

Journal of the Senate

FORTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 24, 2017, 8:00 a.m.

The Senate was called to order by Vice President Longbine.
The roll was called with 35 senators present.
Senators Fitzgerald, LaTurner, Masterson, Olson and Suellentrop were excused.
Invocation by Reverend Cecil T. Washington:

Heavenly Father, thanks for giving us another week to serve. As we move into the weekend, guide and guard us with Your powerful Hand. Put a hedge of protection around our vehicles. Help us find things well as we look in on loved ones, friends and family. You said in Psalm 127:1 "If the Lord does not build the house, it is useless for the builders to work on it and if the Lord does not protect a city, it is useless for the guard to stay alert."

So, Lord, let the umbrella of Your Sovereign protective grace be over all that we do this weekend.

While we're gone, recharge our batteries. Renew, refresh and return us re-energized. I thank You for this time, that we can take a break. In Jesus' Name, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 239, AN ACT concerning scrap metal; relating to regulation of scrap metal dealers; making certain provisions unenforceable until January 1, 2019; amending K.S.A. 2016 Supp. 50-6,109a, 50-6,109b, 50-6,109c, 50-6,109d, 50-6,109e, 50-6,109f, 50-6,110, 50-6,112a and 50-6,112b and repealing the existing sections, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **SB 238**.

Federal and State Affairs: **HB 2313**.

Financial Institutions and Insurance: **HB 2289**.

Public Health and Welfare: **HB 2232**.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with Senator Vicki Schmidt in the chair.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2353, HB 2356.**

Announcing passage of **SB 26, SB 110, SB 154.**

The House accedes to the request of the Senate for a conference on **SB 14** and has appointed Representatives Vickrey, Dove and Neighbor as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 20** and has appointed Representatives Kelly, Powell and Finney as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **H Sub SB 51** and has appointed Representatives Hawkins, Concannon and Wilson as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2353, HB 2356 were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Ethics, Elections and Local Government** recommends **HB 2158**, as amended by House Committee of the Whole, be amended on page 1, in line 8, by striking the first "the" and inserting "any"; also in line 8, after "place" by inserting "within the county"; in line 19, after "before" by inserting "the close of the polls on";

On page 6, following line 33, by inserting:

"Sec. 6. K.S.A. 2016 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

- (1) The voter is unable or refuses to provide current and valid identification; or
- (2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the

meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the ~~last business day~~ Tuesday of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the ~~last business day~~ Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the ~~last business day~~ Tuesday of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the ~~county election officer shall determine the final date for mailing of advance voting ballots, but such date shall not be more than three business days~~ one week before such election.

(5) For any special election of officers, at such time as is specified by the secretary

of state.

~~(6) For the presidential preference primary, between January 1 of the year in which such primary is held and the last business day of the week preceding such primary election.~~

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election officer, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness which has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information which establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer

stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.";

Also on page 6, in line 35, after "Supp." by inserting "25-1122 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after "Supp." by inserting "25-1122 and"; and the bill be passed as amended.

Also, **HB 2256**, as amended by House Committee, be amended on page 1, in line 16, by striking "250" and inserting "100"; and the bill be passed as amended.

HB 2333, as amended by House Committee, be amended on page 1, by striking all in lines 18 through 20; in line 21, by striking all before the period and inserting "one contested race for federal office and one contested race for Kansas legislative office"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **SB 138** be amended on page 3, in line 3, after "days" by inserting ", or 180 days as provided in subsection (10),"; in line 16, after "days" by inserting ", or 180 days as provided in subsection (10),"; in line 36, after "days" by inserting ", or 180 days as provided in subsection (10),"; in line 42, after "days" by inserting ", or 180 days as provided in subsection (10),";

On page 4, in line 2, by striking "subsection (7)" and inserting "subsections (7) and (10)";

On page 5, in line 7, by striking "substitute teachers or"; in line 28, after "thereto" by inserting ", to the extent that any such amount paid is included in federal adjusted gross income and subject to federal income taxation";

On page 6, in line 11, after the first comma by inserting "subsection (10)";

On page 7, in line 5, by striking "substitute teachers or"; in line 30, by striking all after "(d)"; by striking all in lines 31 through 43;

