

# Journal of the House

TWENTY-EIGHTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, February 18, 2022, 9:00 a.m.

The House met session pro forma pursuant to adjournment with Speaker Ryckman in the chair.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

**HB 2714**, AN ACT concerning the Kansas act against discrimination; prohibiting discrimination based on COVID-19 vaccination status; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1005 and 44-1006 and repealing the existing sections, by Committee on Federal and State Affairs.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were referred to committees as indicated:

Appropriations: **HB 2712**.  
Committee of the Whole: **HCR 5030**  
Insurance and Pensions: **HB 2713**.

## MESSAGES FROM THE SENATE

Announcing passage of **SB 12**, **SB 335**, **SB 392**.  
Announcing passage of **HB 2262**, as amended by **S Sub HB 2262**.

## INTRODUCTION OF SENATE BILLS AND CONCURRENT RESOLUTIONS

The following Senate bills were thereupon introduced and read by title:

**SB 12**, **SB 335**, **SB 392**.

## REPORTS OF STANDING COMMITTEES

Committee on **Children and Seniors** recommends **HB 2632** be passed.

Committee on **Children and Seniors** recommends **HB 2524** be amended on page 4, in line 5, by striking "and"; in line 8, after "request" by inserting "; and

(K) annually report the percentage of healthcare facility dollars that the supplemental nursing services agency expended on temporary employee wages and benefits compared to the supplemental nursing services agency's profits and other administrative costs to the secretary, who shall make such report available to the public";

On page 5, in line 4, before "A" by inserting "(a)"; in line 6, by striking "150%" and inserting "200%"; in line 10, after the period by inserting:

"(b)";

Also on page 5, following line 21, by inserting:

"(c) The provisions of this section shall expire on July 1, 2023."; and the bill be passed as amended.

Committee on **Commerce, Labor and Economic Development** recommends **HB 2688** be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

- (1) Who is not a citizen of the United States;
- (2) who has been convicted of a felony under the laws of this state, any other state or the United States;
- (3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;
- (4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
- (5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;
- (6) who is not at least 21 years of age;
- (7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;
- (8) who intends to carry on the business authorized by the license as agent of another;
- (9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);
- (10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, a farm winery licensed pursuant to K.S.A. 41-316, and amendments thereto, or a producer licensed pursuant to K.S.A. 41-355, and amendments thereto. shall be eligible to receive a retailer's license under the Kansas liquor control act;
- (11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;
- (12) whose spouse would be ineligible to receive a license under this act for any

reason other than citizenship requirements or age, except that this paragraph shall not apply in determining eligibility for a renewal license or to a person whose spouse is a law enforcement officer;

(13) whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act;

(14) who does not provide any data or information required by K.S.A. 41-311b, and amendments thereto; or

(15) who, after a hearing before the director, has been found to have held an undisclosed beneficial interest in any license issued pursuant to the liquor control act that was obtained by means of fraud or any false statement made on the application for such license.

(b) No retailer's license shall be issued to:

(1) A person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(2) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(3) a copartnership, unless all of the copartners are qualified to obtain a license;

(4) a corporation; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship requirements;

(2) a copartnership, unless all of the copartners would be individually eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the

stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(2) person, copartnership or association that has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(3) copartnership, unless all of the copartners are qualified to obtain a license;

(4) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) If the applicant is not a Kansas resident, no license shall be issued until the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and

responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 2. K.S.A. 41-316 is hereby amended to read as follows: 41-316. Licenses to manufacturers, distributors, microbreweries, microdistilleries, farm wineries, producers and nonbeverage users of alcoholic liquors shall be issued and renewed by the director to qualified applicants upon written application, receipt of bond properly executed and payment in advance of the state registration fee and the license fee. A farm winery or producer license applicant who meets the requirements for a license under this act and who is a registered agritourism operator as defined in K.S.A. 32-1432, and amendments thereto, shall be issued a license notwithstanding any zoning or other regulations, resolutions or ordinances of any city or county.

