

As Amended by House Committee

As Amended by Senate Committee

Session of 2013

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:*

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

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

21 (b) The board shall include representatives from:

- 22 (1) The office of the governor;
23 (2) the attorney general's office;
24 (3) the department of labor;
25 (4) the department for children and families;
26 (5) the department of health and environment;
27 (6) the juvenile justice authority;
28 (7) the Kansas association of chiefs of police;
29 (8) the Kansas sheriffs' association;
30 (9) the highway patrol;
31 (10) the Kansas bureau of investigation;
32 (11) local law enforcement agencies;
33 (12) the legislature;
34 (13) nongovernmental organizations focused on human trafficking

1 issues, organizations representing diverse communities disproportionately
2 affected by human trafficking and organizations focused on child services
3 and runaway services;

4 (14) academic researchers who are dedicated to the subject of human
5 trafficking;

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

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

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

19 New Sec. 4. (a) Commercial sexual exploitation of a child is
20 knowingly:

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

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

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

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

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

42 (4) procuring transportation for, paying for the transportation of or
43 transporting any person younger than 18 years of age within this state with

1 the intent of causing, assisting or promoting that person's engaging in
2 selling sexual relations.

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

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

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

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

13 (3) 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 convicted
16 under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than
17 \$5,000. All fines collected pursuant to this section shall be remitted to the
18 human trafficking victim assistance fund created by section 3, and
19 amendments thereto.

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

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

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

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

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

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

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

1 amendments thereto, the court shall refer the child to the secretary of the
2 department for children and families for an assessment to determine safety,
3 placement and treatment needs for the child. The secretary shall use a
4 research-based assessment tool to assess such needs and shall make
5 appropriate recommendations to the court.

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

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

15 **(d) This section shall take effect on and after January 1, 2014.**

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

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

21 (2) implement policies and procedures that include the use of
22 a combination of supervision, inspection and accountability to promote
23 safe and orderly operations;

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

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

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

31 (6) implement written policies and procedures for knowing the
32 whereabouts of all residents at all times and for handling runaways and
33 unauthorized absences; and

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

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

40 (1) Case management;

41 (2) life skills training;

42 (3) health care;

43 (4) mental health counseling;

1 (5) substance abuse screening and treatment; and

2 (6) any other appropriate services.

3 (c) Service providers in a staff secure facility shall be trained to
4 counsel and assist victims of human trafficking and sexual exploitation.

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

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

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

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

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

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

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

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

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

43 • Available 24 hours a day, 7 days a week

1 • Operated by a nonprofit, nongovernmental organization
2 • Anonymous and confidential
3 • Accessible in 170 languages
4 • Able to provide help, referral to services, training, and general
5 information."

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

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

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

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

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

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

42 (e) The municipal judge shall ensure that information concerning
43 dispositions of city ordinance violations that result in convictions

1 comparable to convictions for class A and B misdemeanors under Kansas
2 criminal statutes is forwarded to the Kansas bureau of investigation central
3 repository. This information shall be transmitted, on a form or in a format
4 approved by the attorney general, within 30 days of final disposition.

5 (f) In all cases alleging a violation of a city ordinance prohibiting the
6 acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025,
7 and amendments thereto, the municipal court judge shall ensure that the
8 municipal court reports the filing and disposition of such case to the
9 Kansas bureau of investigation central repository, and, on and after July 1,
10 2013, reports the filing and disposition of such case electronically to the
11 Kansas bureau of investigation central repository.

12 (g) In all cases in which a fine is imposed for a violation of a city
13 ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or
14 K.S.A. 2012 Supp. 8-1025 *or 21-6421*, and amendments thereto, the
15 municipal court judge shall ensure that the municipal court remits the
16 appropriate amount of such fine to the state treasurer as provided in K.S.A.
17 2012 Supp. 12-4120, and amendments thereto.

18 Sec. 9. K.S.A. 2012 Supp. 12-4120 is hereby amended to read as
19 follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from
20 each fine imposed for a violation of a city ordinance prohibiting the acts
21 prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2012 Supp. 8-1025, and
22 amendments thereto, shall be remitted by the judge or clerk of the
23 municipal court to the state treasurer in accordance with the provisions of
24 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall credit the entire amount to the
26 community corrections supervision fund established by K.S.A. 2012 Supp.
27 75-52,113, and amendments thereto.

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

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

42 (A) Satisfied the sentence imposed; or

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

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

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

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

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

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

28 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its
29 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (2) the circumstances and behavior of the petitioner warrant the
38 expungement; and

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

40 ~~(g)~~ (h) When the court has ordered an arrest record, conviction or
41 diversion expunged, the order of expungement shall state the information
42 required to be contained in the petition. The clerk of the court shall send a
43 certified copy of the order of expungement to the Kansas bureau of

1 investigation which shall notify the federal bureau of investigation, the
2 secretary of corrections and any other criminal justice agency which may
3 have a record of the arrest, conviction or diversion. After the order of
4 expungement is entered, the petitioner shall be treated as not having been
5 arrested, convicted or diverted of the crime, except that:

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

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

11 (A) In any application for employment as a detective with a private
12 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
13 as security personnel with a private patrol operator, as defined by K.S.A.
14 75-7b01, and amendments thereto; or with an institution, as defined in
15 K.S.A. 76-12a01, and amendments thereto, of the department of social and
16 ~~rehabilitation services~~ *for children and families*;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (1) The person whose record was expunged;

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

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

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

43 (5) a person entitled to such information pursuant to the terms of the

1 expungement order;

2 (6) a prosecuting attorney, and such request is accompanied by a
3 statement that the request is being made in conjunction with a prosecution
4 of an offense that requires a prior conviction as one of the elements of such
5 offense;

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

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

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

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

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

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

42 (13) the attorney general, and the request is accompanied by a
43 statement that the request is being made to aid in determining

1 qualifications for a license to carry a concealed weapon pursuant to the
2 personal and family protection act;

3 (14) the Kansas sentencing commission;

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

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

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

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

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

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

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

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

33 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
34 2012 Supp. 21-5422, and amendments thereto;

35 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
36 5503, and amendments thereto, if the offender is 18 years of age or older;

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

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

43 (G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~

1 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
2 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
3 *child, as defined in section 4, and amendments thereto, if the offender is*
4 *18 years of age or older and the victim is less than 14 years of age; or*

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

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

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

15 (e) An attempt to commit a class A person misdemeanor is a class B
16 person misdemeanor. An attempt to commit a class A nonperson
17 misdemeanor is a class B nonperson misdemeanor.

18 (f) An attempt to commit a class B or C misdemeanor is a class C
19 misdemeanor.

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

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

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

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

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

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

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

6 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
7 2012 Supp. 21-5422, and amendments thereto;

8 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
9 5503, and amendments thereto, if the offender is 18 years of age or older;

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

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

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

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

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

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

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

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

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

41 (d) (1) Criminal solicitation to commit an off-grid felony shall be
42 ranked at nondrug severity level 3. Criminal solicitation to commit any
43 other nondrug felony shall be ranked on the nondrug scale at three severity

1 levels below the appropriate level for the underlying or completed crime.
2 The lowest severity level for criminal solicitation to commit a nondrug
3 felony shall be a severity level 10.

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

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

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

11 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
12 2012 Supp. 21-5422, and amendments thereto;

13 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
14 5503, and amendments thereto, if the offender is 18 years of age or older;

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

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

21 ~~(G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
22 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
23 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
24 *child, as defined in section 4, and amendments thereto, if the offender is*
25 *18 years of age or older and the victim is less than 14 years of age; or*

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

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

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

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

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

1 (3) intentional and premeditated killing of any person by an inmate or
2 prisoner confined in a state correctional institution, community
3 correctional institution or jail or while in the custody of an officer or
4 employee of a state correctional institution, community correctional
5 institution or jail;

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

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

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

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

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

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

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

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

43 (2) indecent liberties with a child, as defined in subsection (a) of

1 K.S.A. 2012 Supp. 21-5506, and amendments thereto;
2 (3) aggravated indecent liberties with a child, as defined in subsection
3 (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;
4 (4) criminal sodomy, as defined in subsections (a)(3) and (a)(4) of
5 K.S.A. 2012 Supp. 21-5504, and amendments thereto;
6 (5) aggravated criminal sodomy, as defined in subsection (b) of
7 K.S.A. 2012 Supp. 21-5504, and amendments thereto;
8 (6) aggravated indecent solicitation of a child, as defined in
9 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;
10 (7) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-
11 5510, and amendments thereto;
12 (8) aggravated sexual battery, as defined in subsection (b) of K.S.A.
13 2012 Supp. 21-5505, and amendments thereto;
14 (9) incest, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5604,
15 and amendments thereto;
16 (10) aggravated incest, as defined in subsection (b) of K.S.A. 2012
17 Supp. 21-5604, and amendments thereto;
18 (11) indecent solicitation of a child, as defined in subsection (a) of
19 K.S.A. 2012 Supp. 21-5508, and amendments thereto;
20 (12) aggravated assault, as defined in subsection (b) of K.S.A. 2012
21 Supp. 21-5412, and amendments thereto, with intent to commit any crime
22 specified above;
23 (13) sexual battery, as defined in subsection (a) of K.S.A. 2012 Supp.
24 21-5505, and amendments thereto;
25 (14) unlawful voluntary sexual relations, as defined in K.S.A. 2012
26 Supp. 21-5507, and amendments thereto;
27 (15) aggravated *human* trafficking, as defined in subsections ~~(b)(1)~~
28 ~~(B)~~ and (b)(2) and (b)(4) of K.S.A. 2012 Supp. 21-5426, and amendments
29 thereto;
30 (16) *commercial sexual exploitation of a child, as defined in section*
31 *4, and amendments thereto;*
32 ~~(+6)~~ (17) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-
33 5509, and amendments thereto; or
34 ~~(+7)~~ (18) attempt, as defined in K.S.A. 2012 Supp. 21-5301, and
35 amendments thereto, or conspiracy, as defined in K.S.A. 2012 Supp. 21-
36 5302, and amendments thereto, to commit any crime specified above.
37 (b) Except as provided in subsection (c), in any prosecution to which
38 this section applies, evidence of the complaining witness' previous sexual
39 conduct with any person including the defendant shall not be admissible,
40 and no reference shall be made thereto in any proceeding before the court,
41 except under the following conditions: The defendant shall make a written
42 motion to the court to admit evidence or testimony concerning the
43 previous sexual conduct of the complaining witness. The motion shall be

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

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

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

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

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

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

43 (c) *It shall be an affirmative defense to any prosecution under this*

1 *section that the defendant committed the violation of this section because*
 2 *such defendant was subjected to human trafficking or aggravated human*
 3 *trafficking as defined by K.S.A. 2012 Supp. 21-5426, and amendments*
 4 *thereto, or commercial sexual exploitation of a child as defined by section*
 5 *4, and amendments thereto.*

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(b) (2) Promoting prostitution or attempt, conspiracy or criminal~~
 2 ~~solicitation to commit promoting prostitution is an off-grid person felony~~
 3 ~~when the offender is 18 years of age or older and the prostitute is less than~~
 4 ~~14 years of age.~~

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

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

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

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

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

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

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

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

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

39 ~~(b) (1) Buying sexual relations is a:~~

40 ~~(A) Class A person misdemeanor, except as provided in subsection (b)~~
 41 ~~(1)(B);~~

42 ~~(B) severity level 9, person felony when committed by a person who~~
 43 ~~has, prior to the commission of the crime, been convicted of a violation of~~

1 *this section, or any prior version of this section.*

2 (2) *In addition to any other sentence imposed, a person convicted*
3 *under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other*
4 *sentence imposed, a person convicted under subsection (b)(1)(B) shall be*
5 *fined not less than \$5,000. All fines collected pursuant to this section shall*
6 *be remitted to the human trafficking victim assistance fund created by*
7 *section 3, and amendments thereto.*

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

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

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

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

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

41 (b) *Any person convicted of prostitution as defined in K.S.A. 21-3512,*
42 *prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-6419,*
43 *and amendments thereto, or who entered into a diversion agreement in*

1 *lieu of further criminal proceedings for such violation, may petition the*
2 *convicting court for the expungement of such conviction or diversion*
3 *agreement and related arrest records if:*

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

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

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

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

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

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

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

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

1 used in the perpetration of such crime;

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

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

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

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

16 ~~(d)~~ (e) There shall be no expungement of convictions for the
17 following offenses or of convictions for an attempt to commit any of the
18 following offenses:

19 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
20 2012 Supp. 21-5503, and amendments thereto;

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

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

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

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

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

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

36 (8) endangering a child or aggravated endangering a child, as defined
37 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
38 21-5601, and amendments thereto;

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

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

43 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to

1 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

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

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

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

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

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

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

15 (18) any conviction for any offense in effect at any time prior to July
16 1, 2011, that is comparable to any offense as provided in this subsection.

