or
30 court services officer shall take a child under 18 years of age into custody
31 when:

32 (1) The law enforcement officer or court services officer has a court
33 order commanding that the child be taken into custody as a child in need
34 of care; or

35 (2) the law enforcement officer or court services officer has probable
36 cause to believe that a court order commanding that the child be taken into
37 custody as a child in need of care has been issued in this state or in another
38 jurisdiction.

39 (b) A law enforcement officer shall take a child under 18 years of age
40 into custody when *the officer*:

41 (1) ~~The law enforcement officer~~ Reasonably believes the child will be
42 harmed if not immediately removed from the place or residence where the
43 child has been found; or

1 (2) ~~when the officer~~ has probable cause to believe that the child is a
2 missing person and a verified missing person entry for the child can be
3 found in the national crime information center missing person system; *or*

4 (3) *reasonably believes the child is a victim of human trafficking,*
5 *aggravated human trafficking or commercial sexual exploitation of a*
6 *child.*

7 (c) (1) If a person provides shelter to a child whom the person knows
8 is a runaway, such person shall promptly report the child's location either
9 to a law enforcement agency or to the child's parent or other custodian.

10 (2) If a person reports a runaway's location to a law enforcement
11 agency pursuant to this section and a law enforcement officer of the
12 agency has reasonable grounds to believe that it is in the child's best
13 interests, the child may be allowed to remain in the place where shelter is
14 being provided, subject to subsection (b), in the absence of a court order to
15 the contrary. If the child is allowed to so remain, the law enforcement
16 agency shall promptly notify the secretary of the child's location and
17 circumstances.

18 (d) *Except as provided in subsections (a) and (b),* a law enforcement
19 officer may temporarily detain and assume temporary custody of any child
20 subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and
21 amendments thereto, during the hours school is actually in session and
22 shall deliver the child pursuant to subsection (g) of K.S.A. 2012 Supp. 38-
23 2232, and amendments thereto.

24 Sec. 33. On January 1, 2014, K.S.A. 2012 Supp. 38-2232 is hereby
25 amended to read as follows: 38-2232. (a) (1) To the extent possible, when
26 any law enforcement officer takes into custody a child under the age of 18
27 years without a court order, the child shall forthwith be delivered to the
28 custody of the child's parent or other custodian unless there are reasonable
29 grounds to believe that such action would not be in the best interests of the
30 child.

31 (2) Except as provided in subsection (b), if the child is not delivered
32 to the custody of the child's parent or other custodian, the child shall
33 forthwith be delivered to a shelter facility designated by the court, court
34 services officer, juvenile intake and assessment worker, licensed attendant
35 care center or other person or, if the child is 15 years of age or younger, or
36 16 or 17 years of age if the child has no identifiable parental or family
37 resources or shows signs of physical, mental, emotional or sexual abuse, to
38 a facility or person designated by the secretary.

39 (3) If, after delivery of the child to a shelter facility, the person in
40 charge of the shelter facility at that time and the law enforcement officer
41 determine that the child will not remain in the shelter facility and if the
42 child is presently alleged, but not yet adjudicated, to be a child in need of
43 care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp.

1 38-2202, and amendments thereto, the law enforcement officer shall
2 deliver the child to a juvenile detention facility or other secure facility,
3 designated by the court, where the child shall be detained for not more
4 than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on
5 which the office of the clerk of the court is not accessible.

6 (4) No child taken into custody pursuant to this code shall be placed
7 in a juvenile detention facility or other secure facility, except as authorized
8 by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260,
9 and amendments thereto.

10 (5) It shall be the duty of the law enforcement officer to furnish to the
11 county or district attorney, without unnecessary delay, all the information
12 in the possession of the officer pertaining to the child, the child's parents or
13 other persons interested in or likely to be interested in the child and all
14 other facts and circumstances which caused the child to be taken into
15 custody.

16 (b) (1) When any law enforcement officer takes into custody any
17 child as provided in subsection (b)(2) of K.S.A. 2012 Supp. 38-2231, and
18 amendments thereto, proceedings shall be initiated in accordance with the
19 provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq.,
20 and amendments thereto, or K.S.A. 2012 Supp. 38-1008, and amendments
21 thereto, when effective. Any child taken into custody pursuant to the
22 interstate compact on juveniles may be detained in a juvenile detention
23 facility or other secure facility.

24 (2) *When any law enforcement officer takes into custody any child as*
25 *provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and*
26 *amendments thereto, the law enforcement officer shall place the child in*
27 *protective custody and may deliver the child to a staff secure facility. The*
28 *law enforcement officer shall contact the department for children and*
29 *families to begin an assessment to determine safety, placement and*
30 *treatment needs for the child. Such child shall not be placed in a juvenile*
31 *detention facility or other secure facility, except as authorized by this*
32 *section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and*
33 *amendments thereto.*

34 (c) Whenever a child under the age of 18 years is taken into custody
35 by a law enforcement officer without a court order and is thereafter placed
36 as authorized by subsection (a), the facility or person shall, upon written
37 application of the law enforcement officer, have physical custody and
38 provide care and supervision for the child. The application shall state:

39 (1) The name and address of the child, if known;

40 (2) the names and addresses of the child's parents or nearest relatives
41 and persons with whom the child has been residing, if known; and

42 (3) the officer's belief that the child is a child in need of care and that
43 there are reasonable grounds to believe that the circumstances or condition

1 of the child is such that the child would be harmed unless placed in the
2 immediate custody of the shelter facility or other person.

3 (d) A copy of the application shall be furnished by the facility or
4 person receiving the child to the county or district attorney without
5 unnecessary delay.

6 (e) The shelter facility or other person designated by the court who
7 has custody of the child pursuant to this section shall discharge the child
8 not later than 72 hours following admission, excluding Saturdays,
9 Sundays, legal holidays, and days on which the office of the clerk of the
10 court is not accessible, unless a court has entered an order pertaining to
11 temporary custody or release.

12 (f) In absence of a court order to the contrary, the county or district
13 attorney or the placing law enforcement agency shall have the authority to
14 direct the release of the child at any time.

15 (g) When any law enforcement officer takes into custody any child as
16 provided in subsection (d) of K.S.A. 2012 Supp. 38-2231, and
17 amendments thereto, the child shall forthwith be delivered to the school in
18 which the child is enrolled, any location designated by the school in which
19 the child is enrolled or the child's parent or other custodian.

20 Sec. 34. On January 1, 2014, K.S.A. 2012 Supp. 38-2242 is hereby
21 amended to read as follows: 38-2242. (a) The court, upon verified
22 application, may issue ex parte an order directing that a child be held in
23 protective custody and, if the child has not been taken into custody, an
24 order directing that the child be taken into custody. The application shall
25 state for each child:

- 26 (1) The applicant's belief that the child is a child in need of care;
- 27 (2) that the child is likely to sustain harm if not immediately removed
28 from the home;
- 29 (3) that allowing the child to remain in the home is contrary to the
30 welfare of the child; and
- 31 (4) the facts relied upon to support the application, including efforts
32 known to the applicant to maintain the family unit and prevent the
33 unnecessary removal of the child from the child's home, or the specific
34 facts supporting that an emergency exists which threatens the safety of the
35 child.

36 (b) (1) The order of protective custody may be issued only after the
37 court has determined there is probable cause to believe the allegations in
38 the application are true. The order shall remain in effect until the
39 temporary custody hearing provided for in K.S.A. 2012 Supp. 38-2243,
40 and amendments thereto, unless earlier rescinded by the court.