On page 8, by striking all in lines 1 through 31; in line 32, by striking "(f)"; by striking all in lines 40 through 43;

On page 9, by striking all in lines 1 through 6; in line 10, after the comma by inserting "or the 180-day waiting period under subsection (10),"; following line 27, by inserting:

"(10) (a) Notwithstanding the provisions of subsection (5) or (7) to the contrary, for

any retirant whose retirement date is on or after January 1, 2018, who is retired more than 60 days, if such retirant's age on the date of retirement is age 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than age 62, and who is subsequently hired in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, such retirant shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment, except that for retirants who are members of the legislature or other elected officials, the participating employer shall pay to the system the statutorily prescribed employer contribution rate.

(b) Notwithstanding the provisions of subsection (5) or (7) to the contrary, for any retirant whose retirement date is on or after January 1, 2018, who is retired more than 60 days, if such retirant's age on the date of retirement is age 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than age 62, and who is subsequently hired in a non-covered position, such retirant shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a retirant hired in a non-covered position.

(c) The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is age 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than age 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, that is not subject to amendment or nullification by act of the legislature.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 9, in line 33, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,";

On page 10, in line 4, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,"; in line 11, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,"; in line 16, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,";

On page 11, in line 7, by striking "The"; by striking all in line 8; in line 9, by striking

all before "The"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2069** be amended on page 1, following line 5, by inserting:

"New Section 1. (a) A hiring agency shall require each applicant interviewed by such agency for a law enforcement officer position who has been employed by another state or local law enforcement agency or governmental agency to execute a written waiver that: (1) Explicitly authorizes each state or local law enforcement agency or governmental agency that has employed the applicant to disclose the applicant's files to the hiring agency; and (2) releases the hiring agency and each state or local law enforcement agency or governmental agency that employed the applicant from any liability related to the use and disclosure of the applicant's files. An applicant who refuses to execute the written waiver shall not be considered for employment by the hiring agency. The hiring agency shall include the written waiver with each request for information submitted to a state or local law enforcement agency or governmental agency that has employed the applicant.

(b) Except as provided in subsection (c), a state or local law enforcement agency or governmental agency that receives a written waiver described in subsection (a) shall disclose the applicant's files to the hiring agency not more than 21 days after such receipt. Such law enforcement agency or governmental agency may choose to disclose the applicant's files by either: (1) Providing copies to the hiring agency; or (2) allowing the hiring agency to review the files at the law enforcement agency's office or governmental agency's office.

(c) (1) A state or local law enforcement agency or governmental agency is not required to disclose the applicant's files pursuant to subsection (b) if such agency is prohibited from providing the files pursuant to a binding nondisclosure agreement to which such agency is a party, and such agreement was executed before July 1, 2017.

(2) A state or local law enforcement agency or governmental agency is required to disclose the applicant's files pursuant to subsection (b) if such files are subject to a binding nondisclosure agreement to which such agency is a party, and such agreement was executed on or after July 1, 2017, but the disclosure shall be limited to files necessary to determine the qualifications and fitness of the applicant for performance of duties in a law enforcement officer position.

(3) A state or local law enforcement agency or governmental agency may redact personally identifiable information of persons other than the applicant in files disclosed to the hiring agency.

(d) A state or local law enforcement agency or governmental agency shall not be liable for complying with the provisions of this section in good faith or participating in an official oral interview with an investigator regarding the applicant.

(e) Files obtained pursuant to this section shall not be disclosed by the hiring agency, except as necessary for such agency's internal hiring processes.

(f) Files obtained pursuant to this section shall constitute, for the purposes of the open records act, a record of the state or local law enforcement agency or governmental agency that made, maintained or kept such files. Such files shall not be subject to a request for inspection and copying under the open records act directed toward the hiring agency obtaining the files, and shall not be subject to discovery, subpoena or other process directed toward the hiring agency obtaining the files. The official custodian of such files, for the purposes of the open records act, shall be the official custodian of the

records of such state or local law enforcement agency or governmental agency.