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

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

27 (A) Defendant's full name;

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

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

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

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

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

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

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

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

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

13 (2) the circumstances and behavior of the petitioner warrant the
14 expungement; and

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

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

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

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

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

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

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

1 Kansas lottery;

2 (D) to aid in determining the petitioner's qualifications for executive
3 director of the Kansas racing and gaming commission, for employment
4 with the commission or for work in sensitive areas in parimutuel racing as
5 deemed appropriate by the executive director of the commission, or to aid
6 in determining qualifications for licensure or renewal of licensure by the
7 commission;

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

13 (F) upon application for a commercial driver's license under K.S.A.
14 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

34 (5) upon commitment to the custody of the secretary of corrections,
35 any previously expunged record in the possession of the secretary of
36 corrections may be reinstated and the expungement disregarded, and the
37 record continued for the purpose of the new commitment.

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

1 person shall be informed of the ability to expunge the diversion.

2 ~~(j)~~ *(k)* Subject to the disclosures required pursuant to subsection ~~(h)~~
3 **(i)**, in any application for employment, license or other civil right or
4 privilege, or any appearance as a witness, a person whose arrest records,
5 conviction or diversion of a crime has been expunged under this statute
6 may state that such person has never been arrested, convicted or diverted
7 of such crime, but the expungement of a felony conviction does not relieve
8 an individual of complying with any state or federal law relating to the use
9 or possession of firearms by persons convicted of a felony.

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

15 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

15 (11) the Kansas sentencing commission;

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

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

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

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

35 (16) the attorney general and the request is accompanied by a
36 statement that the request is being made to aid in determining
37 qualifications for a license to carry a concealed weapon pursuant to the
38 personal and family protection act; or

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

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

43 (B) providing information or documentation to the federal bureau of

1 investigation, in connection with the national instant criminal background
2 check system, to determine a person's qualification to possess a firearm.

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

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

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

20 (c) As used in this section:

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

27 (2) "Sexually violent crime" means:

28 (A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
29 2012 Supp. 21-5503, and amendments thereto;

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

33 (C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
34 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
35 2012 Supp. 21-5504, and amendments thereto;

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

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

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

43 (G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to

1 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;

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

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

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

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

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

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

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

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

32 (B) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
33 5503, and amendments thereto;

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

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

42 (F) sexual exploitation of a child, as defined in subsection (a)(1) or
43 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the child

1 is less than 14 years of age; and

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

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

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

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

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

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

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

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

42 (c) When a person is sentenced pursuant to subsection (a) or (b), such
43 person shall be sentenced to a mandatory minimum term of imprisonment

1 of not less than 25 years, 40 years or be sentenced as determined in
2 subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall
3 not be eligible for probation or suspension, modification or reduction of
4 sentence. In addition, a person sentenced pursuant to this section shall not
5 be eligible for parole prior to serving such mandatory term of
6 imprisonment, and such imprisonment shall not be reduced by the
7 application of good time credits.

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

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

23 (A) The defendant has no significant history of prior criminal
24 activity;

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

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

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

31 (E) the capacity of the defendant to appreciate the criminality of the
32 defendant's conduct or to conform the defendant's conduct to the
33 requirements of law was substantially impaired; and

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

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

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

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

2 (c) Violations of K.S.A. 2012 Supp. 21-5401, 21-5402, 21-5421, 21-
3 5422 and 21-5901, and amendments thereto, are off-grid crimes for the
4 purpose of sentencing. Except as otherwise provided by K.S.A. 2012
5 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625, 21-6628
6 and 21-6629, and amendments thereto, the sentence shall be imprisonment
7 for life and shall not be subject to statutory provisions for suspended
8 sentence, community service or probation.

9 (d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504,
10 21-5506, 21-5510 and ~~21-6420~~ *section 4*, and amendments thereto, if the
11 offender is 18 years of age or older and the victim is under 14 years of age,
12 such violations are off-grid crimes for the purposes of sentencing. Except
13 as provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the
14 sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-
15 6627, and amendments thereto.

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

24 (b) Subject to the provisions of subsection (b) of K.S.A. 2012 Supp.
25 21-6817, and amendments thereto, any fact that would increase the penalty
26 for a crime beyond the statutory maximum, other than a prior conviction,
27 shall be submitted to a jury and proved beyond a reasonable doubt.

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

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

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

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

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

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

3 (2) Subject to the provisions of subsection (c)(3), the following
4 nonexclusive list of aggravating factors may be considered in determining
5 whether substantial and compelling reasons for departure exist:

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

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

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

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

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

23 (i) Commit any person felony;

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

26 (iii) attempt, conspire or solicit, as defined in K.S.A. 2012 Supp. 21-
27 5301, 21-5302 and 21-5303, and amendments thereto, to commit any
28 person felony.

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

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

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

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

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

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

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

4 (e) *commercial sexual exploitation of a child, as defined in section 4,*
5 *and amendments thereto, if the victim is less than 14 years of age.*

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

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

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

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

21 (G) The defendant was incarcerated during the commission of the
22 offense.

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

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

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

34 (d) In determining aggravating or mitigating circumstances, the court
35 shall consider:

36 (1) Any evidence received during the proceeding;

37 (2) the presentence report;

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

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

42 (e) Upon motion of the prosecutor stating that the defendant has
43 provided substantial assistance in the investigation or prosecution of

1 another person who is alleged to have committed an offense, the court may
2 consider such mitigation in determining whether substantial and
3 compelling reasons for a departure exist. In considering this mitigating
4 factor, the court may consider the following:

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

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

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

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

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

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

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

26 (2) murder;

27 (3) kidnapping;

28 (4) treason;

29 (5) sedition;

30 (6) racketeering;

31 (7) commercial bribery;

32 (8) robbery;

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

34 (10) bribery;

35 (11) any felony violation of K.S.A. 2012 Supp. 21-5701 through 21-
36 5717, and amendments thereto;

37 (12) commercial gambling;

38 (13) sports bribery;

39 (14) tampering with a sports contest;

40 (15) aggravated escape;

41 (16) aggravated failure to appear;

42 (17) arson;

43 (18) terrorism;

- 1 (19) illegal use of weapons of mass destruction; ~~or~~
2 (20) *human trafficking or aggravated human trafficking*;
3 (21) *sexual exploitation of a child*;
4 (22) *commercial sexual exploitation of a child*;
5 (23) *buying sexual relations, promoting the sale of sexual relations*
6 *or selling sexual relations; or*
7 ~~(20)~~ (24) any conspiracy to commit any of the foregoing offenses.

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

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

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

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

34 (f) When an investigative or law enforcement officer, while engaged
35 in intercepting wire, oral or electronic communications in the manner
36 authorized by this act, intercepts wire, oral or electronic communications
37 relating to offenses other than those specified in the order authorizing the
38 interception of the wire, oral or electronic communication, the contents
39 thereof and evidence derived therefrom may be disclosed or used as
40 provided in subsections (b) and (c) of this section. Such contents and
41 evidence derived therefrom may be used under subsection (d) of this
42 section when authorized or approved by a judge of competent jurisdiction,
43 where such judge finds on subsequent application, made as soon as

1 practicable, that the contents were otherwise intercepted in accordance
2 with the provisions of this act, or with chapter 119 of title 18 of the United
3 States code.

4 Sec. 25. K.S.A. 22-2530 is hereby amended to read as follows: 22-2530.

5 If a search warrant is executed which authorizes a search of real property
6 based upon an alleged offense involving gambling, obscenity, ~~prostitution-~~
7 ~~selling the sale of sexual relations~~, controlled substances or liquor, a copy
8 of the warrant shall be delivered to the last known address of the owner of
9 the property within two business days, excluding Saturdays, Sundays and
10 legal holidays, after execution of the warrant if such address is different
11 from the address of the property for which the warrant was issued.

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

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

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

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

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

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

34 (A) Aggravated human trafficking, subsection (c)(2)(B) of K.S.A.
35 2012 Supp. 21-5426, and amendments thereto;

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

38 (C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A.
39 2012 Supp. 21-5504, and amendments thereto;

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

42 (E) sexual exploitation of a child, subsection (b)(2)(B) of K.S.A.
43 2012 Supp. 21-5510, and amendments thereto;

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

4 (G) an attempt, conspiracy or criminal solicitation, as defined in
5 K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-3503, and amendments
6 thereto, of any such felony.

7 Sec. 27. K.S.A. 2012 Supp. 22-3717 is hereby amended to read as
8 follows: 22-3717. (a) Except as otherwise provided by this section; K.S.A.
9 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through 21-4638,
10 prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642,
11 prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-6623, 21-
12 6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567,
13 and amendments thereto; an inmate, including an inmate sentenced
14 pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012 Supp. 21-
15 6707, and amendments thereto, shall be eligible for parole after serving the
16 entire minimum sentence imposed by the court, less good time credits.

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

25 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
26 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
27 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
28 6625, and amendments thereto, an inmate sentenced to imprisonment for
29 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
30 1999, shall be eligible for parole after serving 15 years of confinement,
31 without deduction of any good time credits and an inmate sentenced to
32 imprisonment for an off-grid offense committed on or after July 1, 1999,
33 shall be eligible for parole after serving 20 years of confinement without
34 deduction of any good time credits.

35 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
36 repeal, an inmate sentenced for a class A felony committed before July 1,
37 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
38 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
39 be eligible for parole after serving 15 years of confinement, without
40 deduction of any good time credits.

41 (4) An inmate sentenced to imprisonment for a violation of
42 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after
43 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after

1 serving 10 years of confinement without deduction of any good time
2 credits.

3 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
4 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
5 thereto, committed on or after July 1, 2006, shall be eligible for parole
6 after serving the mandatory term of imprisonment without deduction of
7 any good time credits.

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

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

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

18 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
19 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
20 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
21 eligible for parole after serving the mandatory term of imprisonment.

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

27 (A) Except as provided in subparagraphs (D) and (E), persons
28 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
29 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
30 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
31 July 1, 2012, must serve 36 months, plus the amount of good time and
32 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
33 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on
34 postrelease supervision.

35 (B) Except as provided in subparagraphs (D) and (E), persons
36 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
37 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
38 drug severity level 4 crimes committed on or after July 1, 2012, must serve
39 24 months, plus the amount of good time and program credit earned and
40 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012
41 Supp. 21-6821, and amendments thereto, on postrelease supervision.

42 (C) Except as provided in subparagraphs (D) and (E), persons
43 sentenced for nondrug severity levels 7 through 10 crimes, drug severity

1 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
2 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
3 must serve 12 months, plus the amount of good time and program credit
4 earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or
5 K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease
6 supervision.