41 (2) No child shall be held in protective custody for more than 72
42 hours, excluding Saturdays, Sundays, legal holidays, and days on which
43 the office of the clerk of the court is not accessible, unless within the 72-

1 hour period a determination is made as to the necessity for temporary
2 custody in a temporary custody hearing. The time spent in custody
3 pursuant to K.S.A. 2012 Supp. 38-2232, and amendments thereto, shall be
4 included in calculating the 72-hour period. Nothing in this subsection shall
5 be construed to mean that the child must remain in protective custody for
6 72 hours. If a child is in the protective custody of the secretary, the
7 secretary shall allow at least one supervised visit between the child and the
8 parent or parents within such time period as the child is in protective
9 custody. The court may prohibit such supervised visit if the court
10 determines it is not in the best interest of the child.

11 (c) (1) Whenever the court determines the necessity for an order of
12 protective custody, the court may place the child in the protective custody
13 of:

14 (A) A parent or other person having custody of the child and may
15 enter a restraining order pursuant to subsection (e);

16 (B) a person, other than the parent or other person having custody,
17 who shall not be required to be licensed under article 5 of chapter 65 of the
18 Kansas Statutes Annotated, and amendments thereto;

19 (C) a youth residential facility;

20 (D) a shelter facility; ~~or~~

21 (E) *a staff secure facility, notwithstanding any other provision of law,*
22 *if the child has been subjected to human trafficking or aggravated human*
23 *trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments*
24 *thereto, or commercial sexual exploitation of a child, as defined by section*
25 *4, and amendments thereto, or the child committed an act which, if*
26 *committed by an adult, would constitute a violation of K.S.A. 2012 Supp.*
27 *21-6419, and amendments thereto; or*

28 ~~(F)~~ (F) the secretary, if the child is 15 years of age or younger, or 16
29 or 17 years of age if the child has no identifiable parental or family
30 resources or shows signs of physical, mental, emotional or sexual abuse.

31 (2) If the secretary presents the court with a plan to provide services
32 to a child or family which the court finds will assure the safety of the
33 child, the court may only place the child in the protective custody of the
34 secretary until the court finds the services are in place. The court shall
35 have the authority to require any person or entity agreeing to participate in
36 the plan to perform as set out in the plan. When the child is placed in the
37 protective custody of the secretary, the secretary shall have the
38 discretionary authority to place the child with a parent or to make other
39 suitable placement for the child. *When the child is placed in the temporary*
40 *custody of the secretary and the child has been subjected to human*
41 *trafficking or aggravated human trafficking, as defined by K.S.A. 2012*
42 *Supp. 21-5426, and amendments thereto, or commercial sexual*
43 *exploitation of a child, as defined by section 4, and amendments thereto,*

1 *or the child committed an act which, if committed by an adult, would*
2 *constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments*
3 *thereto, the secretary shall have the discretionary authority to place the*
4 *child in a staff secure facility, notwithstanding any other provision of law.*

5 When the child is presently alleged, but not yet adjudicated, to be a child
6 in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A.
7 2012 Supp. 38-2202, and amendments thereto, the child may be placed in
8 a juvenile detention facility or other secure facility pursuant to an order of
9 protective custody for a period of not to exceed 24 hours, excluding
10 Saturdays, Sundays, legal holidays, and days on which the office of the
11 clerk of the court is not accessible.

12 (d) The order of protective custody shall be served pursuant to
13 subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on
14 the child's parents and any other person having legal custody of the child.
15 The order shall prohibit the removal of the child from the court's
16 jurisdiction without the court's permission.

17 (e) If the court issues an order of protective custody, the court may
18 also enter an order restraining any alleged perpetrator of physical, sexual,
19 mental or emotional abuse of the child from residing in the child's home;
20 visiting, contacting, harassing or intimidating the child, other family
21 member or witness; or attempting to visit, contact, harass or intimidate the
22 child, other family member or witness. Such restraining order shall be
23 served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp.
24 38-2237, and amendments thereto, on any alleged perpetrator to whom the
25 order is directed.

26 (f) (1) The court shall not enter the initial order removing a child
27 from the custody of a parent pursuant to this section unless the court first
28 finds probable cause that: (A) (i) The child is likely to sustain harm if not
29 immediately removed from the home;

30 (ii) allowing the child to remain in home is contrary to the welfare of
31 the child; or

32 (iii) immediate placement of the child is in the best interest of the
33 child; and

34 (B) reasonable efforts have been made to maintain the family unit and
35 prevent the unnecessary removal of the child from the child's home or that
36 an emergency exists which threatens the safety to the child.

37 (2) Such findings shall be included in any order entered by the court.
38 If the child is placed in the custody of the secretary, the court shall provide
39 the secretary with a written copy of any orders entered upon making the
40 order.

41 Sec. 35. On January 1, 2014, K.S.A. 2012 Supp. 38-2243 is hereby
42 amended to read as follows: 38-2243. (a) Upon notice and hearing, the
43 court may issue an order directing who shall have temporary custody and

1 may modify the order during the pendency of the proceedings as will best
2 serve the child's welfare.

3 (b) A hearing pursuant to this section shall be held within 72 hours,
4 excluding Saturdays, Sundays, legal holidays, and days on which the
5 office of the clerk of the court is not accessible, following a child having
6 been taken into protective custody.

7 (c) Whenever it is determined that a temporary custody hearing is
8 required, the court shall immediately set the time and place for the hearing.
9 Notice of a temporary custody hearing shall be given to all parties and
10 interested parties.

11 (d) Notice of the temporary custody hearing shall be given at least 24
12 hours prior to the hearing. The court may continue the hearing to afford the
13 24 hours prior notice or, with the consent of the party or interested party,
14 proceed with the hearing at the designated time. If an order of temporary
15 custody is entered and the parent or other person having custody of the
16 child has not been notified of the hearing, did not appear or waive
17 appearance and requests a rehearing, the court shall rehear the matter
18 without unnecessary delay.

19 (e) Oral notice may be used for giving notice of a temporary custody
20 hearing where there is insufficient time to give written notice. Oral notice
21 is completed upon filing a certificate of oral notice.

22 (f) The court may enter an order of temporary custody after
23 determining there is probable cause to believe that the: (1) Child is
24 dangerous to self or to others; (2) child is not likely to be available within
25 the jurisdiction of the court for future proceedings; ~~or~~ (3) health or welfare
26 of the child may be endangered without further care; *or (4) child has been*
27 *subjected to human trafficking or aggravated human trafficking, as*
28 *defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or*
29 *commercial sexual exploitation of a child, as defined by section 4, and*
30 *amendments thereto; or (5) child committed an act which, if committed by*
31 *an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and*
32 *amendments thereto.*

33 (g) (1) Whenever the court determines the necessity for an order of
34 temporary custody the court may place the child in the temporary custody
35 of:

36 (A) A parent or other person having custody of the child and may
37 enter a restraining order pursuant to subsection (h);

38 (B) a person, other than the parent or other person having custody,
39 who shall not be required to be licensed under article 5 of chapter 65 of the
40 Kansas Statutes Annotated, and amendments thereto;

41 (C) a youth residential facility;

42 (D) a shelter facility; ~~or~~

43 (E) a staff secure facility, notwithstanding any other provision of law,

1 *if the child has been subjected to human trafficking or aggravated human*
2 *trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments*
3 *thereto, or commercial sexual exploitation of a child, as defined by section*
4 *4, and amendments thereto, or the child committed an act which, if*
5 *committed by an adult, would constitute a violation of K.S.A. 2012 Supp.*
6 *21-6419, and amendments thereto; or*

7 ~~(E)~~ (F) the secretary, if the child is 15 years of age or younger, or 16
8 or 17 years of age if the child has no identifiable parental or family
9 resources or shows signs of physical, mental, emotional or sexual abuse.