Sec. 3. K.S.A. 41-2605 is hereby amended to read as follows: 41-2605. The director shall issue a license to each applicant for licensure which qualifies under this act. Such license shall be issued in the name of the corporation, municipal corporation, partners, trustees, association officers or individual applying. A farm winery or producer license applicant who meets the requirements for a license under this act and is a registered agritourism operator as defined in K.S.A. 32-1432, and amendments thereto, shall be issued a license notwithstanding any zoning or other regulations, resolutions or ordinances of any city or county.

Sec. 4. K.S.A. 41-2608 is hereby amended to read as follows: 41-2608. (a) Any public venue, club or drinking establishment license issued pursuant to this act shall be for one particular premises that shall be stated in the application and in the license. Not more than one premises licensed under the club and drinking establishment act shall exist at a single legal address.

(b) No license shall be issued for a public venue, club or drinking establishment unless the city, township or county zoning code allows a club or drinking establishment at that location.

(c) The licensed premises of a license may be extend into a city, county or township street, alley, road, sidewalk or highway if:

(1) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic

by the governing body of such city, county or township at any time during which alcoholic liquor or cereal malt beverage is to be sold or consumed; and

(2) such extension has been approved by the city, county or township by ordinance or resolution that specifies the exact times during which alcoholic liquor or cereal malt beverage may be sold or consumed on the street, alley, road, sidewalk or highway.

(d) Notwithstanding the provisions of this section, a license under this act shall be issued to a farm winery or producer license applicant who meets the requirements for a license under this act and who is a registered agritourism operator as defined in K.S.A. 32-1432, and amendments thereto. Such license shall not be denied on the basis of any zoning regulation or other regulation, ordinance or resolution of any city or county.;

Also on page 1, in line 14, by striking all after "(1)"; by striking all in line 15; in line 16, by striking "(2)";

On page 2, in line 15, after "(d)" by inserting "Notwithstanding any generally applicable grant of discretion that may be provided pursuant to subsection (a)."; in line 18, after "commissioners" by inserting ", the governing body of the city";

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

Also on page 2, following line 43, by inserting:

"Sec. 6. K.S.A. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the Kansas cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, no cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume:

(1) Between the hours of 12 midnight and 6 a.m.;

(2) in the original package not earlier than 9 a.m. and not later than 8 p.m. on Sunday;

(3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises,

which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage or beer containing not more than 6% alcohol by volume to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage or beer containing not more than 6% alcohol by volume, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, except beer containing not more than 6% alcohol by volume, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act or the business is a farm winery licensed pursuant to K.S.A. 41-316, and amendments thereto, or a producer licensed pursuant to K.S.A. 41-355, and amendments thereto.

(h) Cereal malt beverages may be sold on premises that are licensed pursuant to both the Kansas cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.";

On page 3, in line 1, after "K.S.A." by inserting "41-311, 41-316, 41-2605, 41-2608,"; also in line 1, by striking "is" and inserting "and 41-2704 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "permitting farm wineries and producers to hold cereal malt beverage licenses; allowing farm wineries and producers to have alcoholic liquor such as wine on their premises while holding a cereal malt beverage license; removing the good character and reputation requirement for a cereal malt beverage license; providing that applicants for a farm winery or a producer license who are registered as agritourism operators shall be issued the license notwithstanding any zoning or other regulations of any city or county; providing that registered agritourism operators shall be issued a license as a drinking establishment notwithstanding any city or county zoning or other regulation,"; in line 4, after "K.S.A." by inserting "41-311, 41-316, 41-2605, 41-2608,"; also in line 4, after "41-2703" by

inserting "and 41-2704"; also in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2654** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HB 2658** be amended on page 3, in line 28, by striking "or engaged in criminal activity"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2281** be amended as recommended by the Committee on Health and Human Services as reported in the Journal of the House on February 26, 2021, and the bill be further amended by substituting with a new bill to be designated as "Substitute for HOUSE BILL NO. 2281," as follows:

"Substitute for HOUSE BILL NO. 2281

By Committee on Health and Human Services

"AN ACT concerning public health; relating to the established 988 suicide prevention and mental health crisis hotline; implementing such hotline in Kansas; authorizing the Kansas department for aging and disability services to provide oversight and support to Kansas hotline centers; prescribing hotline center duties for provision of services; duties for telecommunications service providers; imposing a 988 fee on telecommunications and other voice service; establishing the 988 suicide prevention and mental health crisis hotline fund and transferring moneys annually thereto from the state general fund; 988 coordinating council."; and the substitute bill be referred to the Committee on Energy, Utilities and Telecommunications.