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

13 (ii) If the sentencing judge departs from the presumptive postrelease
14 supervision period, the judge shall state on the record at the time of
15 sentencing the substantial and compelling reasons for the departure.
16 Departures in this section are subject to appeal pursuant to K.S.A. 21-
17 4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments
18 thereto.

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

21 (a) Written briefs or oral arguments submitted by either the defendant
22 or the state;

23 (b) any evidence received during the proceeding;

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

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

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

33 (v) In carrying out the provisions of subparagraph (d)(1)(D), the court
34 shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-
35 6817, and amendments thereto.

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

42 (vii) Persons convicted of crimes deemed sexually violent or sexually
43 motivated shall be registered according to the offender registration act,

1 K.S.A. 22-4901 through 22-4910, and amendments thereto.

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

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

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

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

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

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

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

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

30 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
31 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-
32 5504, and amendments thereto;

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

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

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

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

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

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

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

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

9 ~~(K)~~ (M) 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.

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

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

23 (f) If a person is sentenced to prison for a crime committed on or after
24 July 1, 1993, while on probation, parole, conditional release or in a
25 community corrections program, for a crime committed prior to July 1,
26 1993, and the person is not eligible for retroactive application of the
27 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
28 4724, prior to its repeal, the new sentence shall not be aggregated with the
29 old sentence, but shall begin when the person is paroled or reaches the
30 conditional release date on the old sentence. If the offender was past the
31 offender's conditional release date at the time the new offense was
32 committed, the new sentence shall not be aggregated with the old sentence
33 but shall begin when the person is ordered released by the prisoner review
34 board or reaches the maximum sentence expiration date on the old
35 sentence, whichever is earlier. The new sentence shall then be served as
36 otherwise provided by law. The period of postrelease supervision shall be
37 based on the new sentence, except that those offenders whose old sentence
38 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
39 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
40 term of life imprisonment, for which there is no conditional release or
41 maximum sentence expiration date, shall remain on postrelease
42 supervision for life or until discharged from supervision by the prisoner
43 review board.

1 (g) Subject to the provisions of this section, the prisoner review board
2 may release on parole those persons confined in institutions who are
3 eligible for parole when: (1) The board believes that the inmate should be
4 released for hospitalization, deportation or to answer the warrant or other
5 process of a court and is of the opinion that there is reasonable probability
6 that the inmate can be released without detriment to the community or to
7 the inmate; or (2) the secretary of corrections has reported to the board in
8 writing that the inmate has satisfactorily completed the programs required
9 by any agreement entered under K.S.A. 75-5210a, and amendments
10 thereto, or any revision of such agreement, and the board believes that the
11 inmate is able and willing to fulfill the obligations of a law abiding citizen
12 and is of the opinion that there is reasonable probability that the inmate
13 can be released without detriment to the community or to the inmate.
14 Parole shall not be granted as an award of clemency and shall not be
15 considered a reduction of sentence or a pardon.

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

1 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
2 agreement; and (2) all pertinent information regarding such inmate,
3 including, but not limited to, the circumstances of the offense of the
4 inmate; the presentence report; the previous social history and criminal
5 record of the inmate; the conduct, employment, and attitude of the inmate
6 in prison; the reports of such physical and mental examinations as have
7 been made, including, but not limited to, risk factors revealed by any risk
8 assessment of the inmate; comments of the victim and the victim's family
9 including in person comments, contemporaneous comments and
10 prerecorded comments made by any technological means; comments of
11 the public; official comments; any recommendation by the staff of the
12 facility where the inmate is incarcerated; proportionality of the time the
13 inmate has served to the sentence a person would receive under the Kansas
14 sentencing guidelines for the conduct that resulted in the inmate's
15 incarceration; and capacity of state correctional institutions.

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

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

1 75-5210a, and amendments thereto, and the secretary of corrections has
2 reported to the board in writing that the inmate has satisfactorily
3 completed the programs required by such agreement, or any revision
4 thereof, the board shall not require further program participation.
5 However, if the board determines that other pertinent information
6 regarding the inmate warrants the inmate's not being released on parole,
7 the board shall state in writing the reasons for not granting the parole. If
8 parole is denied for an inmate sentenced for a crime other than a class A or
9 class B felony or an off-grid felony, the board shall hold another parole
10 hearing for the inmate not later than one year after the denial unless the
11 board finds that it is not reasonable to expect that parole would be granted
12 at a hearing if held in the next three years or during the interim period of a
13 deferral. In such case, the board may defer subsequent parole hearings for
14 up to three years but any such deferral by the board shall require the board
15 to state the basis for its findings. If parole is denied for an inmate
16 sentenced for a class A or class B felony or an off-grid felony, the board
17 shall hold another parole hearing for the inmate not later than three years
18 after the denial unless the board finds that it is not reasonable to expect
19 that parole would be granted at a hearing if held in the next 10 years or
20 during the interim period of a deferral. In such case, the board may defer
21 subsequent parole hearings for up to 10 years, but any such deferral shall
22 require the board to state the basis for its findings.

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

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

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

41 (3) Parolees and persons on postrelease supervision are, and shall
42 agree in writing to be, subject to search or seizure by any law enforcement
43 officer based on reasonable suspicion of the person violating conditions of

1 parole or postrelease supervision or reasonable suspicion of criminal
2 activity. Any law enforcement officer who conducts such a search shall
3 submit a written report to the appropriate parole officer no later than the
4 close of the next business day after such search. The written report shall
5 include the facts leading to such search, the scope of such search and any
6 findings resulting from such search.

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

15 (m) Whenever the prisoner review board orders the parole of an
16 inmate or establishes conditions for an inmate placed on postrelease
17 supervision, the board:

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

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

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

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

39 (5) unless it finds compelling circumstances which would render a
40 plan of payment unworkable, shall order that the parolee or person on
41 postrelease supervision reimburse the state for all or part of the
42 expenditures by the state board of indigents' defense services to provide
43 counsel and other defense services to the person. In determining the

1 amount and method of payment of such sum, the prisoner review board
2 shall take account of the financial resources of the person and the nature of
3 the burden that the payment of such sum will impose. Such amount shall
4 not exceed the amount claimed by appointed counsel on the payment
5 voucher for indigents' defense services or the amount prescribed by the
6 board of indigents' defense services reimbursement tables as provided in
7 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
8 previous payments for such services;

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

16 (7) shall order that the parolee or person on postrelease supervision
17 agree in writing to be subject to search or seizure by any law enforcement
18 officer based on reasonable suspicion of the person violating conditions of
19 parole or postrelease supervision or reasonable suspicion of criminal
20 activity.

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

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

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

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

39 (r) An inmate who is allocated regular good time credits as provided
40 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
41 good time credits in increments of not more than 90 days per meritorious
42 act. These credits may be awarded by the secretary of corrections when an
43 inmate has acted in a heroic or outstanding manner in coming to the

1 assistance of another person in a life threatening situation, preventing
2 injury or death to a person, preventing the destruction of property or taking
3 actions which result in a financial savings to the state.

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

6 (t) For offenders sentenced prior to May 25, 2000, who are eligible
7 for modification of their postrelease supervision obligation, the department
8 of corrections shall modify the period of postrelease supervision as
9 provided for by this section for offenders convicted of severity levels 9 and
10 10 crimes on the sentencing guidelines grid for nondrug crimes and
11 severity level 4 crimes on the sentencing guidelines grid for drug crimes
12 on or before September 1, 2000; for offenders convicted of severity levels
13 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or
14 before November 1, 2000; and for offenders convicted of severity levels 5
15 and 6 crimes on the sentencing guidelines grid for nondrug crimes and
16 severity level 3 crimes on the sentencing guidelines grid for drug crimes
17 on or before January 1, 2001.

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

26 (v) Whenever the prisoner review board orders a person to be
27 electronically monitored pursuant to this section, or the court orders a
28 person to be electronically monitored pursuant to subsection (r) of K.S.A.
29 2012 Supp. 21-6604, and amendments thereto, the board shall order the
30 person to reimburse the state for all or part of the cost of such monitoring.
31 In determining the amount and method of payment of such sum, the board
32 shall take account of the financial resources of the person and the nature of
33 the burden that the payment of such sum will impose.

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

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

43 (B) As used in this subsection, all other terms have the meanings

1 provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

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

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

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

1 engaged in the commission, attempted commission, conspiracy to commit
2 or solicitation of two or more person felonies, person misdemeanors,
3 felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior
4 to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated,
5 and amendments thereto, any felony violation of any provision of the
6 uniform controlled substances act prior to July 1, 2009, or the comparable
7 juvenile offenses, which if committed by an adult would constitute the
8 commission of such felonies or misdemeanors, or any substantially similar
9 offense from another jurisdiction; or

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

12 Any real property used as a place where any such activities are carried
13 on or permitted to be carried on and any effects, equipment, paraphernalia,
14 fixtures, appliances, musical instruments or other personal property
15 designed for and used on such premises in connection with such unlawful
16 activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-
17 3904, and amendments thereto.

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

21 (a) "Offender" means:

22 (1) A sex offender;

23 (2) a violent offender;

24 (3) a drug offender;

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

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

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

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

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

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

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

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

42 (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
43 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012

1 Supp. 21-5504, and amendments thereto;

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

5 (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its
6 repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto prior to its~~
7 ~~amendment by this act on July 1, 2013;~~ or

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

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

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

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

20 (c) "Sexually violent crime" means:

21 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
22 2012 Supp. 21-5503, and amendments thereto;

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

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

29 (4) 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 (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
33 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and
34 amendments thereto;

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

38 (7) aggravated indecent solicitation of a child, as defined in K.S.A.
39 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
40 5508, and amendments thereto;

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

43 (9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to

1 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and
2 amendments thereto;

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

6 (11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its
7 repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto,
8 committed on or after April 17, 2008;

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

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

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

17 ~~(15)~~ (15) any conviction or adjudication for an offense that is
18 comparable to a sexually violent crime as defined in this subsection, or any
19 out of state conviction or adjudication for an offense that under the laws of
20 this state would be a sexually violent crime as defined in this subsection;

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

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

32 (d) "Sexually violent predator" means any person who, on or after
33 July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A.
34 59-29a01 et seq., and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

20 (3) has been convicted of an offense that is comparable to any crime
21 defined in this subsection, any out of state conviction for an offense that
22 under the laws of this state would be an offense defined in this subsection;
23 or

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

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

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

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

40 (3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
41 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
42 2012 Supp. 21-5705, and amendments thereto. The provisions of this
43 paragraph shall not apply to violations of subsections (a)(2) through (a)(6)

1 or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred on or after July 1,
2 2009, through April 15, 2010;

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

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

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

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

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

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

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

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

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

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

3 (o) "Registering entity" means any person, agency or other
4 governmental unit, correctional facility or registering law enforcement
5 agency responsible for obtaining the required information from, and
6 explaining the required registration procedures to, any person required to
7 register pursuant to the Kansas offender registration act. "Registering
8 entity" shall include, but not be limited to, sheriff's offices, tribal police
9 departments and correctional facilities.

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

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

16 (r) "Out of state" means: the District of Columbia; any federal,
17 military or tribal jurisdiction, including those within this state; any foreign
18 jurisdiction; or any state or territory within the United States, other than
19 this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (P) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A.
33 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A.
34 2012 Supp. 21-5705, and amendments thereto; or

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

39 (2) Except as otherwise provided by the Kansas offender registration
40 act, the duration of registration terminates, if not confined, at the
41 expiration of 15 years from the date of conviction. Any period of time
42 during which any offender is incarcerated in any jail or correctional
43 facility or during which the offender does not comply with any and all

1 requirements of the Kansas offender registration act shall not count toward
2 the duration of registration.