(g) As used in this section:

(1) "Files" means all performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints and all early warning information. "Files" shall not include nonperformance documents or data, including, but not limited to, medical files, schedules, pay and benefit information or similar administrative data or information. "Early warning information" means information from a data-based management tool designed to identify officers who may be exhibiting precursors of problems on the job that can result in providing those officers with counseling or training to divert them away from conduct that may become a disciplinary matter.

(2) "Governmental agency" means the state or subdivision of the state with oversight of the state or local law enforcement agency.

(3) "Hiring agency" means a state or local law enforcement agency processing an application for employment, regardless of whether the applicant is ultimately hired.

(4) "State or local law enforcement agency" means any public agency employing a law enforcement officer as defined in K.S.A. 74-5602, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 45-220 is hereby amended to read as follows: 45-220.

(a) Each public agency shall adopt procedures to be followed in requesting access to and obtaining copies of public records, which procedures shall provide full access to public records, protect public records from damage and disorganization, prevent excessive disruption of the agency's essential functions, provide assistance and information upon request and insure efficient and timely action in response to applications for inspection of public records.

(b) A public agency may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by subsection (c), a public agency shall not require that a request contain more information than the requester's name and address and the information necessary to ascertain the records to which the requester desires access and the requester's right of access to the records. A public agency may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requester desires access.

(c) If access to public records of an agency or the purpose for which the records may be used is limited pursuant to K.S.A. 45-221 or K.S.A. 2016 Supp. 45-230, and amendments thereto, the agency may require a person requesting the records or information therein to provide written certification that:

(1) The requester has a right of access to the records and the basis of that right; or

(2) the requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

(d) A public agency shall establish, for business days when it does not maintain regular office hours, reasonable hours when persons may inspect and obtain copies of the agency's records. The public agency may require that any person desiring to inspect or obtain copies of the agency's records during such hours so notify the agency, but such notice shall not be required to be in writing and shall not be required to be given more than 24 hours prior to the hours established for inspection and obtaining copies.

(e) Each official custodian of public records shall designate such persons as necessary to carry out the duties of custodian under this act and shall ensure that a custodian is available during regular business hours of the public agency to carry out such duties.

(f) Each public agency shall provide, upon request of any person, the following information:

(1) The principal office of the agency, its regular office hours and any additional hours established by the agency pursuant to subsection (c).

(2) The title and address of the official custodian of the agency's records and of any other custodian who is ordinarily available to act on requests made at the location where the information is displayed.

(3) The fees, if any, charged for access to or copies of the agency's records.

(4) The procedures to be followed in requesting access to and obtaining copies of the agency's records, including procedures for giving notice of a desire to inspect or obtain copies of records during hours established by the agency pursuant to subsection (c).

(g) (1) Except for requests of summary data compiled from information submitted by multiple criminal justice agencies or as otherwise provided by law, requests for records submitted to the central repository or any other repositories supporting the criminal justice information system which are maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4704 and 22-4705, and amendments thereto, shall be directed to the criminal justice agency from which the records originated.

~~(h)~~ (2) As used in this ~~section~~ subsection, the terms "central repository," "criminal justice agency" and "criminal justice information system" have the same meanings as defined in K.S.A. 22-4701, and amendments thereto.

(h) Requests for records defined as "files" pursuant to section 1, and amendments thereto, submitted to a state or local law enforcement agency or governmental agency shall be directed to the state or local law enforcement agency or governmental agency that made, maintained or kept such files, as required by section 1, and amendments thereto.

Sec. 3. K.S.A. 2016 Supp. 48-3602 is hereby amended to read as follows: 48-3602.

(a) The chief law enforcement executive for any law enforcement agency, ~~or~~ such executive's designee, the secretary of corrections or the secretary's designee may request assistance from a law enforcement agency or a department of corrections of another jurisdiction, including a jurisdiction located outside the state of Kansas, but within the United States.

(b) If a law enforcement officer makes an arrest or apprehension outside such officer's jurisdiction, the offender shall be delivered to the first available law enforcement officer who is commissioned in the jurisdiction in which the arrest was made. The officer making the initial arrest or apprehension shall assist in the preparation of any affidavits filed with the complaint or based on other evidence that

there is probable cause to believe that both a crime has been committed and the defendant has committed such crime.