10 (2) If the secretary presents the court with a plan to provide services
11 to a child or family which the court finds will assure the safety of the
12 child, the court may only place the child in the temporary custody of the
13 secretary until the court finds the services are in place. The court shall
14 have the authority to require any person or entity agreeing to participate in
15 the plan to perform as set out in the plan. When the child is placed in the
16 temporary custody of the secretary, the secretary shall have the
17 discretionary authority to place the child with a parent or to make other
18 suitable placement for the child. *When the child is placed in the temporary*
19 *custody of the secretary and the child has been subjected to human*
20 *trafficking or aggravated human trafficking, as defined by K.S.A. 2012*
21 *Supp. 21-5426, and amendments thereto, or commercial sexual*
22 *exploitation of a child, as defined by section 4, and amendments thereto,*
23 *or the child committed an act which, if committed by an adult, would*
24 *constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments*
25 *thereto, the secretary shall have the discretionary authority to place the*
26 *child in a staff secure facility, notwithstanding any other provision of law.*
27 When the child is presently alleged, but not yet adjudicated to be a child in
28 need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012
29 Supp. 38-2202, and amendments thereto, the child may be placed in a
30 juvenile detention facility or other secure facility, but the total amount of
31 time that the child may be held in such facility under this section and
32 K.S.A. 2012 Supp. 38-2242, and amendments thereto, shall not exceed 24
33 hours, excluding Saturdays, Sundays, legal holidays, and days on which
34 the office of the clerk of the court is not accessible. The order of temporary
35 custody shall remain in effect until modified or rescinded by the court or
36 an adjudication order is entered but not exceeding 60 days, unless good
37 cause is shown and stated on the record.

38 (h) If the court issues an order of temporary custody, the court may
39 also enter an order restraining any alleged perpetrator of physical, sexual,
40 mental or emotional abuse of the child from residing in the child's home;
41 visiting, contacting, harassing or intimidating the child; or attempting to
42 visit, contact, harass or intimidate the child, other family members or
43 witnesses. Such restraining order shall be served by personal service

1 pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments
2 thereto, on any alleged perpetrator to whom the order is directed.

3 (i) (1) The court shall not enter the initial order removing a child from
4 the custody of a parent pursuant to this section unless the court first finds
5 probable cause that: (A) (i) The child is likely to sustain harm if not
6 immediately removed from the home;

7 (ii) allowing the child to remain in home is contrary to the welfare of
8 the child; or

9 (iii) immediate placement of the child is in the best interest of the
10 child; and

11 (B) reasonable efforts have been made to maintain the family unit and
12 prevent the unnecessary removal of the child from the child's home or that
13 an emergency exists which threatens the safety to the child.

14 (2) Such findings shall be included in any order entered by the court.
15 If the child is placed in the custody of the secretary, upon making the order
16 the court shall provide the secretary with a written copy.

17 (j) If the court enters an order of temporary custody that provides for
18 placement of the child with a person other than the parent, the court shall
19 make a child support determination pursuant to K.S.A. 2012 Supp. 38-
20 2277, and amendments thereto.

21 Sec. 36. On January 1, 2014, K.S.A. 2012 Supp. 38-2255 is hereby
22 amended to read as follows: 38-2255. (a) *Considerations*. Prior to entering
23 an order of disposition, the court shall give consideration to:

24 (1) The child's physical, mental and emotional condition;

25 (2) the child's need for assistance;

26 (3) the manner in which the parent participated in the abuse, neglect
27 or abandonment of the child;

28 (4) any relevant information from the intake and assessment process;
29 and

30 (5) the evidence received at the dispositional hearing.

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

35 (1) Supervision of the child and the parent by a court services officer;

36 (2) participation by the child and the parent in available programs
37 operated by an appropriate individual or agency; and

38 (3) any special treatment or care which the child needs for the child's
39 physical, mental or emotional health and safety.

40 (c) *Removal of a child from custody of a parent*. The court shall not
41 enter the initial order removing a child from the custody of a parent
42 pursuant to this section unless the court first finds probable cause that: (1)

43 (A) The child is likely to sustain harm if not immediately removed from

1 the home;

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

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

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

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

12 (d) *Custody of a child removed from the custody of a parent.* If the
13 court has made the findings required by subsection (c), the court shall
14 enter an order awarding custody to: A relative of the child or to a person
15 with whom the child has close emotional ties who shall not be required to
16 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
17 and amendments thereto, ~~to~~; any other suitable person, ~~to~~; a shelter
18 facility, ~~to~~; a youth residential facility; *a staff secure facility,*
19 *notwithstanding any other provision of law, if the child has been subjected*
20 *to human trafficking or aggravated human trafficking, as defined by*
21 *K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial*
22 *sexual exploitation of a child, as defined by section 4, and amendments*
23 *thereto, or the child committed an act which, if committed by an adult,*
24 *would constitute a violation of K.S.A. 2012 Supp. 21-6419, and*
25 *amendments thereto; or, if the child is 15 years of age or younger, or 16 or*
26 *17 years of age if the child has no identifiable parental or family resources*
27 *or shows signs of physical, mental, emotional or sexual abuse, to the*
28 *secretary. Custody awarded under this subsection shall continue until*
29 *further order of the court.*

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

42 (2) The custodian designated under this subsection shall notify the
43 court in writing at least 10 days prior to any planned placement with a

1 parent. The written notice shall state the basis for the custodian's belief that
2 placement with a parent is no longer contrary to the welfare or best interest
3 of the child. Upon reviewing the notice, the court may allow the custodian
4 to proceed with the planned placement or may set the date for a hearing to
5 determine if the child shall be allowed to return home. If the court sets a
6 hearing on the matter, the custodian shall not return the child home without
7 written consent of the court.

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

11 (4) The court may enter an order restraining any alleged perpetrator
12 of physical, mental or emotional abuse or sexual abuse of the child from
13 residing in the child's home; visiting, contacting, harassing or intimidating
14 the child, other family member or witness; or attempting to visit, contact,
15 harass or intimidate the child, other family member or witness. Such
16 restraining order shall be served by personal service pursuant to subsection
17 (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any
18 alleged perpetrator to whom the order is directed.

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

22 (e) *Further determinations regarding a child removed from the home.*
23 If custody has been awarded under subsection (d) to a person other than a
24 parent, a permanency plan shall be provided or prepared pursuant to
25 K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency
26 plan is provided at the dispositional hearing, the court may determine
27 whether reintegration is a viable alternative or, if reintegration is not a
28 viable alternative, whether the child should be placed for adoption or a
29 permanent custodian appointed. In determining whether reintegration is a
30 viable alternative, the court shall consider:

31 (1) Whether a parent has been found by a court to have committed
32 one of the following crimes or to have violated the law of another state
33 prohibiting such crimes or to have aided and abetted, attempted, conspired
34 or solicited the commission of one of these crimes: (A) Murder in the first
35 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
36 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
37 3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
38 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
39 2012 Supp. 21-5401, and amendments thereto; (D) voluntary
40 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp.
41 21-5404, and amendments thereto; or (E) a felony battery that resulted in
42 bodily injury;

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

1 aggravated circumstances;

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

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

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

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

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

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

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

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

33 (2) If the court has reason to believe that a child is before the court
34 due, in whole or in part, to the use or misuse of alcohol or a violation of
35 K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by
36 the child, a parent of the child, or another person responsible for the care
37 of the child, the court may order the child, parent of the child or other
38 person responsible for the care of the child to submit to and complete an
39 alcohol and drug evaluation by a qualified person or agency and comply
40 with any recommendations. If the evaluation is performed by a
41 community-based alcohol and drug safety program certified pursuant to
42 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
43 other person responsible for the care of the child shall pay a fee not to

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

4 (3) If child support has been requested and the parent or parents have
5 a duty to support the child, the court may order one or both parents to pay
6 child support and, when custody is awarded to the secretary, the court shall
7 order one or both parents to pay child support. The court shall determine,
8 for each parent separately, whether the parent is already subject to an order
9 to pay support for the child. If the parent is not presently ordered to pay
10 support for any child who is subject to the jurisdiction of the court and the
11 court has personal jurisdiction over the parent, the court shall order the
12 parent to pay child support in an amount determined under K.S.A. 2012
13 Supp. 38-2277, and amendments thereto. Except for good cause shown,
14 the court shall issue an immediate income withholding order pursuant to
15 K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each
16 parent ordered to pay support under this subsection, regardless of whether
17 a payor has been identified for the parent. A parent ordered to pay child
18 support under this subsection shall be notified, at the hearing or otherwise,
19 that the child support order may be registered pursuant to K.S.A. 2012
20 Supp. 38-2279, and amendments thereto. The parent shall also be informed
21 that, after registration, the income withholding order may be served on the
22 parent's employer without further notice to the parent and the child support
23 order may be enforced by any method allowed by law. Failure to provide
24 this notice shall not affect the validity of the child support order.