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

8 (A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-
9 3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012
10 Supp. 21-5504, and amendments thereto, when one of the parties involved
11 is less than 18 years of age;

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

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

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

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

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

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

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

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

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

39 (2) Except as otherwise provided by the Kansas offender registration
40 act, the duration of registration terminates, if not confined, at the
41 expiration of 25 years from the date of conviction. Any period of time
42 during which any offender is incarcerated in any jail or correctional
43 facility or during which the offender does not comply with any and all

1 requirements of the Kansas offender registration act shall not count toward
2 the duration of registration.

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

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

9 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
10 2012 Supp. 21-5503, and amendments thereto;

11 (2) aggravated indecent solicitation of a child, as defined in K.S.A.
12 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
13 5508, and amendments thereto;

14 (3) aggravated indecent liberties with a child, as defined in K.S.A.
15 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
16 5506, and amendments thereto;

17 (4) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
18 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
19 2012 Supp. 21-5504, and amendments thereto;

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

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

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

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

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

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

38 (11) *commercial sexual exploitation of a child, as defined in section*
39 *4, and amendments thereto; or*

40 (H) (12) any attempt, conspiracy or criminal solicitation, as defined
41 in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A.
42 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an
43 offense defined in this subsection.

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

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

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

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

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

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

29 (g) Notwithstanding any other provisions of this section, for an
30 offender 14 years of age or more who is adjudicated as a juvenile offender
31 for an act which if committed by an adult would constitute a sexually
32 violent crime set forth in subsection (c) of K.S.A. 22-4902, and
33 amendments thereto, and such crime is not an off-grid felony or a felony
34 ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-
35 4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments
36 thereto, the court shall:

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

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

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

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

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

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

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

34 (k) For any person moving to Kansas who has been convicted or
35 adjudicated in an out of state court, or who was required to register under
36 an out of state law, the duration of registration shall be the length of time
37 required by the out of state jurisdiction or by the Kansas offender
38 registration act, whichever length of time is longer. The provisions of this
39 subsection shall apply to convictions or adjudications prior to June 1,
40 2006, and to persons who moved to Kansas prior to June 1, 2006, and to
41 convictions or adjudications on or after June 1, 2006, and to persons who
42 moved to Kansas on or after June 1, 2006.

43 (l) For any person residing, maintaining employment or attending

1 school in this state who has been convicted or adjudicated by an out of
2 state court of an offense that is comparable to any crime requiring
3 registration pursuant to the Kansas offender registration act, but who was
4 not required to register in the jurisdiction of conviction or adjudication, the
5 duration of registration shall be the duration required for the comparable
6 offense pursuant to the Kansas offender registration act. The duration of
7 registration shall begin upon establishing residency, beginning
8 employment or beginning school.

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

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

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

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

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

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

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

29 (3) has been physically, mentally or emotionally abused or neglected
30 or sexually abused;

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

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

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

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

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

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

3 (10) is willfully and voluntarily absent at least a second time from a
4 court ordered or designated placement, or a placement pursuant to court
5 order, if the absence is without the consent of the person with whom the
6 child is placed or, if the child is placed in a facility, without the consent of
7 the person in charge of such facility or such person's designee;

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

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

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

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

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

26 (g) "Court-appointed special advocate" means a responsible adult
27 other than an attorney guardian ad litem who is appointed by the court to
28 represent the best interests of a child, as provided in K.S.A. 2012 Supp.
29 38-2206, and amendments thereto, in a proceeding pursuant to this code.

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

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

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

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

1 amendments thereto.

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

3 (m) "Interested party" means the grandparent of the child, a person
4 with whom the child has been living for a significant period of time when
5 the child in need of care petition is filed, and any person made an
6 interested party by the court pursuant to K.S.A. 2012 Supp. 38-2241, and
7 amendments thereto, or Indian tribe seeking to intervene that is not a party.

8 (n) "Jail" means:

9 (1) An adult jail or lockup; or

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

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

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

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

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

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

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

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

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

5 (3) failure to use resources available to treat a diagnosed medical
6 condition if such treatment will make a child substantially more
7 comfortable, reduce pain and suffering, or correct or substantially diminish
8 a crippling condition from worsening. A parent legitimately practicing
9 religious beliefs who does not provide specified medical treatment for a
10 child because of religious beliefs shall not for that reason be considered a
11 negligent parent; however, this exception shall not preclude a court from
12 entering an order pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 38-
13 2217, and amendments thereto.

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

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

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

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

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

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

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

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

39 (cc) "Secure facility" means a facility, *other than a staff secure*
40 *facility* which is operated or structured so as to ensure that all entrances
41 and exits from the facility are under the exclusive control of the staff of the
42 facility, whether or not the person being detained has freedom of
43 movement within the perimeters of the facility, or which relies on locked

1 rooms and buildings, fences or physical restraint in order to control
2 behavior of its residents. No secure facility shall be in a city or county jail.

3 (dd) "Sexual abuse" means any contact or interaction with a child in
4 which the child is being used for the sexual stimulation of the perpetrator,
5 the child or another person. Sexual abuse shall include allowing,
6 permitting or encouraging a child to engage in ~~prostitution~~ *the sale of*
7 *sexual relations or commercial sexual exploitation of a child*, or to be
8 photographed, filmed or depicted in pornographic material.

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

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

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

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

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

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

41 (2) the law enforcement officer or court services officer has probable
42 cause to believe that a court order commanding that the child be taken into
43 custody as a child in need of care has been issued in this state or in another

1 jurisdiction.

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

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

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

10 (3) *reasonably believes the child is a victim of human trafficking,*
11 *aggravated human trafficking or commercial sexual exploitation of a*
12 *child.*

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

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

24 (d) *Except as provided in subsections (a) and (b),* a law enforcement
25 officer may temporarily detain and assume temporary custody of any child
26 subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and
27 amendments thereto, during the hours school is actually in session and
28 shall deliver the child pursuant to subsection (g) of K.S.A. 2012 Supp. 38-
29 2232, and amendments thereto.

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

37 (2) Except as provided in subsection (b), if the child is not delivered
38 to the custody of the child's parent or other custodian, the child shall
39 forthwith be delivered to a shelter facility designated by the court, court
40 services officer, juvenile intake and assessment worker, licensed attendant
41 care center or other person or, if the child is 15 years of age or younger, or
42 16 or 17 years of age if the child has no identifiable parental or family
43 resources or shows signs of physical, mental, emotional or sexual abuse, to

1 a facility or person designated by the secretary.

2 (3) If, after delivery of the child to a shelter facility, the person in
3 charge of the shelter facility at that time and the law enforcement officer
4 determine that the child will not remain in the shelter facility and if the
5 child is presently alleged, but not yet adjudicated, to be a child in need of
6 care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp.
7 38-2202, and amendments thereto, the law enforcement officer shall
8 deliver the child to a juvenile detention facility or other secure facility,
9 designated by the court, where the child shall be detained for not more
10 than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on
11 which the office of the clerk of the court is not accessible.

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

16 (5) It shall be the duty of the law enforcement officer to furnish to the
17 county or district attorney, without unnecessary delay, all the information
18 in the possession of the officer pertaining to the child, the child's parents or
19 other persons interested in or likely to be interested in the child and all
20 other facts and circumstances which caused the child to be taken into
21 custody.

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

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

40 (c) Whenever a child under the age of 18 years is taken into custody
41 by a law enforcement officer without a court order and is thereafter placed
42 as authorized by subsection (a), the facility or person shall, upon written
43 application of the law enforcement officer, have physical custody and

1 provide care and supervision for the child. The application shall state:

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

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

5 (3) the officer's belief that the child is a child in need of care and that
6 there are reasonable grounds to believe that the circumstances or condition
7 of the child is such that the child would be harmed unless placed in the
8 immediate custody of the shelter facility or other person.

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

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

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

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

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

32 (1) The applicant's belief that the child is a child in need of care;

33 (2) that the child is likely to sustain harm if not immediately removed
34 from the home;

35 (3) that allowing the child to remain in the home is contrary to the
36 welfare of the child; and

37 (4) the facts relied upon to support the application, including efforts
38 known to the applicant to maintain the family unit and prevent the
39 unnecessary removal of the child from the child's home, or the specific
40 facts supporting that an emergency exists which threatens the safety of the
41 child.

42 (b) (1) The order of protective custody may be issued only after the
43 court has determined there is probable cause to believe the allegations in

1 the application are true. The order shall remain in effect until the
2 temporary custody hearing provided for in K.S.A. 2012 Supp. 38-2243,
3 and amendments thereto, unless earlier rescinded by the court.

4 (2) No child shall be held in protective custody for more than 72
5 hours, excluding Saturdays, Sundays, legal holidays, and days on which
6 the office of the clerk of the court is not accessible, unless within the 72-
7 hour period a determination is made as to the necessity for temporary
8 custody in a temporary custody hearing. The time spent in custody
9 pursuant to K.S.A. 2012 Supp. 38-2232, and amendments thereto, shall be
10 included in calculating the 72-hour period. Nothing in this subsection shall
11 be construed to mean that the child must remain in protective custody for
12 72 hours. If a child is in the protective custody of the secretary, the
13 secretary shall allow at least one supervised visit between the child and the
14 parent or parents within such time period as the child is in protective
15 custody. The court may prohibit such supervised visit if the court
16 determines it is not in the best interest of the child.

17 (c) (1) Whenever the court determines the necessity for an order of
18 protective custody, the court may place the child in the protective custody
19 of:

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

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

25 (C) a youth residential facility;

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

27 (E) *a staff secure facility, notwithstanding any other provision of law,*
28 *if the child has been subjected to human trafficking or aggravated human*
29 *trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments*
30 *thereto, or commercial sexual exploitation of a child, as defined by section*
31 *4, and amendments thereto, or the child committed an act which, if*
32 *committed by an adult, would constitute a violation of K.S.A. 2012 Supp.*
33 *21-6419, and amendments thereto; or*

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

37 (2) If the secretary presents the court with a plan to provide services
38 to a child or family which the court finds will assure the safety of the
39 child, the court may only place the child in the protective custody of the
40 secretary until the court finds the services are in place. The court shall
41 have the authority to require any person or entity agreeing to participate in
42 the plan to perform as set out in the plan. When the child is placed in the
43 protective custody of the secretary, the secretary shall have the

1 discretionary authority to place the child with a parent or to make other
2 suitable placement for the child. *When the child is placed in the temporary*
3 *custody of the secretary and the child has been subjected to human*
4 *trafficking or aggravated human trafficking, as defined by K.S.A. 2012*
5 *Supp. 21-5426, and amendments thereto, or commercial sexual*
6 *exploitation of a child, as defined by section 4, and amendments thereto,*
7 *or the child committed an act which, if committed by an adult, would*
8 *constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments*
9 *thereto, the secretary shall have the discretionary authority to place the*
10 *child in a staff secure facility, notwithstanding any other provision of law.*
11 When the child is presently alleged, but not yet adjudicated, to be a child
12 in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A.
13 2012 Supp. 38-2202, and amendments thereto, the child may be placed in
14 a juvenile detention facility or other secure facility pursuant to an order of
15 protective custody for a period of not to exceed 24 hours, excluding
16 Saturdays, Sundays, legal holidays, and days on which the office of the
17 clerk of the court is not accessible.

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

23 (e) If the court issues an order of protective custody, the court may
24 also enter an order restraining any alleged perpetrator of physical, sexual,
25 mental or emotional abuse of the child from residing in the child's home;
26 visiting, contacting, harassing or intimidating the child, other family
27 member or witness; or attempting to visit, contact, harass or intimidate the
28 child, other family member or witness. Such restraining order shall be
29 served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp.
30 38-2237, and amendments thereto, on any alleged perpetrator to whom the
31 order is directed.

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

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

38 (iii) immediate placement of the child is in the best interest of the
39 child; and

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

43 (2) Such findings shall be included in any order entered by the court.