(c) For the purposes of liability, all members of any political subdivision or public safety agency responding under operational control of the requesting political subdivision or public safety agency are deemed employees of such responding political subdivision or public safety agency and are subject to the liability and workers' compensation provisions provided to them as employees of their respective political subdivision or public safety agency. Qualified immunity, sovereign immunity, official immunity and the public duty rule shall apply to the provisions of this section as interpreted by the federal and state courts of the responding agency. The Kansas tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, and the Kansas workers compensation act, K.S.A. 44-501 et seq., and amendments thereto, shall be interpreted consistent with the provisions of this section.

(d) Nothing in this section shall be construed to limit the actions of law enforcement officers or agencies conducted pursuant to K.S.A. 19-828, and amendments thereto.

(e) The provisions of article 24 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 21-5220 et seq., and amendments thereto, are applicable to any law enforcement officers from jurisdictions located outside the state of Kansas, but within the United States who are acting pursuant to a request made under this section.

(f) For purposes of this section, the term "law enforcement officer" shall have the same meaning as that term is defined by K.S.A. 74-5602, and amendments thereto, or a law enforcement officer who has obtained a similar designation to one described in K.S.A. 74-5602, and amendments thereto, in a jurisdiction outside the state of Kansas, but within the United States.";

On page 2, in line 35, after "Supp." by inserting "45-220, 48-3602 and"; also in line 35, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "law enforcement; relating to hiring practices and consideration of prior employment records; open records act; requests for law enforcement assistance from jurisdictions located outside the state of Kansas;"; also in line 1, by striking all after the semicolon; in line 2, by striking "definitions;"; in line 3, after "Supp." by inserting "45-220, 48-3602 and"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Also, **HB 2085**, as amended by House Committee, be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 22-3504 is hereby amended to read as follows: 22-3504. (1) The court may correct an illegal sentence at any time. The defendant shall receive full credit for time spent in custody under the sentence prior to correction. Unless the motion and the files and records of the case conclusively show that the defendant is entitled to no relief, the defendant shall have a right to a hearing, after reasonable notice to be fixed by the court, to be personally present and to have the assistance of counsel in any proceeding for the correction of an illegal sentence.

(2) Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

(3) "Illegal sentence" means a sentence: Imposed by a court without jurisdiction; that does not conform to the applicable statutory provision, either in character or punishment; or that is ambiguous with respect to the time and manner in which it is to be served at the time it is pronounced. A sentence is not an "illegal sentence" because of a change in the law that occurs after the sentence is pronounced.";

On page 13, in line 22, before "K.S.A" by inserting "K.S.A. 22-3504 and"; also in line 22, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting "post-trial motions, correction of sentence;"; in line 3, after "amending" by inserting "K.S.A. 22-3504 and"; in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2092 be amended on page 14, following line 38, by inserting:

"Sec. 13. K.S.A. 2016 Supp. 22-2302 is hereby amended to read as follows: 22-2302. (a) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if: (1) The prosecuting attorney so requests; or (2) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) For a warrant or summons executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(c) (1) For a warrant or summons executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be open to the public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self, the clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may

submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2016 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with

appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

Sec. 14. K.S.A. 2016 Supp. 22-3716 is hereby amended to read as follows: 22-3716. (a) At any time during probation, assignment to a community correctional services program, suspension of sentence or pursuant to subsection (e) for defendants who committed a crime prior to July 1, 1993, and at any time during which a defendant is serving a nonprison sanction for a crime committed on or after July 1, 1993, or pursuant to subsection (e), the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of release or assignment, a notice to appear to answer to a charge of violation or a violation of the defendant's nonprison sanction. The notice shall be personally served upon the defendant. The warrant shall authorize all officers named in the warrant to return the defendant to the custody of the court or to any certified detention facility designated by the court. Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written or verbal statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction. A written statement delivered to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the defendant. After making an arrest, the court services officer or community correctional services officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to defendants arrested under these provisions.

(b) (1) Upon arrest and detention pursuant to subsection (a), the court services officer or community correctional services officer shall immediately notify the court and shall submit in writing a report showing in what manner the defendant has violated the conditions of release or assignment or a nonprison sanction.