25 Sec. 37. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as
26 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
27 records or files specified in this code concerning a juvenile may be
28 expunged upon application to a judge of the court of the county in which
29 the records or files are maintained. The application for expungement may
30 be made by the juvenile, if 18 years of age or older or, if the juvenile is
31 less than 18 years of age, by the juvenile's parent or next friend.

32 (b) There shall be no expungement of records or files concerning acts
33 committed by a juvenile which, if committed by an adult, would constitute
34 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-
35 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
36 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
37 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,
38 or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary
39 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp.
40 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
41 3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments
42 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection
43 (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto,

1 involuntary manslaughter while driving under the influence of alcohol or
2 drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503,
3 and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or
4 subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
5 indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or
6 subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
7 aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its
8 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments
9 thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal,
10 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,
11 indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or
12 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,
13 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
14 repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual
15 exploitation of a child; K.S.A. 21-3603, prior to its repeal, or subsection
16 (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated
17 incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012
18 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-
19 3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments
20 thereto, abuse of a child; or which would constitute an attempt to commit a
21 violation of any of the offenses specified in this subsection.

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

28 (d) When a petition for expungement is filed, the court shall set a date
29 for a hearing on the petition and shall give notice thereof to the county or
30 district attorney. The petition shall state: (1) The juvenile's full name; (2)
31 the full name of the juvenile as reflected in the court record, if different
32 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
33 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
34 of the trial court. Except as otherwise provided by law, a petition for
35 expungement shall be accompanied by a docket fee in the amount of \$100.
36 On and after the effective date of this act through June 30, 2013, the
37 supreme court may impose a charge, not to exceed \$19 per case, to fund
38 the costs of non-judicial personnel. All petitions for expungement shall be
39 docketed in the original action. Any person who may have relevant
40 information about the petitioner may testify at the hearing. The court may
41 inquire into the 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; or

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. 2012 Supp. 21-6419, and*
6 *amendments thereto;*

7 (B) since the final discharge of the juvenile, the juvenile has not been
8 convicted of a felony or of a misdemeanor other than a traffic offense or
9 adjudicated as a juvenile offender under the revised Kansas juvenile justice
10 code and no proceedings are pending seeking such a conviction or
11 adjudication; and

12 (C) the circumstances and behavior of the petitioner warrant
13 expungement.

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

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

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

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

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

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

42 (k) Whenever the records or files of any adjudication have been
43 expunged under the provisions of this section, the custodian of the records

1 or files of adjudication relating to that offense shall not disclose the
2 existence of such records or files, except when requested by:

3 (1) The person whose record was expunged;

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

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

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

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

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

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

30 (8) the Kansas sentencing commission; or

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

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

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

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

40 Sec. 38. K.S.A. 2012 Supp. 38-2361 is hereby amended to read as
41 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to
42 K.S.A. 2012 Supp. 38-2356, and amendments thereto, modification of
43 sentence pursuant to K.S.A. 2012 Supp. 38-2367, and amendments thereto,

1 or violation of a condition of sentence pursuant to K.S.A. 2012 Supp. 38-
2 2368, and amendments thereto, and subject to subsection (a) of K.S.A.
3 2012 Supp. 38-2365, and amendments thereto, the court may impose one
4 or more of the following sentencing alternatives. In the event that any
5 sentencing alternative chosen constitutes an order authorizing or requiring
6 removal of the juvenile from the juvenile's home and such findings either
7 have not previously been made or the findings are not or may no longer be
8 current, the court shall make determinations as required by K.S.A. 2012
9 Supp. 38-2334 and 38-2335, and amendments thereto.

10 (1) Place the juvenile on probation through court services or
11 community corrections for a fixed period, subject to terms and conditions
12 the court deems appropriate consistent with juvenile justice programs in
13 the community.

14 (2) Order the juvenile to participate in a community based program
15 available in such judicial district subject to the terms and conditions the
16 court deems appropriate. This alternative shall not be ordered with the
17 alternative in paragraph (12) and when ordered with the alternative in
18 paragraph (10) shall constitute a recommendation. Requirements
19 pertaining to child support may apply if custody is vested with other than a
20 parent.

21 (3) Place the juvenile in the custody of a parent or other suitable
22 person, subject to terms and conditions consistent with juvenile justice
23 programs in the community. This alternative shall not be ordered with the
24 alternative in paragraph (10) or (12). Requirements pertaining to child
25 support may apply if custody is vested with other than a parent.

26 (4) Order the juvenile to attend counseling, educational, mediation or
27 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

28 (5) Suspend or restrict the juvenile's driver's license or privilege to
29 operate a motor vehicle on the streets and highways of this state pursuant
30 to subsection (c).

31 (6) Order the juvenile to perform charitable or community service
32 work.

33 (7) Order the juvenile to make appropriate reparation or restitution
34 pursuant to subsection (d).

35 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
36 subsection (e).

37 (9) Place the juvenile under a house arrest program administered by
38 the court pursuant to K.S.A. 2012 Supp. 21-6609, and amendments
39 thereto.

40 (10) Place the juvenile in the custody of the commissioner as
41 provided in K.S.A. 2012 Supp. 38-2365, and amendments thereto. This
42 alternative shall not be ordered with the alternative in paragraph (3) or
43 (12). Except for a mandatory drug and alcohol evaluation, when this

1 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
2 orders shall constitute a recommendation by the court. Requirements
3 pertaining to child support shall apply under this alternative.

4 (11) Commit the juvenile to a sanctions house for a period no longer
5 than 28 days subject to the provisions of subsection (f).

6 (12) Commit the juvenile directly to the custody of the commissioner
7 for a period of confinement in a juvenile correctional facility and a period
8 of aftercare pursuant to K.S.A. 2012 Supp. 38-2369, and amendments
9 thereto. The provisions of K.S.A. 2012 Supp. 38-2365, and amendments
10 thereto, shall not apply to juveniles committed pursuant to this provision,
11 provided however, that 21 days prior to the juvenile's release from a
12 juvenile correctional facility, the commissioner or designee shall notify the
13 court of the juvenile's anticipated release date. The court shall set and hold
14 a permanency hearing pursuant to K.S.A. 2012 Supp. 38-2365, and
15 amendments thereto, within seven days after the juvenile's release. This
16 alternative may be ordered with the alternative in paragraph (7).
17 Requirements pertaining to child support shall apply under this alternative.