1 If the child is placed in the custody of the secretary, the court shall provide
2 the secretary with a written copy of any orders entered upon making the
3 order.

4 Sec. 35. On January 1, 2014, K.S.A. 2012 Supp. 38-2243 is hereby
5 amended to read as follows: 38-2243. (a) Upon notice and hearing, the
6 court may issue an order directing who shall have temporary custody and
7 may modify the order during the pendency of the proceedings as will best
8 serve the child's welfare.

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

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

17 (d) Notice of the temporary custody hearing shall be given at least 24
18 hours prior to the hearing. The court may continue the hearing to afford the
19 24 hours prior notice or, with the consent of the party or interested party,
20 proceed with the hearing at the designated time. If an order of temporary
21 custody is entered and the parent or other person having custody of the
22 child has not been notified of the hearing, did not appear or waive
23 appearance and requests a rehearing, the court shall rehear the matter
24 without unnecessary delay.

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

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

39 (g) (1) Whenever the court determines the necessity for an order of
40 temporary custody the court may place the child in the temporary custody
41 of:

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

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

4 (C) a youth residential facility;

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

6 (E) *a staff secure facility, notwithstanding any other provision of law,*
7 *if the child has been subjected to human trafficking or aggravated human*
8 *trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments*
9 *thereto, or commercial sexual exploitation of a child, as defined by section*
10 *4, and amendments thereto, or the child committed an act which, if*
11 *committed by an adult, would constitute a violation of K.S.A. 2012 Supp.*
12 *21-6419, and amendments thereto; or*

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

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

1 (h) If the court issues an order of temporary custody, the court may
2 also enter an order restraining any alleged perpetrator of physical, sexual,
3 mental or emotional abuse of the child from residing in the child's home;
4 visiting, contacting, harassing or intimidating the child; or attempting to
5 visit, contact, harass or intimidate the child, other family members or
6 witnesses. Such restraining order shall be served by personal service
7 pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments
8 thereto, on any alleged perpetrator to whom the order is directed.

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

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

15 (iii) immediate placement of the child is in the best interest of the
16 child; and

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

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

23 (j) If the court enters an order of temporary custody that provides for
24 placement of the child with a person other than the parent, the court shall
25 make a child support determination pursuant to K.S.A. 2012 Supp. 38-
26 2277, and amendments thereto.

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

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

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

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

34 (4) any relevant information from the intake and assessment process;
35 and

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

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

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

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

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

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

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

10 (C) immediate placement of the child is in the best interest of the
11 child; and

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

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

18 (d) *Custody of a child removed from the custody of a parent.* If the
19 court has made the findings required by subsection (c), the court shall
20 enter an order awarding custody to: A relative of the child or to a person
21 with whom the child has close emotional ties who shall not be required to
22 be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated,
23 and amendments thereto, ~~to~~; any other suitable person, ~~to~~; a shelter
24 facility, ~~to~~; a youth residential facility; *a staff secure facility,*
25 *notwithstanding any other provision of law, if the child has been subjected*
26 *to human trafficking or aggravated human trafficking, as defined by*
27 *K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial*
28 *sexual exploitation of a child, as defined by section 4, and amendments*
29 *thereto, or the child committed an act which, if committed by an adult,*
30 *would constitute a violation of K.S.A. 2012 Supp. 21-6419, and*
31 *amendments thereto; or, if the child is 15 years of age or younger, or 16 or*
32 *17 years of age if the child has no identifiable parental or family resources*
33 *or shows signs of physical, mental, emotional or sexual abuse, to the*
34 *secretary. Custody awarded under this subsection shall continue until*
35 *further order of the court.*

36 (1) When custody is awarded to the secretary, the secretary shall
37 consider any placement recommendation by the court and notify the court
38 of the placement or proposed placement of the child within 10 days of the
39 order awarding custody. After providing the parties or interested parties
40 notice and opportunity to be heard, the court may determine whether the
41 secretary's placement or proposed placement is contrary to the welfare or
42 in the best interests of the child. In making that determination the court
43 shall consider the health and safety needs of the child and the resources

1 available to meet the needs of children in the custody of the secretary. If
2 the court determines that the placement or proposed placement is contrary
3 to the welfare or not in the best interests of the child, the court shall notify
4 the secretary, who shall then make an alternative placement.

5 (2) The custodian designated under this subsection shall notify the
6 court in writing at least 10 days prior to any planned placement with a
7 parent. The written notice shall state the basis for the custodian's belief that
8 placement with a parent is no longer contrary to the welfare or best interest
9 of the child. Upon reviewing the notice, the court may allow the custodian
10 to proceed with the planned placement or may set the date for a hearing to
11 determine if the child shall be allowed to return home. If the court sets a
12 hearing on the matter, the custodian shall not return the child home without
13 written consent of the court.

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

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

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

28 (e) *Further determinations regarding a child removed from the home.*
29 If custody has been awarded under subsection (d) to a person other than a
30 parent, a permanency plan shall be provided or prepared pursuant to
31 K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency
32 plan is provided at the dispositional hearing, the court may determine
33 whether reintegration is a viable alternative or, if reintegration is not a
34 viable alternative, whether the child should be placed for adoption or a
35 permanent custodian appointed. In determining whether reintegration is a
36 viable alternative, the court shall consider:

37 (1) Whether a parent has been found by a court to have committed
38 one of the following crimes or to have violated the law of another state
39 prohibiting such crimes or to have aided and abetted, attempted, conspired
40 or solicited the commission of one of these crimes: (A) Murder in the first
41 degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402,
42 and amendments thereto; (B) murder in the second degree, K.S.A. 21-
43 3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments

1 thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A.
2 2012 Supp. 21-5401, and amendments thereto; (D) voluntary
3 manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp.
4 21-5404, and amendments thereto; or (E) a felony battery that resulted in
5 bodily injury;

6 (2) whether a parent has subjected the child or another child to
7 aggravated circumstances;

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

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

12 (5) whether the parents have failed to work diligently toward
13 reintegration;

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

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

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

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

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

39 (2) If the court has reason to believe that a child is before the court
40 due, in whole or in part, to the use or misuse of alcohol or a violation of
41 K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by
42 the child, a parent of the child, or another person responsible for the care
43 of the child, the court may order the child, parent of the child or other

1 person responsible for the care of the child to submit to and complete an
2 alcohol and drug evaluation by a qualified person or agency and comply
3 with any recommendations. If the evaluation is performed by a
4 community-based alcohol and drug safety program certified pursuant to
5 K.S.A. 8-1008, and amendments thereto, the child, parent of the child or
6 other person responsible for the care of the child shall pay a fee not to
7 exceed the fee established by that statute. If the court finds that the child
8 and those legally liable for the child's support are indigent, the fee may be
9 waived. In no event shall the fee be assessed against the secretary.

10 (3) If child support has been requested and the parent or parents have
11 a duty to support the child, the court may order one or both parents to pay
12 child support and, when custody is awarded to the secretary, the court shall
13 order one or both parents to pay child support. The court shall determine,
14 for each parent separately, whether the parent is already subject to an order
15 to pay support for the child. If the parent is not presently ordered to pay
16 support for any child who is subject to the jurisdiction of the court and the
17 court has personal jurisdiction over the parent, the court shall order the
18 parent to pay child support in an amount determined under K.S.A. 2012
19 Supp. 38-2277, and amendments thereto. Except for good cause shown,
20 the court shall issue an immediate income withholding order pursuant to
21 K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each
22 parent ordered to pay support under this subsection, regardless of whether
23 a payor has been identified for the parent. A parent ordered to pay child
24 support under this subsection shall be notified, at the hearing or otherwise,
25 that the child support order may be registered pursuant to K.S.A. 2012
26 Supp. 38-2279, and amendments thereto. The parent shall also be informed
27 that, after registration, the income withholding order may be served on the
28 parent's employer without further notice to the parent and the child support
29 order may be enforced by any method allowed by law. Failure to provide
30 this notice shall not affect the validity of the child support order.

31 Sec. 37. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as
32 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
33 records or files specified in this code concerning a juvenile may be
34 expunged upon application to a judge of the court of the county in which
35 the records or files are maintained. The application for expungement may
36 be made by the juvenile, if 18 years of age or older or, if the juvenile is
37 less than 18 years of age, by the juvenile's parent or next friend.

38 (b) There shall be no expungement of records or files concerning acts
39 committed by a juvenile which, if committed by an adult, would constitute
40 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-
41 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
42 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments
43 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,

1 or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary
2 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp.
3 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
4 3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments
5 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection
6 (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto,
7 involuntary manslaughter while driving under the influence of alcohol or
8 drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503,
9 and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or
10 subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
11 indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or
12 subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
13 aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its
14 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments
15 thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal,
16 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,
17 indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or
18 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,
19 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
20 repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual
21 exploitation *of a child*; K.S.A. 21-3603, prior to its repeal, or subsection
22 (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated
23 incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012
24 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-
25 3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments
26 thereto, abuse of a child; or which would constitute an attempt to commit a
27 violation of any of the offenses specified in this subsection.

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

34 (d) When a petition for expungement is filed, the court shall set a date
35 for a hearing on the petition and shall give notice thereof to the county or
36 district attorney. The petition shall state: (1) The juvenile's full name; (2)
37 the full name of the juvenile as reflected in the court record, if different
38 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
39 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
40 of the trial court. Except as otherwise provided by law, a petition for
41 expungement shall be accompanied by a docket fee in the amount of \$100.
42 On and after the effective date of this act through June 30, 2013, the
43 supreme court may impose a charge, not to exceed \$19 per case, to fund

1 the costs of non-judicial personnel. All petitions for expungement shall be
2 docketed in the original action. Any person who may have relevant
3 information about the petitioner may testify at the hearing. The court may
4 inquire into the background of the petitioner.

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

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

9 (ii) *one year has elapsed since the final discharge for an adjudication*
10 *concerning acts committed by a juvenile which, if committed by an adult,*
11 *would constitute a violation of K.S.A. 2012 Supp. 21-6419, and*
12 *amendments thereto;*

13 (B) since the final discharge of the juvenile, the juvenile has not been
14 convicted of a felony or of a misdemeanor other than a traffic offense or
15 adjudicated as a juvenile offender under the revised Kansas juvenile justice
16 code and no proceedings are pending seeking such a conviction or
17 adjudication; and

18 (C) the circumstances and behavior of the petitioner warrant
19 expungement.

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

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

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

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

41 (i) Nothing in this section shall be construed to prohibit the
42 maintenance of information relating to an offense after records or files
43 concerning the offense have been expunged if the information is kept in a

1 manner that does not enable identification of the juvenile.

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

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

9 (1) The person whose record was expunged;

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

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

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

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

24 (6) the Kansas lottery, and the request is accompanied by a statement
25 that the request is being made to aid in determining qualifications for
26 employment with the Kansas lottery or for work in sensitive areas within
27 the Kansas lottery as deemed appropriate by the executive director of the
28 Kansas lottery;

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

36 (8) the Kansas sentencing commission; or

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

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

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

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

3 Sec. 38. K.S.A. 2012 Supp. 38-2361 is hereby amended to read as
4 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to
5 K.S.A. 2012 Supp. 38-2356, and amendments thereto, modification of
6 sentence pursuant to K.S.A. 2012 Supp. 38-2367, and amendments thereto,
7 or violation of a condition of sentence pursuant to K.S.A. 2012 Supp. 38-
8 2368, and amendments thereto, and subject to subsection (a) of K.S.A.
9 2012 Supp. 38-2365, and amendments thereto, the court may impose one
10 or more of the following sentencing alternatives. In the event that any
11 sentencing alternative chosen constitutes an order authorizing or requiring
12 removal of the juvenile from the juvenile's home and such findings either
13 have not previously been made or the findings are not or may no longer be
14 current, the court shall make determinations as required by K.S.A. 2012
15 Supp. 38-2334 and 38-2335, and amendments thereto.