(2) Unless the defendant, after being apprised of the right to a hearing by the supervising court services or community correctional services officer, waives such hearing, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charged. The hearing shall be in open court and the state shall have the burden of establishing the violation. The defendant shall have the right to be represented by counsel and shall be informed by the judge that, if the defendant is financially unable to obtain counsel, an attorney will be appointed to represent the defendant. The defendant shall have the right to present the testimony of witnesses and other evidence on the defendant's behalf. Relevant written statements made under oath may be admitted and considered by the court along with other

evidence presented at the hearing.

(3) (A) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A. 2016 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may impose the violation sanctions as provided in subsection (c)(1).

(B) Except as otherwise provided, if the original crime of conviction was a misdemeanor or a felony specified in K.S.A. 2016 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may:

(i) Continue or modify the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and impose confinement in a county jail not to exceed 60 days. If an offender is serving multiple probation terms concurrently, any confinement periods imposed shall be imposed concurrently;

(ii) impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision; or

(iii) revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and require the defendant to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed.

(4) Except as otherwise provided, if the defendant waives the right to a hearing and the sentencing court has not specifically withheld the authority from court services or community correctional services to impose sanctions, the following sanctions may be imposed without further order of the court:

(A) If the defendant was on probation at the time of the violation, the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(B) and (c)(1)(B) shall not exceed 18 total days during the term of supervision; and

(B) if the defendant was assigned to a community correctional services program at the time of the violation, the defendant's community corrections officer, with the concurrence of the community corrections director, may impose an intermediate sanction of confinement in a county jail, to be imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (c)(1)(B) shall not exceed 18 total days during the term of supervision.

(c) (1) Except as otherwise provided, if the original crime of conviction was a felony, other than a felony specified in K.S.A. 2016 Supp. 21-6804(i), and amendments thereto, and a violation is established, the court may impose the following sanctions:

(A) Continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction;

(B) continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and an intermediate sanction of confinement in a county jail to be

imposed as a two-day or three-day consecutive period. The total of all such sanctions imposed pursuant to this subparagraph and subsections (b)(4)(A) and (b)(4)(B) shall not exceed 18 total days during the term of supervision;

(C) if the violator already had at least one intermediate sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B) or (c)(1)(B) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 120 days, subject to a reduction of up to 60 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7);

(D) if the violator already had a sanction imposed pursuant to subsection (b)(4)(A), (b)(4)(B), (c)(1)(B) or (c)(1)(C) related to the crime for which the original supervision was imposed, continuation or modification of the release conditions of the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction and remanding the defendant to the custody of the secretary of corrections for a period of 180 days, subject to a reduction of up to 90 days in the discretion of the secretary. This sanction shall not be imposed more than once during the term of supervision. The sanction imposed pursuant to this subparagraph shall begin upon pronouncement by the court and shall not be served by prior confinement credit, except as provided in subsection (c)(7); or

(E) if the violator already had a sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) related to the crime for which the original supervision was imposed, revocation of the probation, assignment to a community corrections services program, suspension of sentence or nonprison sanction and requiring such violator to serve the sentence imposed, or any lesser sentence and, if imposition of sentence was suspended, imposition of any sentence which might originally have been imposed.

(2) Except as otherwise provided in subsections (c)(3), (c)(8) and (c)(9), no offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section shall be required to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections for such violation, unless such person has already had at least one prior assignment to a community correctional services program related to the crime for which the original sentence was imposed.

(3) The provisions of subsection (c)(2) shall not apply to adult felony offenders as described in K.S.A. 75-5291(a)(3), and amendments thereto.

(4) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in this section to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(5) When a new felony is committed while the offender is on probation or

assignment to a community correctional services program, the new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2016 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(6) Except as provided in subsection (f), upon completion of a violation sanction imposed pursuant to subsection (c)(1)(C) or (c)(1)(D) such offender shall return to community correctional services supervision. The sheriff shall not be responsible for the return of the offender to the county where the community correctional services supervision is assigned.

(7) A violation sanction imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) shall not be longer than the amount of time remaining on the offender's underlying prison sentence.

(8) (A) If the offender commits a new felony or misdemeanor while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D).