18 (b) If the court orders the juvenile to attend counseling, educational,
19 mediation or other sessions, or to undergo a drug and alcohol evaluation
20 pursuant to subsection (a)(4), the following provisions apply:

21 (1) The court may order the juvenile offender to participate in
22 counseling or mediation sessions or a program of education, including
23 placement in an alternative educational program approved by a local
24 school board. The costs of any counseling or mediation may be assessed as
25 expenses in the case. No mental health center shall charge a fee for court-
26 ordered counseling greater than what the center would have charged the
27 person receiving the counseling if the person had requested counseling on
28 the person's own initiative. No mediator shall charge a fee for court-
29 ordered mediation greater than what the mediator would have charged the
30 person participating in the mediation if the person had requested mediation
31 on the person's own initiative. Mediation may include the victim but shall
32 not be mandatory for the victim; and

33 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
34 violation of a statute that makes such a requirement, the court shall order
35 and, if adjudicated for any other offense, the court may order the juvenile
36 to submit to and complete a drug and alcohol evaluation by a community-
37 based drug and alcohol safety action program certified pursuant to K.S.A.
38 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
39 established by that statute for such evaluation. The court may waive the
40 mandatory evaluation if the court finds that the juvenile completed a drug
41 and alcohol evaluation, approved by the community-based alcohol and
42 drug safety action program, within 12 months before sentencing. If the
43 evaluation occurred more than 12 months before sentencing, the court

1 shall order the juvenile to resubmit to and complete the evaluation and
2 program as provided herein. If the court finds that the juvenile and those
3 legally liable for the juvenile's support are indigent, the court may waive
4 the fee. In no event shall the fee be assessed against the commissioner or
5 the juvenile justice authority nor shall the fee be assessed against the
6 secretary of ~~social and rehabilitation services~~ *the department for children*
7 *and families* or the department of ~~social and rehabilitation services for~~
8 *children and families* if the juvenile is in the secretary's care, custody and
9 control.

10 (c) If the court orders suspension or restriction of a juvenile offender's
11 driver's license or privilege to operate a motor vehicle on the streets and
12 highways of this state pursuant to subsection (a)(5), the following
13 provisions apply:

14 (1) The duration of the suspension ordered by the court shall be for a
15 definite time period to be determined by the court. Upon suspension of a
16 license pursuant to this subsection, the court shall require the juvenile
17 offender to surrender the license to the court. The court shall transmit the
18 license to the division of motor vehicles of the department of revenue, to
19 be retained until the period of suspension expires. At that time, the licensee
20 may apply to the division for return of the license. If the license has
21 expired, the juvenile offender may apply for a new license, which shall be
22 issued promptly upon payment of the proper fee and satisfaction of other
23 conditions established by law for obtaining a license unless another
24 suspension or revocation of the juvenile offender's privilege to operate a
25 motor vehicle is in effect. As used in this subsection, "highway" and
26 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
27 amendments thereto. Any juvenile offender who does not have a driver's
28 license may have driving privileges revoked. No Kansas driver's license
29 shall be issued to a juvenile offender whose driving privileges have been
30 revoked pursuant to this section for a definite time period to be determined
31 by the court; and

32 (2) in lieu of suspending a juvenile offender's driver's license or
33 privilege to operate a motor vehicle on the highways of this state, the court
34 may enter an order which places conditions on the juvenile offender's
35 privilege of operating a motor vehicle on the streets and highways of this
36 state, a certified copy of which the juvenile offender shall be required to
37 carry any time the juvenile offender is operating a motor vehicle on the
38 streets and highways of this state. The order shall prescribe a definite time
39 period for the conditions imposed. Upon entering an order restricting a
40 juvenile offender's license, the court shall require the juvenile offender to
41 surrender such juvenile offender's license to the court. The court shall
42 transmit the license to the division of vehicles, together with a copy of the
43 order. Upon receipt thereof, the division of vehicles shall issue without

1 charge a driver's license which shall indicate on its face that conditions
2 have been imposed on the juvenile offender's privilege of operating a
3 motor vehicle and that a certified copy of the order imposing the
4 conditions is required to be carried by the juvenile offender when
5 operating a motor vehicle on the streets and highways of this state. If the
6 juvenile offender is a nonresident, the court shall cause a copy of the order
7 to be transmitted to the division and the division shall forward a copy of it
8 to the motor vehicle administrator of the juvenile offender's state of
9 issuance. The court shall furnish to any juvenile offender whose driver's
10 license has had conditions imposed on it under this section a copy of the
11 order, which shall be recognized as a valid Kansas driver's license until the
12 division issues the restricted license provided for in this subsection. Upon
13 expiration of the period of time for which conditions are imposed pursuant
14 to this subsection, the juvenile offender may apply to the division for the
15 return of the license previously surrendered by the juvenile offender. In the
16 event the license has expired, the juvenile offender may apply to the
17 division for a new license, which shall be issued immediately by the
18 division upon payment of the proper fee and satisfaction of the other
19 conditions established by law unless such juvenile offender's privilege to
20 operate a motor vehicle on the streets and highways of this state has been
21 suspended or revoked prior thereto. If any juvenile offender violates any of
22 the conditions imposed under this subsection, the juvenile offender's
23 driver's license or privilege to operate a motor vehicle on the streets and
24 highways of this state shall be revoked for a period as determined by the
25 court in which the juvenile offender is convicted of violating such
26 conditions.

27 (d) The following provisions apply to the court's determination of
28 whether to order reparation or restitution pursuant to subsection (a)(7):

29 (1) The court shall order the juvenile to make reparation or restitution
30 to the aggrieved party for the damage or loss caused by the juvenile
31 offender's offense unless it finds compelling circumstances that would
32 render a plan of reparation or restitution unworkable. If the court finds
33 compelling circumstances that would render a plan of reparation or
34 restitution unworkable, the court shall enter such findings with
35 particularity on the record. In lieu of reparation or restitution, the court
36 may order the juvenile to perform charitable or social service for
37 organizations performing services for the community; and

38 (2) restitution may include, but shall not be limited to, the amount of
39 damage or loss caused by the juvenile's offense. Restitution may be made
40 by payment of an amount fixed by the court or by working for the parties
41 sustaining loss in the manner ordered by the court. An order of monetary
42 restitution shall be a judgment against the juvenile that may be collected
43 by the court by garnishment or other execution as on judgments in civil

1 cases. Such judgment shall not be affected by the termination of the court's
2 jurisdiction over the juvenile offender.

3 (e) If the court imposes a fine pursuant to subsection (a)(8), the
4 following provisions apply:

5 (1) The amount of the fine may not exceed \$1,000 for each offense.
6 The amount of the fine should be related to the seriousness of the offense
7 and the juvenile's ability to pay. Payment of a fine may be required in a
8 lump sum or installments;

9 (2) in determining whether to impose a fine and the amount to be
10 imposed, the court shall consider that imposition of a fine is most
11 appropriate in cases where the juvenile has derived pecuniary gain from
12 the offense and that imposition of a restitution order is preferable to
13 imposition of a fine; and

14 (3) any fine imposed by court shall be a judgment against the juvenile
15 that may be collected by the court by garnishment or other execution as on
16 judgments in civil cases. Such judgment shall not be affected by the
17 termination of the court's jurisdiction over the juvenile.

18 (f) If the court commits the juvenile to a sanctions house pursuant to
19 subsection (a)(11), the following provisions shall apply:

20 (1) The court may order commitment for up to 28 days for the same
21 offense or violation of sentencing condition. The court shall review the
22 commitment every seven days and, may shorten the initial commitment or,
23 if the initial term is less than 28 days, may extend the commitment;

24 (2) if, in the sentencing order, the court orders a sanctions house
25 placement for a verifiable probation violation and such probation violation
26 occurs, the juvenile may immediately be taken to a sanctions house and
27 detained for no more than 48 hours, excluding Saturdays, Sundays,
28 holidays, and days on which the office of the clerk of the court is not
29 accessible, prior to court review of the placement. The court and all parties
30 shall be notified of the sanctions house placement; and

31 (3) a juvenile over 18 years of age and less than 23 years of age at
32 sentencing shall be committed to a county jail, in lieu of a sanctions house,
33 under the same time restrictions imposed by paragraph (1), but shall not be
34 committed to or confined in a juvenile detention facility.

35 (g) Any order issued by the judge pursuant to this section shall be in
36 effect immediately upon entry into the court's minutes.

37 (h) In addition to the requirements of K.S.A. 2012 Supp. 38-2373,
38 and amendments thereto, if a person is under 18 years of age and
39 convicted of a felony or adjudicated as a juvenile offender for an offense if
40 committed by an adult would constitute the commission of a felony, the
41 court shall forward a signed copy of the journal entry to the commissioner
42 within 30 days of final disposition.