16 (1) Place the juvenile on probation through court services or
17 community corrections for a fixed period, subject to terms and conditions
18 the court deems appropriate consistent with juvenile justice programs in
19 the community.

20 (2) Order the juvenile to participate in a community based program
21 available in such judicial district subject to the terms and conditions the
22 court deems appropriate. This alternative shall not be ordered with the
23 alternative in paragraph (12) and when ordered with the alternative in
24 paragraph (10) shall constitute a recommendation. Requirements
25 pertaining to child support may apply if custody is vested with other than a
26 parent.

27 (3) Place the juvenile in the custody of a parent or other suitable
28 person, subject to terms and conditions consistent with juvenile justice
29 programs in the community. This alternative shall not be ordered with the
30 alternative in paragraph (10) or (12). Requirements pertaining to child
31 support may apply if custody is vested with other than a parent.

32 (4) Order the juvenile to attend counseling, educational, mediation or
33 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

34 (5) Suspend or restrict the juvenile's driver's license or privilege to
35 operate a motor vehicle on the streets and highways of this state pursuant
36 to subsection (c).

37 (6) Order the juvenile to perform charitable or community service
38 work.

39 (7) Order the juvenile to make appropriate reparation or restitution
40 pursuant to subsection (d).

41 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
42 subsection (e).

43 (9) Place the juvenile under a house arrest program administered by

1 the court pursuant to K.S.A. 2012 Supp. 21-6609, and amendments
2 thereto.

3 (10) Place the juvenile in the custody of the commissioner as
4 provided in K.S.A. 2012 Supp. 38-2365, and amendments thereto. This
5 alternative shall not be ordered with the alternative in paragraph (3) or
6 (12). Except for a mandatory drug and alcohol evaluation, when this
7 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such
8 orders shall constitute a recommendation by the court. Requirements
9 pertaining to child support shall apply under this alternative.

10 (11) Commit the juvenile to a sanctions house for a period no longer
11 than 28 days subject to the provisions of subsection (f).

12 (12) Commit the juvenile directly to the custody of the commissioner
13 for a period of confinement in a juvenile correctional facility and a period
14 of aftercare pursuant to K.S.A. 2012 Supp. 38-2369, and amendments
15 thereto. The provisions of K.S.A. 2012 Supp. 38-2365, and amendments
16 thereto, shall not apply to juveniles committed pursuant to this provision,
17 provided however, that 21 days prior to the juvenile's release from a
18 juvenile correctional facility, the commissioner or designee shall notify the
19 court of the juvenile's anticipated release date. The court shall set and hold
20 a permanency hearing pursuant to K.S.A. 2012 Supp. 38-2365, and
21 amendments thereto, within seven days after the juvenile's release. This
22 alternative may be ordered with the alternative in paragraph (7).
23 Requirements pertaining to child support shall apply under this alternative.

24 (b) If the court orders the juvenile to attend counseling, educational,
25 mediation or other sessions, or to undergo a drug and alcohol evaluation
26 pursuant to subsection (a)(4), the following provisions apply:

27 (1) The court may order the juvenile offender to participate in
28 counseling or mediation sessions or a program of education, including
29 placement in an alternative educational program approved by a local
30 school board. The costs of any counseling or mediation may be assessed as
31 expenses in the case. No mental health center shall charge a fee for court-
32 ordered counseling greater than what the center would have charged the
33 person receiving the counseling if the person had requested counseling on
34 the person's own initiative. No mediator shall charge a fee for court-
35 ordered mediation greater than what the mediator would have charged the
36 person participating in the mediation if the person had requested mediation
37 on the person's own initiative. Mediation may include the victim but shall
38 not be mandatory for the victim; and

39 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
40 violation of a statute that makes such a requirement, the court shall order
41 and, if adjudicated for any other offense, the court may order the juvenile
42 to submit to and complete a drug and alcohol evaluation by a community-
43 based drug and alcohol safety action program certified pursuant to K.S.A.

1 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
2 established by that statute for such evaluation. The court may waive the
3 mandatory evaluation if the court finds that the juvenile completed a drug
4 and alcohol evaluation, approved by the community-based alcohol and
5 drug safety action program, within 12 months before sentencing. If the
6 evaluation occurred more than 12 months before sentencing, the court
7 shall order the juvenile to resubmit to and complete the evaluation and
8 program as provided herein. If the court finds that the juvenile and those
9 legally liable for the juvenile's support are indigent, the court may waive
10 the fee. In no event shall the fee be assessed against the commissioner or
11 the juvenile justice authority nor shall the fee be assessed against the
12 secretary of ~~social and rehabilitation services~~ *the department for children*
13 *and families* or the department of ~~social and rehabilitation services for~~
14 *children and families* if the juvenile is in the secretary's care, custody and
15 control.

16 (c) If the court orders suspension or restriction of a juvenile offender's
17 driver's license or privilege to operate a motor vehicle on the streets and
18 highways of this state pursuant to subsection (a)(5), the following
19 provisions apply:

20 (1) The duration of the suspension ordered by the court shall be for a
21 definite time period to be determined by the court. Upon suspension of a
22 license pursuant to this subsection, the court shall require the juvenile
23 offender to surrender the license to the court. The court shall transmit the
24 license to the division of motor vehicles of the department of revenue, to
25 be retained until the period of suspension expires. At that time, the licensee
26 may apply to the division for return of the license. If the license has
27 expired, the juvenile offender may apply for a new license, which shall be
28 issued promptly upon payment of the proper fee and satisfaction of other
29 conditions established by law for obtaining a license unless another
30 suspension or revocation of the juvenile offender's privilege to operate a
31 motor vehicle is in effect. As used in this subsection, "highway" and
32 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and
33 amendments thereto. Any juvenile offender who does not have a driver's
34 license may have driving privileges revoked. No Kansas driver's license
35 shall be issued to a juvenile offender whose driving privileges have been
36 revoked pursuant to this section for a definite time period to be determined
37 by the court; and

38 (2) in lieu of suspending a juvenile offender's driver's license or
39 privilege to operate a motor vehicle on the highways of this state, the court
40 may enter an order which places conditions on the juvenile offender's
41 privilege of operating a motor vehicle on the streets and highways of this
42 state, a certified copy of which the juvenile offender shall be required to
43 carry any time the juvenile offender is operating a motor vehicle on the

1 streets and highways of this state. The order shall prescribe a definite time
2 period for the conditions imposed. Upon entering an order restricting a
3 juvenile offender's license, the court shall require the juvenile offender to
4 surrender such juvenile offender's license to the court. The court shall
5 transmit the license to the division of vehicles, together with a copy of the
6 order. Upon receipt thereof, the division of vehicles shall issue without
7 charge a driver's license which shall indicate on its face that conditions
8 have been imposed on the juvenile offender's privilege of operating a
9 motor vehicle and that a certified copy of the order imposing the
10 conditions is required to be carried by the juvenile offender when
11 operating a motor vehicle on the streets and highways of this state. If the
12 juvenile offender is a nonresident, the court shall cause a copy of the order
13 to be transmitted to the division and the division shall forward a copy of it
14 to the motor vehicle administrator of the juvenile offender's state of
15 issuance. The court shall furnish to any juvenile offender whose driver's
16 license has had conditions imposed on it under this section a copy of the
17 order, which shall be recognized as a valid Kansas driver's license until the
18 division issues the restricted license provided for in this subsection. Upon
19 expiration of the period of time for which conditions are imposed pursuant
20 to this subsection, the juvenile offender may apply to the division for the
21 return of the license previously surrendered by the juvenile offender. In the
22 event the license has expired, the juvenile offender may apply to the
23 division for a new license, which shall be issued immediately by the
24 division upon payment of the proper fee and satisfaction of the other
25 conditions established by law unless such juvenile offender's privilege to
26 operate a motor vehicle on the streets and highways of this state has been
27 suspended or revoked prior thereto. If any juvenile offender violates any of
28 the conditions imposed under this subsection, the juvenile offender's
29 driver's license or privilege to operate a motor vehicle on the streets and
30 highways of this state shall be revoked for a period as determined by the
31 court in which the juvenile offender is convicted of violating such
32 conditions.

33 (d) The following provisions apply to the court's determination of
34 whether to order reparation or restitution pursuant to subsection (a)(7):

35 (1) The court shall order the juvenile to make reparation or restitution
36 to the aggrieved party for the damage or loss caused by the juvenile
37 offender's offense unless it finds compelling circumstances that would
38 render a plan of reparation or restitution unworkable. If the court finds
39 compelling circumstances that would render a plan of reparation or
40 restitution unworkable, the court shall enter such findings with
41 particularity on the record. In lieu of reparation or restitution, the court
42 may order the juvenile to perform charitable or social service for
43 organizations performing services for the community; and

1 (2) restitution may include, but shall not be limited to, the amount of
2 damage or loss caused by the juvenile's offense. Restitution may be made
3 by payment of an amount fixed by the court or by working for the parties
4 sustaining loss in the manner ordered by the court. An order of monetary
5 restitution shall be a judgment against the juvenile that may be collected
6 by the court by garnishment or other execution as on judgments in civil
7 cases. Such judgment shall not be affected by the termination of the court's
8 jurisdiction over the juvenile offender.

9 (e) If the court imposes a fine pursuant to subsection (a)(8), the
10 following provisions apply:

11 (1) The amount of the fine may not exceed \$1,000 for each offense.
12 The amount of the fine should be related to the seriousness of the offense
13 and the juvenile's ability to pay. Payment of a fine may be required in a
14 lump sum or installments;

15 (2) in determining whether to impose a fine and the amount to be
16 imposed, the court shall consider that imposition of a fine is most
17 appropriate in cases where the juvenile has derived pecuniary gain from
18 the offense and that imposition of a restitution order is preferable to
19 imposition of a fine; and

20 (3) any fine imposed by court shall be a judgment against the juvenile
21 that may be collected by the court by garnishment or other execution as on
22 judgments in civil cases. Such judgment shall not be affected by the
23 termination of the court's jurisdiction over the juvenile.

24 (f) If the court commits the juvenile to a sanctions house pursuant to
25 subsection (a)(11), the following provisions shall apply:

26 (1) The court may order commitment for up to 28 days for the same
27 offense or violation of sentencing condition. The court shall review the
28 commitment every seven days and, may shorten the initial commitment or,
29 if the initial term is less than 28 days, may extend the commitment;

30 (2) if, in the sentencing order, the court orders a sanctions house
31 placement for a verifiable probation violation and such probation violation
32 occurs, the juvenile may immediately be taken to a sanctions house and
33 detained for no more than 48 hours, excluding Saturdays, Sundays,
34 holidays, and days on which the office of the clerk of the court is not
35 accessible, prior to court review of the placement. The court and all parties
36 shall be notified of the sanctions house placement; and

37 (3) a juvenile over 18 years of age and less than 23 years of age at
38 sentencing shall be committed to a county jail, in lieu of a sanctions house,
39 under the same time restrictions imposed by paragraph (1), but shall not be
40 committed to or confined in a juvenile detention facility.

41 (g) Any order issued by the judge pursuant to this section shall be in
42 effect immediately upon entry into the court's minutes.

43 (h) In addition to the requirements of K.S.A. 2012 Supp. 38-2373,

1 and amendments thereto, if a person is under 18 years of age and
2 convicted of a felony or adjudicated as a juvenile offender for an offense if
3 committed by an adult would constitute the commission of a felony, the
4 court shall forward a signed copy of the journal entry to the commissioner
5 within 30 days of final disposition.