(B) If the offender absconds from supervision while the offender is on probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction, the court may:

(i) Revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D); or

(ii) sanction the offender under subsection (c)(1)(A), (c)(1)(C) or (c)(1)(D) without imposing a sanction under (c)(1)(B).

(9) The court may revoke the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction of an offender pursuant to subsection (c)(1)(E) without having previously imposed a sanction pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D) if:

(A) The court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the offender will not be served by such sanction; or

(B) the probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction was originally granted as the result of a dispositional departure granted by the sentencing court pursuant to K.S.A. 2016 Supp. 21-6815, and amendments thereto.

(10) If an offender is serving multiple probation terms concurrently, any violation sanctions imposed pursuant to subsection (c)(1)(B), (c)(1)(C) or (c)(1)(D), or any sanction imposed pursuant to subsection (c)(11), shall be imposed concurrently.

(11) If the original crime of conviction was a felony, except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2016 Supp. 8-1025, and amendments thereto, and the court makes a finding that the offender has committed one or more violations of the release conditions of the probation, assignment to a community correctional services program,

suspension of sentence or nonprison sanction, the court may impose confinement in a county jail not to exceed 60 days upon each such finding. Such confinement is separate and distinct from the violation sanctions provided in subsection (c)(1)(B), (c)(1)(C), (c)(1)(D) and (c)(1)(E) and shall not be imposed at the same time as any such violation sanction.

(12) The violation sanctions provided in this subsection shall apply to any violation of conditions of release or assignment or a nonprison sanction occurring on and after July 1, 2013, regardless of when the offender was sentenced for the original crime or committed the original crime for which sentenced.

(d) A defendant who is on probation, assigned to a community correctional services program, under suspension of sentence or serving a nonprison sanction and for whose return a warrant has been issued by the court shall be considered a fugitive from justice if it is found that the warrant cannot be served. If it appears that the defendant has violated the provisions of the defendant's release or assignment or a nonprison sanction, the court shall determine whether the time from the issuing of the warrant to the date of the defendant's arrest, or any part of it, shall be counted as time served on probation, assignment to a community correctional services program, suspended sentence or pursuant to a nonprison sanction.

(e) The court shall have 30 days following the date probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction was to end to issue a warrant for the arrest or notice to appear for the defendant to answer a charge of a violation of the conditions of probation, assignment to a community correctional service program, suspension of sentence or a nonprison sanction.

(f) For crimes committed on and after July 1, 2013, a felony offender whose nonprison sanction is revoked pursuant to subsection (c) or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) shall serve a period of postrelease supervision upon the completion of the prison portion of the underlying sentence.

(g) Offenders who have been sentenced pursuant to K.S.A. 2016 Supp. 21-6824, and amendments thereto, and who subsequently violate a condition of the drug and alcohol abuse treatment program shall be subject to an additional nonprison sanction for any such subsequent violation. Such nonprison sanctions shall include, but not be limited to, up to 60 days in a county jail, fines, community service, intensified treatment, house arrest and electronic monitoring.";

Also on page 14, in line 40, by striking "and" and inserting a comma; in line 41, after "6205" by inserting ", 22-2302 and 22-3716";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "warrants, disclosure of affidavits or sworn testimony; conditions of probation, revocation;"; in line 4, by striking the first "and" and inserting a comma; also in line 4, after "21-6205" by inserting ", 22-2302 and 22-3716"; and the bill be passed as amended.

HB 2240, as amended by House Committee of the Whole, be amended on page 1, in line 7, by striking "14" and inserting "15"; in line 12, after "professional" by inserting ", social worker";

On page 2, following line 16, by inserting:

"(m) "Social worker" means a person licensed under the social workers licensure

act.";

On page 9, following line 29, by inserting:

"New Sec. 15. (a) On or before January 1, 2018, the department for aging and disability services shall adopt rules and regulations requiring reporting of information from each crisis intervention center. The information required shall include, but not be limited to, the following:

(1) The total number of people detained pursuant to the crisis intervention act:
 (A) By law enforcement;
 (B) by written application of an adult; and
 (C) that were detained more than one time in the reporting period, including the total number of times each person was detained.