43 (i) Except as further provided, if a juvenile has been adjudged to be a

1 juvenile offender for an offense that if committed by an adult would
2 constitute the commission of: (1) Aggravated human trafficking, as defined
3 in K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is
4 less than 14 years of age; (2) rape, as defined in subsection (a)(3) of
5 K.S.A. 2012 Supp. 21-5503, and amendments thereto; (3) aggravated
6 indecent liberties with a child, as defined in subsection (b)(3) of K.S.A.
7 2012 Supp. 21-5506, and amendments thereto; (4) aggravated criminal
8 sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-
9 5504, and amendments thereto; (5) ~~promoting prostitution, as defined in~~
10 ~~K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute~~
11 *commercial sexual exploitation of a child, as defined in section 4, and*
12 *amendments thereto, if the victim is less than 14 years of age; (6) sexual*
13 *exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A.*
14 *2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14*
15 *years of age; or (7) an attempt, conspiracy or criminal solicitation, as*
16 *defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and*
17 *amendments thereto, of an offense defined in parts (1) through (6); the*
18 *court shall issue an order prohibiting the juvenile from attending the*
19 *attendance center that the victim of the offense attends. If only one*
20 *attendance center exists, for which the victim and juvenile are eligible to*
21 *attend, in the school district where the victim and the juvenile reside, the*
22 *court shall hear testimony and take evidence from the victim, the juvenile,*
23 *their families and a representative of the school district as to why the*
24 *juvenile should or should not be allowed to remain at the attendance center*
25 *attended by the victim. After such hearing, the court may issue an order*
26 *prohibiting the juvenile from attending the attendance center that the*
27 *victim of the offense attends.*

28 (j) The sentencing hearing shall be open to the public as provided in
29 K.S.A. 2012 Supp. 38-2353, and amendments thereto.

30 Sec. 39. K.S.A. 2012 Supp. 41-311 is hereby amended to read as
31 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
32 liquor control act to a person:

33 (1) Who has not been a citizen of the United States for at least 10
34 years, except that the spouse of a deceased retail licensee may receive and
35 renew a retail license notwithstanding the provisions of this subsection (a)
36 (1) if such spouse is otherwise qualified to hold a retail license and is a
37 United States citizen or becomes a United States citizen within one year
38 after the deceased licensee's death;

39 (2) who has been convicted of a felony under the laws of this state,
40 any other state or the United States;

41 (3) who has had a license revoked for cause under the provisions of
42 the liquor control act, the beer and cereal malt beverage keg registration
43 act or who has had any license issued under the cereal malt beverage laws

1 of any state revoked for cause except that a license may be issued to a
2 person whose license was revoked for the conviction of a misdemeanor at
3 any time after the lapse of 10 years following the date of the revocation;

4 (4) who has been convicted of being the keeper or is keeping ~~a house~~
5 ~~of prostitution~~ *any property, whether real or personal, where sexual*
6 *relations are being sold or offered for sale by a person who is 18 years of*
7 *age or older* or has forfeited bond to appear in court to answer charges of
8 being a keeper of ~~a house of prostitution~~ *any property, whether real or*
9 *personal, where sexual relations are being sold or offered for sale by a*
10 *person who is 18 years of age or older;*

11 (5) who has been convicted of being a proprietor of a gambling
12 house, pandering or any other crime opposed to decency and morality or
13 has forfeited bond to appear in court to answer charges for any of those
14 crimes;

15 (6) who is not at least 21 years of age;

16 (7) who, other than as a member of the governing body of a city or
17 county, appoints or supervises any law enforcement officer, who is a law
18 enforcement official or who is an employee of the director;

19 (8) who intends to carry on the business authorized by the license as
20 agent of another;

21 (9) who at the time of application for renewal of any license issued
22 under this act would not be eligible for the license upon a first application,
23 except as provided by subsection (a)(12);

24 (10) who is the holder of a valid and existing license issued under
25 article 27 of chapter 41 of the Kansas Statutes Annotated, *and amendments*
26 *thereto*, unless the person agrees to and does surrender the license to the
27 officer issuing the same upon the issuance to the person of a license under
28 this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and
29 amendments thereto, shall be eligible to receive a retailer's license under
30 the Kansas liquor control act;

31 (11) who does not own the premises for which a license is sought, or
32 does not, at the time of application, have a written lease thereon;

33 (12) whose spouse would be ineligible to receive a license under this
34 act for any reason other than citizenship, residence requirements or age,
35 except that this subsection (a)(12) shall not apply in determining eligibility
36 for a renewal license;

37 (13) whose spouse has been convicted of a felony or other crime
38 which would disqualify a person from licensure under this section and
39 such felony or other crime was committed during the time that the spouse
40 held a license under this act; or

41 (14) who does not provide any data or information required by
42 K.S.A. 2012 Supp. 41-311b, and amendments thereto.

43 (b) No retailer's license shall be issued to:

- 1 (1) A person who is not a resident of this state;
- 2 (2) a person who has not been a resident of this state for at least four
3 years immediately preceding the date of application;
- 4 (3) a person who has a beneficial interest in a manufacturer,
5 distributor, farm winery or microbrewery licensed under this act, except
6 that the spouse of an applicant for a retailer's license may own and hold a
7 farm winery license, microbrewery license, or both, if the spouse does not
8 hold a retailer's license issued under this act;
- 9 (4) a person who has a beneficial interest in any other retail
10 establishment licensed under this act, except that the spouse of a licensee
11 may own and hold a retailer's license for another retail establishment;
- 12 (5) a copartnership, unless all of the copartners are qualified to obtain
13 a license;
- 14 (6) a corporation; or
- 15 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
16 receive a license under this act for any reason, except that the provisions of
17 subsection (a)(6) shall not apply in determining whether a beneficiary
18 would be eligible for a license.
- 19 (c) No manufacturer's license shall be issued to:
 - 20 (1) A corporation, if any officer or director thereof, or any
21 stockholder owning in the aggregate more than 25% of the stock of the
22 corporation would be ineligible to receive a manufacturer's license for any
23 reason other than citizenship and residence requirements;
 - 24 (2) a copartnership, unless all of the copartners shall have been
25 residents of this state for at least five years immediately preceding the date
26 of application and unless all the members of the copartnership would be
27 eligible to receive a manufacturer's license under this act;
 - 28 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
29 receive a license under this act for any reason, except that the provisions of
30 subsection (a)(6) shall not apply in determining whether a beneficiary
31 would be eligible for a license;
 - 32 (4) an individual who is not a resident of this state;
 - 33 (5) an individual who has not been a resident of this state for at least
34 five years immediately preceding the date of application; or
 - 35 (6) a person who has a beneficial interest in a distributor, retailer,
36 farm winery or microbrewery licensed under this act, except as provided in
37 K.S.A. 41-305, and amendments thereto.
- 38 (d) No distributor's license shall be issued to:
 - 39 (1) A corporation, if any officer, director or stockholder of the
40 corporation would be ineligible to receive a distributor's license for any
41 reason. It shall be unlawful for any stockholder of a corporation licensed
42 as a distributor to transfer any stock in the corporation to any person who
43 would be ineligible to receive a distributor's license for any reason, and

1 any such transfer shall be null and void, except that: (A) If any stockholder
2 owning stock in the corporation dies and an heir or devisee to whom stock
3 of the corporation descends by descent and distribution or by will is
4 ineligible to receive a distributor's license, the legal representatives of the
5 deceased stockholder's estate and the ineligible heir or devisee shall have
6 14 months from the date of the death of the stockholder within which to
7 sell the stock to a person eligible to receive a distributor's license, any such
8 sale by a legal representative to be made in accordance with the provisions
9 of the probate code; or (B) if the stock in any such corporation is the
10 subject of any trust and any trustee or beneficiary of the trust who is 21
11 years of age or older is ineligible to receive a distributor's license, the
12 trustee, within 14 months after the effective date of the trust, shall sell the
13 stock to a person eligible to receive a distributor's license and hold and
14 disburse the proceeds in accordance with the terms of the trust. If any legal
15 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
16 stock as required by this subsection, the stock shall revert to and become
17 the property of the corporation, and the corporation shall pay to the legal
18 representatives, heirs, devisees or trustees the book value of the stock.
19 During the period of 14 months prescribed by this subsection, the
20 corporation shall not be denied a distributor's license or have its
21 distributor's license revoked if the corporation meets all of the other
22 requirements necessary to have a distributor's license;

23 (2) a copartnership, unless all of the copartners are eligible to receive
24 a distributor's license;

25 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
26 receive a license under this act for any reason, except that the provisions of
27 subsection (a)(6) shall not apply in determining whether a beneficiary
28 would be eligible for a license; or

29 (4) a person who has a beneficial interest in a manufacturer, retailer,
30 farm winery or microbrewery licensed under this act.