6 (i) Except as further provided, if a juvenile has been adjudged to be a
7 juvenile offender for an offense that if committed by an adult would
8 constitute the commission of: (1) Aggravated human trafficking, as defined
9 in **subsection (b) of K.S.A. 2012 Supp. 21-5426**, and amendments thereto,
10 if the victim is less than 14 years of age; (2) rape, as defined in subsection
11 (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto; (3)
12 aggravated indecent liberties with a child, as defined in subsection (b)(3)
13 of K.S.A. 2012 Supp. 21-5506, and amendments thereto; (4) aggravated
14 criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012
15 Supp. 21-5504, and amendments thereto; (5) ~~promoting prostitution, as~~
16 ~~defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the~~
17 ~~prostitute~~ *commercial sexual exploitation of a child, as defined in section*
18 *4, and amendments thereto, if the victim is less than 14 years of age;* (6)
19 sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of
20 K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less
21 than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation,
22 as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and
23 amendments thereto, of an offense defined in parts (1) through (6); the
24 court shall issue an order prohibiting the juvenile from attending the
25 attendance center that the victim of the offense attends. If only one
26 attendance center exists, for which the victim and juvenile are eligible to
27 attend, in the school district where the victim and the juvenile reside, the
28 court shall hear testimony and take evidence from the victim, the juvenile,
29 their families and a representative of the school district as to why the
30 juvenile should or should not be allowed to remain at the attendance center
31 attended by the victim. After such hearing, the court may issue an order
32 prohibiting the juvenile from attending the attendance center that the
33 victim of the offense attends.

34 (j) The sentencing hearing shall be open to the public as provided in
35 K.S.A. 2012 Supp. 38-2353, and amendments thereto.

36 Sec. 39. K.S.A. 2012 Supp. 41-311 is hereby amended to read as
37 follows: 41-311. (a) No license of any kind shall be issued pursuant to the
38 liquor control act to a person:

39 (1) Who has not been a citizen of the United States for at least 10
40 years, except that the spouse of a deceased retail licensee may receive and
41 renew a retail license notwithstanding the provisions of this subsection (a)
42 (1) if such spouse is otherwise qualified to hold a retail license and is a
43 United States citizen or becomes a United States citizen within one year

- 1 after the deceased licensee's death;
- 2 (2) who has been convicted of a felony under the laws of this state,
3 any other state or the United States;
- 4 (3) who has had a license revoked for cause under the provisions of
5 the liquor control act, the beer and cereal malt beverage keg registration
6 act or who has had any license issued under the cereal malt beverage laws
7 of any state revoked for cause except that a license may be issued to a
8 person whose license was revoked for the conviction of a misdemeanor at
9 any time after the lapse of 10 years following the date of the revocation;
- 10 (4) who has been convicted of being the keeper or is keeping ~~a house~~
11 ~~of prostitution~~ *any property, whether real or personal, where sexual*
12 *relations are being sold or offered for sale by a person who is 18 years of*
13 *age or older* or has forfeited bond to appear in court to answer charges of
14 being a keeper of ~~a house of prostitution~~ *any property, whether real or*
15 *personal, where sexual relations are being sold or offered for sale by a*
16 *person who is 18 years of age or older*;
- 17 (5) who has been convicted of being a proprietor of a gambling
18 house, pandering or any other crime opposed to decency and morality or
19 has forfeited bond to appear in court to answer charges for any of those
20 crimes;
- 21 (6) who is not at least 21 years of age;
- 22 (7) who, other than as a member of the governing body of a city or
23 county, appoints or supervises any law enforcement officer, who is a law
24 enforcement official or who is an employee of the director;
- 25 (8) who intends to carry on the business authorized by the license as
26 agent of another;
- 27 (9) who at the time of application for renewal of any license issued
28 under this act would not be eligible for the license upon a first application,
29 except as provided by subsection (a)(12);
- 30 (10) who is the holder of a valid and existing license issued under
31 article 27 of chapter 41 of the Kansas Statutes Annotated, *and amendments*
32 *thereto*, unless the person agrees to and does surrender the license to the
33 officer issuing the same upon the issuance to the person of a license under
34 this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and
35 amendments thereto, shall be eligible to receive a retailer's license under
36 the Kansas liquor control act;
- 37 (11) who does not own the premises for which a license is sought, or
38 does not, at the time of application, have a written lease thereon;
- 39 (12) whose spouse would be ineligible to receive a license under this
40 act for any reason other than citizenship, residence requirements or age,
41 except that this subsection (a)(12) shall not apply in determining eligibility
42 for a renewal license;
- 43 (13) whose spouse has been convicted of a felony or other crime

1 which would disqualify a person from licensure under this section and
2 such felony or other crime was committed during the time that the spouse
3 held a license under this act; or

4 (14) who does not provide any data or information required by
5 K.S.A. 2012 Supp. 41-311b, and amendments thereto.

6 (b) No retailer's license shall be issued to:

7 (1) A person who is not a resident of this state;

8 (2) a person who has not been a resident of this state for at least four
9 years immediately preceding the date of application;

10 (3) a person who has a beneficial interest in a manufacturer,
11 distributor, farm winery or microbrewery licensed under this act, except
12 that the spouse of an applicant for a retailer's license may own and hold a
13 farm winery license, microbrewery license, or both, if the spouse does not
14 hold a retailer's license issued under this act;

15 (4) a person who has a beneficial interest in any other retail
16 establishment licensed under this act, except that the spouse of a licensee
17 may own and hold a retailer's license for another retail establishment;

18 (5) a copartnership, unless all of the copartners are qualified to obtain
19 a license;

20 (6) a corporation; or

21 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
22 receive a license under this act for any reason, except that the provisions of
23 subsection (a)(6) shall not apply in determining whether a beneficiary
24 would be eligible for a license.

25 (c) No manufacturer's license shall be issued to:

26 (1) A corporation, if any officer or director thereof, or any
27 stockholder owning in the aggregate more than 25% of the stock of the
28 corporation would be ineligible to receive a manufacturer's license for any
29 reason other than citizenship and residence requirements;

30 (2) a copartnership, unless all of the copartners shall have been
31 residents of this state for at least five years immediately preceding the date
32 of application and unless all the members of the copartnership would be
33 eligible to receive a manufacturer's license under this act;

34 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
35 receive a license under this act for any reason, except that the provisions of
36 subsection (a)(6) shall not apply in determining whether a beneficiary
37 would be eligible for a license;

38 (4) an individual who is not a resident of this state;

39 (5) an individual who has not been a resident of this state for at least
40 five years immediately preceding the date of application; or

41 (6) a person who has a beneficial interest in a distributor, retailer,
42 farm winery or microbrewery licensed under this act, except as provided in
43 K.S.A. 41-305, and amendments thereto.

1 (d) No distributor's license shall be issued to:

2 (1) A corporation, if any officer, director or stockholder of the
3 corporation would be ineligible to receive a distributor's license for any
4 reason. It shall be unlawful for any stockholder of a corporation licensed
5 as a distributor to transfer any stock in the corporation to any person who
6 would be ineligible to receive a distributor's license for any reason, and
7 any such transfer shall be null and void, except that: (A) If any stockholder
8 owning stock in the corporation dies and an heir or devisee to whom stock
9 of the corporation descends by descent and distribution or by will is
10 ineligible to receive a distributor's license, the legal representatives of the
11 deceased stockholder's estate and the ineligible heir or devisee shall have
12 14 months from the date of the death of the stockholder within which to
13 sell the stock to a person eligible to receive a distributor's license, any such
14 sale by a legal representative to be made in accordance with the provisions
15 of the probate code; or (B) if the stock in any such corporation is the
16 subject of any trust and any trustee or beneficiary of the trust who is 21
17 years of age or older is ineligible to receive a distributor's license, the
18 trustee, within 14 months after the effective date of the trust, shall sell the
19 stock to a person eligible to receive a distributor's license and hold and
20 disburse the proceeds in accordance with the terms of the trust. If any legal
21 representatives, heirs, devisees or trustees fail, refuse or neglect to sell any
22 stock as required by this subsection, the stock shall revert to and become
23 the property of the corporation, and the corporation shall pay to the legal
24 representatives, heirs, devisees or trustees the book value of the stock.
25 During the period of 14 months prescribed by this subsection, the
26 corporation shall not be denied a distributor's license or have its
27 distributor's license revoked if the corporation meets all of the other
28 requirements necessary to have a distributor's license;

29 (2) a copartnership, unless all of the copartners are eligible to receive
30 a distributor's license;

31 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
32 receive a license under this act for any reason, except that the provisions of
33 subsection (a)(6) shall not apply in determining whether a beneficiary
34 would be eligible for a license; or

35 (4) a person who has a beneficial interest in a manufacturer, retailer,
36 farm winery or microbrewery licensed under this act.

37 (e) No nonbeverage user's license shall be issued to a corporation, if
38 any officer, manager or director of the corporation or any stockholder
39 owning in the aggregate more than 25% of the stock of the corporation
40 would be ineligible to receive a nonbeverage user's license for any reason
41 other than citizenship and residence requirements.

42 (f) No microbrewery license, microdistillery license or farm winery
43 license shall be issued to a:

- 1 (1) Person who is not a resident of this state;
- 2 (2) person who has not been a resident of this state for at least one
3 year immediately preceding the date of application;
- 4 (3) person who has a beneficial interest in a manufacturer or
5 distributor licensed under this act, except as provided in K.S.A. 41-305,
6 and amendments thereto;
- 7 (4) person, copartnership or association which has a beneficial
8 interest in any retailer licensed under this act or under K.S.A. 41-2702, and
9 amendments thereto, except that the spouse of an applicant for a
10 microbrewery or farm winery license may own and hold a retailer's license
11 if the spouse does not hold a microbrewery or farm winery license issued
12 under this act;
- 13 (5) copartnership, unless all of the copartners are qualified to obtain a
14 license;
- 15 (6) corporation, unless stockholders owning in the aggregate 50% or
16 more of the stock of the corporation would be eligible to receive such
17 license and all other stockholders would be eligible to receive such license
18 except for reason of citizenship or residency; or
- 19 (7) a trust, if any grantor, beneficiary or trustee would be ineligible to
20 receive a license under this act for any reason, except that the provisions of
21 subsection (a)(6) shall not apply in determining whether a beneficiary
22 would be eligible for a license.
- 23 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
24 (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto,
25 shall not apply in determining eligibility for the 10th, or a subsequent,
26 consecutive renewal of a license if the applicant has appointed a citizen of
27 the United States who is a resident of Kansas as the applicant's agent and
28 filed with the director a duly authenticated copy of a duly executed power
29 of attorney, authorizing the agent to accept service of process from the
30 director and the courts of this state and to exercise full authority, control
31 and responsibility for the conduct of all business and transactions within
32 the state relative to alcoholic liquor and the business licensed. The agent
33 must be satisfactory to and approved by the director, except that the
34 director shall not approve as an agent any person who:
 - 35 (1) Has been convicted of a felony under the laws of this state, any
36 other state or the United States;
 - 37 (2) has had a license issued under the alcoholic liquor or cereal malt
38 beverage laws of this or any other state revoked for cause, except that a
39 person may be appointed as an agent if the person's license was revoked
40 for the conviction of a misdemeanor and 10 years have lapsed since the
41 date of the revocation;
 - 42 (3) has been convicted of being the keeper or is keeping ~~a house of~~
43 ~~prostitution~~ *any property, whether real or personal, where sexual relations*

1 *are being sold or offered for sale by a person who is 18 years of age or*
2 *older or has forfeited bond to appear in court to answer charges of being a*
3 *keeper of a ~~house of prostitution~~ any property, whether real or personal,*
4 *where sexual relations are being sold or offered for sale by a person who*
5 *is 18 years of age or older;*

6 (4) has been convicted of being a proprietor of a gambling house,
7 pandering or any other crime opposed to decency and morality or has
8 forfeited bond to appear in court to answer charges for any of those
9 crimes; or

10 (5) is less than 21 years of age.