(2) The total number of people released:
 (A) Immediately following the evaluation by the behavioral health professional;
 (B) between four and 24 hours after admission;
 (C) between 24 and 48 hours after admission;
 (D) between 48 and 72 hours after admission; and
 (E) more than 72 hours after admission and before a commitment proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57, and amendments thereto, was completed. This number shall include the total number of hours each person was detained if such person was detained for more than 72 hours.

(3) The total number of people detained who were the subject of a commitment proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57, and amendments thereto, who filed such petition and the result of such petition.

(4) The total number of people detained who accessed peer supports during such detention.

(5) The total number of serious injuries to or deaths of people detained pursuant to the crisis intervention act.

(b) The department for aging and disability services shall prepare a report, beginning in 2019, that compiles the information reported by each crisis intervention center. The department shall provide such report to the governor and the standing committees on judiciary in the senate and the house of representatives annually, before the beginning of the regular legislative session. The department shall also publish such report on its website annually, before the beginning of the regular legislative session.";

On page 15, in line 14, after "professional" by inserting a comma;

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2026** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2026," as follows:

"Senate Substitute for HOUSE BILL NO. 2026

By Committee on Public Health and Welfare

"AN ACT concerning the Kansas program of medical assistance; process and contract requirements; claims appeals.";

And the substitute bill be passed.

Also, **HB 2027** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2027," as follows:

"Senate Substitute for HOUSE BILL NO. 2027

By Committee on Public Health and Welfare

"AN ACT concerning the healing arts; relating to anatomic pathology billing; institutional licenses; licensee reporting; amending K.S.A. 2016 Supp. 65-2837, 65-2895 and 65-2898 and repealing the existing sections.";

And the substitute bill be passed.

HB 2055 be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2055," as follows:

"Senate Substitute for HOUSE BILL NO. 2055

By Committee on Public Health and Welfare

"AN ACT concerning the state board of pharmacy; relating to powers, duties and functions thereof; biological products; amending K.S.A. 65-669, 65-1633, 65-1635, 65-1648, 65-1660 and 65-7007 and K.S.A. 2016 Supp. 65-1626, 65-1627, 65-1636, 65-1637, 65-1642, 65-1643, 65-1645, 65-1655, 65-1663, 65-1669, 65-1676, 65-2837a and 65-4202 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 65-1637b and 65-1651a.";

And the substitute bill be passed.

HB 2304, as amended by House Committee, be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2304," as follows:

"Senate Substitute for HOUSE BILL NO. 2304

By Committee on Public Health and Welfare

"AN ACT concerning child care facilities; relating to infant sleeping equipment and sleeping areas; individuals maintaining or residing, working or volunteering in such facilities; background checks; amending K.S.A. 2016 Supp. 65-508 and 65-516 and repealing the existing sections.";

And the substitute bill be passed.

REPORT ON ENROLLED BILLS

SB 15, SB 17, SB 32, SB 66, SB 166 reported correctly enrolled, properly signed and presented to the Governor on March 24, 2017.

SR 1728, SR 1729, SR 1730, SR 1731 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 24, 2017.

TRIBUTES

The Committee on **Organization, Calendar and Rules** authorizes the following tributes for the week of March 20 through 24, 2017:

Senator Alley: congratulating Clemma Stone on her induction into the KSHSAA Hall of Fame;

Senator Billinger: congratulating Gerard Wellbrock on being named the 2016 Kansas Sportscaster of the Year;

Senator Bowers: congratulating Gary Kay on being named the Minneapolis Chamber of Commerce 2016 Citizen of the Year, congratulating Fat Boy Heaven on being named the Minneapolis Chamber of Commerce 2016 Most Improved Chamber Business of the Year, congratulating Porter Hotel-House on being added to the National Register of Historic Places, congratulating Kim Thomas on her induction into the Kansas African American Museum Hall of Fame;

Senator Faust-Goudeau: recognizing the Missionary Baptist State Convention of Kansas;

Senator Hardy: congratulating McKinley Intermediate Elementary School on

receiving the National Blue Ribbon School Award; and

Senator Tyson: recognizing Erica Self on her outstanding academic and athletic success at Topeka High School.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Monday, March 27, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