31 (e) No nonbeverage user's license shall be issued to a corporation, if
32 any officer, manager or director of the corporation or any stockholder
33 owning in the aggregate more than 25% of the stock of the corporation
34 would be ineligible to receive a nonbeverage user's license for any reason
35 other than citizenship and residence requirements.

36 (f) No microbrewery license, microdistillery license or farm winery
37 license shall be issued to a:

38 (1) Person who is not a resident of this state;

39 (2) person who has not been a resident of this state for at least one
40 year immediately preceding the date of application;

41 (3) person who has a beneficial interest in a manufacturer or
42 distributor licensed under this act, except as provided in K.S.A. 41-305,
43 and amendments thereto;

1 (4) person, copartnership or association which has a beneficial
2 interest in any retailer licensed under this act or under K.S.A. 41-2702, and
3 amendments thereto, except that the spouse of an applicant for a
4 microbrewery or farm winery license may own and hold a retailer's license
5 if the spouse does not hold a microbrewery or farm winery license issued
6 under this act;

7 (5) copartnership, unless all of the copartners are qualified to obtain a
8 license;

9 (6) corporation, unless stockholders owning in the aggregate 50% or
10 more of the stock of the corporation would be eligible to receive such
11 license and all other stockholders would be eligible to receive such license
12 except for reason of citizenship or residency; or

13 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
14 receive a license under this act for any reason, except that the provisions of
15 subsection (a)(6) shall not apply in determining whether a beneficiary
16 would be eligible for a license.

17 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
18 (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto,
19 shall not apply in determining eligibility for the 10th, or a subsequent,
20 consecutive renewal of a license if the applicant has appointed a citizen of
21 the United States who is a resident of Kansas as the applicant's agent and
22 filed with the director a duly authenticated copy of a duly executed power
23 of attorney, authorizing the agent to accept service of process from the
24 director and the courts of this state and to exercise full authority, control
25 and responsibility for the conduct of all business and transactions within
26 the state relative to alcoholic liquor and the business licensed. The agent
27 must be satisfactory to and approved by the director, except that the
28 director shall not approve as an agent any person who:

29 (1) Has been convicted of a felony under the laws of this state, any
30 other state or the United States;

31 (2) has had a license issued under the alcoholic liquor or cereal malt
32 beverage laws of this or any other state revoked for cause, except that a
33 person may be appointed as an agent if the person's license was revoked
34 for the conviction of a misdemeanor and 10 years have lapsed since the
35 date of the revocation;

36 (3) has been convicted of being the keeper or is keeping ~~a house of~~
37 ~~prostitution~~ *any property, whether real or personal, where sexual relations*
38 *are being sold or offered for sale by a person who is 18 years of age or*
39 *older* or has forfeited bond to appear in court to answer charges of being a
40 keeper of ~~a house of prostitution~~ *any property, whether real or personal,*
41 *where sexual relations are being sold or offered for sale by a person who*
42 *is 18 years of age or older;*

43 (4) has been convicted of being a proprietor of a gambling house,

1 pandering or any other crime opposed to decency and morality or has
2 forfeited bond to appear in court to answer charges for any of those
3 crimes; or

4 (5) is less than 21 years of age.

5 Sec. 40. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as
6 follows: 41-2601. As used in the club and drinking establishment act:

7 (a) The following terms shall have the meanings provided by K.S.A.
8 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
9 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

10 (b) "Beneficial interest" shall not include any interest a person may
11 have as owner, operator, lessee or franchise holder of a licensed hotel or
12 motel on the premises of which a club or drinking establishment is located.

13 (c) "Caterer" means an individual, partnership or corporation which
14 sells alcoholic liquor by the individual drink, and provides services related
15 to the serving thereof, on unlicensed premises which may be open to the
16 public, but does not include a holder of a temporary permit, selling
17 alcoholic liquor in accordance with the terms of such permit.

18 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
19 2701, and amendments thereto.

20 (e) "Class A club" means a premises which is owned or leased by a
21 corporation, partnership, business trust or association and which is
22 operated thereby as a bona fide nonprofit social, fraternal or war veterans'
23 club, as determined by the director, for the exclusive use of the corporate
24 stockholders, partners, trust beneficiaries or associates (hereinafter referred
25 to as members) and their families and guests accompanying them.

26 (f) "Class B club" means a premises operated for profit by a
27 corporation, partnership or individual, to which members of such club may
28 resort for the consumption of food or alcoholic beverages and for
29 entertainment.

30 (g) "Club" means a class A or class B club.

31 (h) "Drinking establishment" means premises which may be open to
32 the general public, where alcoholic liquor by the individual drink is sold.
33 Drinking establishment includes a railway car.

34 (i) "Food" means any raw, cooked or processed edible substance or
35 ingredient, other than alcoholic liquor or cereal malt beverage, used or
36 intended for use or for sale, in whole or in part, for human consumption.

37 (j) "Food service establishment" has the meaning provided by K.S.A.
38 36-501, and amendments thereto.

39 (k) "Hotel" has the meaning provided by K.S.A. 36-501, and
40 amendments thereto.

41 (l) "Individual drink" means a beverage containing alcoholic liquor or
42 cereal malt beverage served to an individual for consumption by such
43 individual or another individual, but which is not intended to be consumed

1 by two or more individuals. The term "individual drink" includes
2 beverages containing not more than: (1) Eight ounces of wine; (2) thirty-
3 two ounces of beer or cereal malt beverage; or (3) four ounces of a single
4 spirit or a combination of spirits.

5 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
6 wholly or partially refrigerated, access to the interior of which is restricted
7 by means of a locking device which requires the use of a key, magnetic
8 card or similar device.

9 (n) "Minor" means a person under 21 years of age.

10 (o) "Morals charge" means a charge involving ~~prostitution~~ *the sale of*
11 *sexual relations*; procuring any person; soliciting of a child under 18 years
12 of age for any immoral act involving sex; possession or sale of narcotics,
13 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal
14 cohabitation; adultery; bigamy; or a crime against nature.

15 (p) "Municipal corporation" means the governing body of any county
16 or city.

17 (q) "Public venue" means an arena, stadium, hall or theater, used
18 primarily for athletic or sporting events, live concerts, live theatrical
19 productions or similar seasonal entertainment events, not operated on a
20 daily basis, and containing:

21 (1) Not less than 4,000 permanent seats; and

22 (2) not less than two private suites, which are enclosed or semi-
23 enclosed seating areas, having controlled access and separated from the
24 general admission areas by a permanent barrier.

25 (r) "Railway car" means a locomotive drawn conveyance used for the
26 transportation and accommodation of human passengers that is confined to
27 a fixed rail route and which derives from sales of food for consumption on
28 the railway car not less than 30% of its gross receipts from all sales of food
29 and beverages in a 12-month period.