11 Sec. 40. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as
12 follows: 41-2601. As used in the club and drinking establishment act:

13 (a) The following terms shall have the meanings provided by K.S.A.
14 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
15 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

16 (b) "Beneficial interest" shall not include any interest a person may
17 have as owner, operator, lessee or franchise holder of a licensed hotel or
18 motel on the premises of which a club or drinking establishment is located.

19 (c) "Caterer" means an individual, partnership or corporation which
20 sells alcoholic liquor by the individual drink, and provides services related
21 to the serving thereof, on unlicensed premises which may be open to the
22 public, but does not include a holder of a temporary permit, selling
23 alcoholic liquor in accordance with the terms of such permit.

24 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
25 2701, and amendments thereto.

26 (e) "Class A club" means a premises which is owned or leased by a
27 corporation, partnership, business trust or association and which is
28 operated thereby as a bona fide nonprofit social, fraternal or war veterans'
29 club, as determined by the director, for the exclusive use of the corporate
30 stockholders, partners, trust beneficiaries or associates (hereinafter referred
31 to as members) and their families and guests accompanying them.

32 (f) "Class B club" means a premises operated for profit by a
33 corporation, partnership or individual, to which members of such club may
34 resort for the consumption of food or alcoholic beverages and for
35 entertainment.

36 (g) "Club" means a class A or class B club.

37 (h) "Drinking establishment" means premises which may be open to
38 the general public, where alcoholic liquor by the individual drink is sold.
39 Drinking establishment includes a railway car.

40 (i) "Food" means any raw, cooked or processed edible substance or
41 ingredient, other than alcoholic liquor or cereal malt beverage, used or
42 intended for use or for sale, in whole or in part, for human consumption.

43 (j) "Food service establishment" has the meaning provided by K.S.A.

1 36-501, and amendments thereto.

2 (k) "Hotel" has the meaning provided by K.S.A. 36-501, and
3 amendments thereto.

4 (l) "Individual drink" means a beverage containing alcoholic liquor or
5 cereal malt beverage served to an individual for consumption by such
6 individual or another individual, but which is not intended to be consumed
7 by two or more individuals. The term "individual drink" includes
8 beverages containing not more than: (1) Eight ounces of wine; (2) thirty-
9 two ounces of beer or cereal malt beverage; or (3) four ounces of a single
10 spirit or a combination of spirits.

11 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
12 wholly or partially refrigerated, access to the interior of which is restricted
13 by means of a locking device which requires the use of a key, magnetic
14 card or similar device.

15 (n) "Minor" means a person under 21 years of age.

16 (o) "Morals charge" means a charge involving ~~prostitution~~ *the sale of*
17 *sexual relations*; procuring any person; soliciting of a child under 18 years
18 of age for any immoral act involving sex; possession or sale of narcotics,
19 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal
20 cohabitation; adultery; bigamy; or a crime against nature.

21 (p) "Municipal corporation" means the governing body of any county
22 or city.

23 (q) "Public venue" means an arena, stadium, hall or theater, used
24 primarily for athletic or sporting events, live concerts, live theatrical
25 productions or similar seasonal entertainment events, not operated on a
26 daily basis, and containing:

27 (1) Not less than 4,000 permanent seats; and

28 (2) not less than two private suites, which are enclosed or semi-
29 enclosed seating areas, having controlled access and separated from the
30 general admission areas by a permanent barrier.

31 (r) "Railway car" means a locomotive drawn conveyance used for the
32 transportation and accommodation of human passengers that is confined to
33 a fixed rail route and which derives from sales of food for consumption on
34 the railway car not less than 30% of its gross receipts from all sales of food
35 and beverages in a 12-month period.

36 (s) "Restaurant" means:

37 (1) In the case of a club, a licensed food service establishment which,
38 as determined by the director, derives from sales of food for consumption
39 on the licensed club premises not less than 50% of its gross receipts from
40 all sales of food and beverages on such premises in a 12-month period;

41 (2) in the case of a drinking establishment subject to a food sales
42 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
43 food service establishment which, as determined by the director, derives

1 from sales of food for consumption on the licensed drinking establishment
2 premises not less than 30% of its gross receipts from all sales of food and
3 beverages on such premises in a 12-month period; and

4 (3) in the case of a drinking establishment subject to no food sales
5 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
6 food service establishment.

7 (t) "RV resort" means premises where a place to park recreational
8 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
9 for pay, primarily to transient guests, for overnight or longer use while
10 such recreational vehicles are used as sleeping or living accommodations.

11 (u) "Secretary" means the secretary of revenue.

12 (v) "Temporary permit" means a temporary permit issued pursuant to
13 K.S.A. 41-2645, and amendments thereto.

14 Sec. 41. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as
15 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
16 act, whether or not there is a prosecution or conviction related to the
17 offense, are:

18 (a) All offenses which statutorily and specifically authorize forfeiture;

19 (b) violations involving controlled substances, as described in K.S.A.
20 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

21 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
22 thereto;

23 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
24 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

25 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and
26 amendments thereto, and commercial gambling, as defined in subsection
27 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

28 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and
29 amendments thereto;

30 (g) unlawful possession *or use* of a scanning device or reencoder, as
31 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

32 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925
33 through 21-5934, and amendments thereto;

34 (i) an act or omission occurring outside this state, which would be a
35 violation in the place of occurrence and would be described in this section
36 if the act occurred in this state, whether or not it is prosecuted in any state;

37 (j) an act or omission committed in furtherance of any act or omission
38 described in this section including any inchoate or preparatory offense,
39 whether or not there is a prosecution or conviction related to the act or
40 omission;

41 (k) any solicitation or conspiracy to commit any act or omission
42 described in this section, whether or not there is a prosecution or
43 conviction related to the act or omission;

1 (l) furtherance of terrorism or illegal use of weapons of mass
2 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments
3 thereto;

4 (m) unlawful conduct of dog fighting and unlawful possession of dog
5 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
6 2012 Supp. 21-6414, and amendments thereto;

7 (n) unlawful conduct of cockfighting and unlawful possession of
8 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
9 2012 Supp. 21-6417, and amendments thereto;

10 (o) ~~prostitution~~ *selling sexual relations*, as defined in K.S.A. 2012
11 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ *the sale*
12 *of sexual relations*, as defined in K.S.A. 2012 Supp. 21-6420, and
13 amendments thereto, and ~~patronizing a prostitute~~ *buying sexual relations*,
14 as defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;

15 (p) human trafficking and aggravated human trafficking, as defined in
16 K.S.A. 2012 Supp. 21-5426, and amendments thereto;

17 (q) violations of the banking code, as described in K.S.A. 9-2012, and
18 amendments thereto;

19 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012
20 Supp. 21-5417, and amendments thereto;

21 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-
22 5821, and amendments thereto;

23 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and
24 amendments thereto;

25 (u) making false information, as defined in K.S.A. 2012 Supp. 21-
26 5824, and amendments thereto;

27 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.
28 21-5828, and amendments thereto;

29 (w) unlawful acts concerning computers, as described in K.S.A. 2012
30 Supp. 21-5839, and amendments thereto;

31 (x) identity theft and identity fraud, as defined in subsections (a) and
32 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

33 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,
34 and amendments thereto; ~~and~~

35 (z) felony violations of fleeing or attempting to elude a police officer,
36 as described in K.S.A. 8-1568, and amendments thereto; *and*

37 (aa) *commercial sexual exploitation of a child, as defined in section*
38 *4, and amendments thereto.*

39 Sec. 42. K.S.A. 2012 Supp. 68-2255 is hereby amended to read as
40 follows: 68-2255. (a) As used in this section:

41 (1) "Adult cabaret" means a nightclub, bar, restaurant or similar
42 commercial establishment which regularly features:

43 (A) Persons who appear in a state of nudity or semi-nudity;

1 (B) live performances which are characterized by the exposure of
2 specified anatomical areas or by specified sexual activities; or

3 (C) films, motion pictures, video cassettes, slides or other
4 photographic reproductions which are characterized by the depiction or
5 description of specified sexual activities or specified anatomical areas;

6 (2) "nudity" or a "state of nudity" means the showing of the human
7 male or female genitals, pubic area, vulva, anus, anal cleft or cleavage
8 with less than a fully opaque covering, the showing of the female breast
9 with less than a fully opaque covering of any part of the nipple or the
10 showing of the covered male genitals in a discernibly turgid state;

11 (3) "semi-nudity" means a state of dress in which opaque clothing
12 fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva,
13 nipple and areola of the female breast below a horizontal line across the
14 top of the areola at its highest point. Semi-nudity shall include the entire
15 lower portion of the female breast, but shall not include any portion of the
16 cleavage of the human female breast exhibited by wearing apparel
17 provided the areola is not exposed in whole or part;

18 (4) "sexually-oriented business" means any business which offers its
19 patrons goods of which a substantial portion are sexually-oriented
20 materials. Any business where more than 10% of display space is used for
21 sexually-oriented materials shall be presumed to be a sexually-oriented
22 business;

23 (5) "sexually-oriented materials" means any textual, pictorial or three
24 dimensional material that depicts nudity, sexual conduct, sexual
25 excitement or sadomasochistic abuse in a way which is patently offensive
26 to the average person applying contemporary adult community standards
27 with respect to what is suitable for minors;

28 (6) "sign" or "outdoor advertising" means any outdoor sign, display,
29 device, notice, bulletin, figure, painting, drawing, message, placard, poster,
30 billboard or other thing which is designed, intended or used to advertise or
31 inform, any part of the advertising or informative contents of which is
32 located within an adjacent area, and is visible from the state highway.

33 (b) No sign or other outdoor advertising, for an adult cabaret or
34 sexually-oriented business shall be located within one mile of any state
35 highway except if such business is located within one mile of a state
36 highway then the business may display a maximum of two exterior signs
37 on the premises of the business, consisting of one identification sign and
38 one sign solely giving notice that the premises are off limits to minors. The
39 identification sign shall be no more than 40 square feet in size and shall
40 include no more than the following information: Name, street address,
41 telephone number and operating hours of the business.

42 (c) Signs existing at the time of the effective date of this act, which
43 did not conform to the requirements of this section, and amendments

1 thereto, may be allowed to continue as a nonconforming use, but should be
2 made to conform within three years from July 1, 2006.

3 (d) Any owner of such a business who violates the provisions of this
4 section shall be guilty of a class C misdemeanor. Each week a violation of
5 this section continues to exist shall constitute a separate offense.

6 (e) This section is designed to protect the following public policy
7 interests of this state, including, but not limited to:

8 (1) To mitigate the adverse secondary effects of sexually-oriented
9 businesses; (2) to improve traffic safety; (3) to limit harm to minors; and
10 (4) to reduce ~~prostitution~~ *the sale of sexual relations*, crime, juvenile
11 delinquency, deterioration in property values and lethargy in neighborhood
12 improvement efforts.

13 (f) The attorney general shall represent the state in all actions and
14 proceedings arising from this section, and amendments thereto. All costs
15 incurred by the attorney general to defend or prosecute this section,
16 including payment of all court costs, civil judgments and, if necessary, any
17 attorneys fees, shall be paid from the state general fund.

18 Sec. 43. K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120,
19 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-
20 6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515,
21 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2312, 38-
22 2361, 41-311, 41-2601, 60-4104 and 68-2255 are hereby repealed.

23 Sec. 44. On January 1, 2014, K.S.A. 2012 Supp. 38-2231, 38-2232,
24 38-2242, 38-2243 and 38-2255 are hereby repealed.

25 Sec. 45. This act shall take effect and be in force from and after its
26 publication in the statute book.