30 (s) "Restaurant" means:

31 (1) In the case of a club, a licensed food service establishment which,
32 as determined by the director, derives from sales of food for consumption
33 on the licensed club premises not less than 50% of its gross receipts from
34 all sales of food and beverages on such premises in a 12-month period;

35 (2) in the case of a drinking establishment subject to a food sales
36 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
37 food service establishment which, as determined by the director, derives
38 from sales of food for consumption on the licensed drinking establishment
39 premises not less than 30% of its gross receipts from all sales of food and
40 beverages on such premises in a 12-month period; and

41 (3) in the case of a drinking establishment subject to no food sales
42 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
43 food service establishment.

1 (t) "RV resort" means premises where a place to park recreational
2 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
3 for pay, primarily to transient guests, for overnight or longer use while
4 such recreational vehicles are used as sleeping or living accommodations.

5 (u) "Secretary" means the secretary of revenue.

6 (v) "Temporary permit" means a temporary permit issued pursuant to
7 K.S.A. 41-2645, and amendments thereto.

8 Sec. 41. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as
9 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
10 act, whether or not there is a prosecution or conviction related to the
11 offense, are:

12 (a) All offenses which statutorily and specifically authorize forfeiture;

13 (b) violations involving controlled substances, as described in K.S.A.
14 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

15 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
16 thereto;

17 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
18 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

19 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and
20 amendments thereto, and commercial gambling, as defined in subsection
21 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

22 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and
23 amendments thereto;

24 (g) unlawful possession *or use* of a scanning device or reencoder, as
25 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

26 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925
27 through 21-5934, and amendments thereto;

28 (i) an act or omission occurring outside this state, which would be a
29 violation in the place of occurrence and would be described in this section
30 if the act occurred in this state, whether or not it is prosecuted in any state;

31 (j) an act or omission committed in furtherance of any act or omission
32 described in this section including any inchoate or preparatory offense,
33 whether or not there is a prosecution or conviction related to the act or
34 omission;

35 (k) any solicitation or conspiracy to commit any act or omission
36 described in this section, whether or not there is a prosecution or
37 conviction related to the act or omission;

38 (l) furtherance of terrorism or illegal use of weapons of mass
39 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments
40 thereto;

41 (m) unlawful conduct of dog fighting and unlawful possession of dog
42 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
43 2012 Supp. 21-6414, and amendments thereto;

1 (n) unlawful conduct of cockfighting and unlawful possession of
2 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
3 2012 Supp. 21-6417, and amendments thereto;

4 (o) ~~prostitution~~ *selling sexual relations*, as defined in K.S.A. 2012
5 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ *the sale*
6 *of sexual relations*, as defined in K.S.A. 2012 Supp. 21-6420, and
7 amendments thereto, and ~~patronizing a prostitute~~ *buying sexual relations*,
8 as defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;

9 (p) human trafficking and aggravated human trafficking, as defined in
10 K.S.A. 2012 Supp. 21-5426, and amendments thereto;

11 (q) violations of the banking code, as described in K.S.A. 9-2012, and
12 amendments thereto;

13 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012
14 Supp. 21-5417, and amendments thereto;

15 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-
16 5821, and amendments thereto;

17 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and
18 amendments thereto;

19 (u) making false information, as defined in K.S.A. 2012 Supp. 21-
20 5824, and amendments thereto;

21 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.
22 21-5828, and amendments thereto;

23 (w) unlawful acts concerning computers, as described in K.S.A. 2012
24 Supp. 21-5839, and amendments thereto;

25 (x) identity theft and identity fraud, as defined in subsections (a) and
26 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

27 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,
28 and amendments thereto; ~~and~~

29 (z) felony violations of fleeing or attempting to elude a police officer,
30 as described in K.S.A. 8-1568, and amendments thereto; *and*

31 (aa) *commercial sexual exploitation of a child, as defined in section*
32 *4, and amendments thereto.*

33 Sec. 42. K.S.A. 2012 Supp. 68-2255 is hereby amended to read as
34 follows: 68-2255. (a) As used in this section:

35 (1) "Adult cabaret" means a nightclub, bar, restaurant or similar
36 commercial establishment which regularly features:

37 (A) Persons who appear in a state of nudity or semi-nudity;

38 (B) live performances which are characterized by the exposure of
39 specified anatomical areas or by specified sexual activities; or

40 (C) films, motion pictures, video cassettes, slides or other
41 photographic reproductions which are characterized by the depiction or
42 description of specified sexual activities or specified anatomical areas;

43 (2) "nudity" or a "state of nudity" means the showing of the human

1 male or female genitals, pubic area, vulva, anus, anal cleft or cleavage
2 with less than a fully opaque covering, the showing of the female breast
3 with less than a fully opaque covering of any part of the nipple or the
4 showing of the covered male genitals in a discernibly turgid state;

5 (3) "semi-nudity" means a state of dress in which opaque clothing
6 fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva,
7 nipple and areola of the female breast below a horizontal line across the
8 top of the areola at its highest point. Semi-nudity shall include the entire
9 lower portion of the female breast, but shall not include any portion of the
10 cleavage of the human female breast exhibited by wearing apparel
11 provided the areola is not exposed in whole or part;

12 (4) "sexually-oriented business" means any business which offers its
13 patrons goods of which a substantial portion are sexually-oriented
14 materials. Any business where more than 10% of display space is used for
15 sexually-oriented materials shall be presumed to be a sexually-oriented
16 business;

17 (5) "sexually-oriented materials" means any textual, pictorial or three
18 dimensional material that depicts nudity, sexual conduct, sexual
19 excitement or sadomasochistic abuse in a way which is patently offensive
20 to the average person applying contemporary adult community standards
21 with respect to what is suitable for minors;

22 (6) "sign" or "outdoor advertising" means any outdoor sign, display,
23 device, notice, bulletin, figure, painting, drawing, message, placard, poster,
24 billboard or other thing which is designed, intended or used to advertise or
25 inform, any part of the advertising or informative contents of which is
26 located within an adjacent area, and is visible from the state highway.

27 (b) No sign or other outdoor advertising, for an adult cabaret or
28 sexually-oriented business shall be located within one mile of any state
29 highway except if such business is located within one mile of a state
30 highway then the business may display a maximum of two exterior signs
31 on the premises of the business, consisting of one identification sign and
32 one sign solely giving notice that the premises are off limits to minors. The
33 identification sign shall be no more than 40 square feet in size and shall
34 include no more than the following information: Name, street address,
35 telephone number and operating hours of the business.

36 (c) Signs existing at the time of the effective date of this act, which
37 did not conform to the requirements of this section, and amendments
38 thereto, may be allowed to continue as a nonconforming use, but should be
39 made to conform within three years from July 1, 2006.

40 (d) Any owner of such a business who violates the provisions of this
41 section shall be guilty of a class C misdemeanor. Each week a violation of
42 this section continues to exist shall constitute a separate offense.

43 (e) This section is designed to protect the following public policy

1 interests of this state, including, but not limited to:

2 (1) To mitigate the adverse secondary effects of sexually-oriented
3 businesses; (2) to improve traffic safety; (3) to limit harm to minors; and
4 (4) to reduce ~~prostitution~~ *the sale of sexual relations*, crime, juvenile
5 delinquency, deterioration in property values and lethargy in neighborhood
6 improvement efforts.

7 (f) The attorney general shall represent the state in all actions and
8 proceedings arising from this section, and amendments thereto. All costs
9 incurred by the attorney general to defend or prosecute this section,
10 including payment of all court costs, civil judgments and, if necessary, any
11 attorneys fees, shall be paid from the state general fund.

12 Sec. 43. K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120,
13 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-
14 6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515,
15 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2312, 38-
16 2361, 41-311, 41-2601, 60-4104 and 68-2255 are hereby repealed.

17 Sec. 44. On January 1, 2014, K.S.A. 2012 Supp. 38-2231, 38-2232,
18 38-2242, 38-2243 and 38-2255 are hereby repealed.

19 Sec. 45. This act shall take effect and be in force from and after its
20 publication in the statute book.