Committee on **Health and Human Services** recommends **HB 2386** be amended on page 1, in line 6, by striking "4" and inserting "3";

On page 2, in line 29, by striking all after "(m)"; by striking all in lines 30 through 33; in line 34, by striking "(n)";

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

On page 4, by striking all in lines 27 through 43;

On page 5, by striking all in lines 1 through 18;

On page 6, in line 4, by striking "4" and inserting "3";

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

Committee on **Judiciary** recommends **HB 2364**, **HB 2608** be passed.

Committee on **Judiciary** recommends **HB 2556** be amended on page 16, following line 37, by inserting:

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

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2021 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2021 Supp. 21-



5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2021 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2021 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2021 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or K.S.A. 2021 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2021 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or K.S.A. 2021 Supp. 21-5506(a), and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or K.S.A. 2021 Supp. 21-5506(b), and amendments thereto, aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or K.S.A. 2021 Supp. 21-5504(b), and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or K.S.A. 2021 Supp. 21-5508(a), and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or K.S.A. 2021 Supp. 21-5508(b), and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2021 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 2021 Supp. 21-5514(a), and amendments thereto, internet trading in child pornography; K.S.A. 2021 Supp. 21-5514(b), and amendments thereto, aggravated internet trading in child pornography; K.S.A. 21-3603, prior to its repeal, or K.S.A. 2021 Supp. 21-5604(b), and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or K.S.A. 2021 Supp. 21-5601(a), and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2021 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

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

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

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

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

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

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

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

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2021 Supp. 21-6419, and amendments thereto; or

(iii) the juvenile is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child, the adjudication concerned acts committed by the juvenile as a result of such victimization, including, but not limited to, acts which, if committed by an adult, would constitute a violation of K.S.A. 2021 Supp. 21-6203 or 21-6419, and amendments thereto, and the hearing on expungement occurred on or after the date of final discharge. The provisions of this clause shall not allow an expungement of records or files concerning acts described in subsection (b);

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

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

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

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

(g) A certified copy of any order made pursuant to subsection (a) or (d) shall be sent to the Kansas bureau of investigation, which shall then notify every juvenile or criminal justice agency which may possess records or files ordered to be expunged. If the agency fails to comply with the order within a reasonable time after its receipt, such agency may be adjudged in contempt of court and punished accordingly.

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

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Kansas department for aging and disability services of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (8) the Kansas sentencing commission; or
- (9) the Kansas bureau of investigation, for the purposes of:
  - (A) Completing a person's criminal history record information within the central repository in accordance with K.S.A. 22-4701 et seq., and amendments thereto; or
  - (B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.

(l) The provisions of subsection (k)(9) shall apply to all records created prior to, on and after July 1, 2011.";

Also on page 16, in line 38, before "K.S.A" by inserting "K.S.A. 38-2312 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "expungement under the revised Kansas juvenile justice code;"; in line 5, after the semicolon by inserting "authorizing expungement of a juvenile adjudication if the juvenile has not committed an offense in the previous two years;"; also in line 5, after "amending" by inserting "K.S.A. 38-2312 and"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2575** be amended on page 1, in line 7, after "(1)" by inserting "(A)"; in line 14, by striking "or" and inserting a comma; also in line 14, after the first "filed" by inserting "or the prosecutor files a written objection to the expungement"; also in line 14, after the period by inserting:

"(B)";

Also on page 1, in line 17, after the period by inserting:

"(C) If the prosecutor files a written objection to the expungement, the court shall promptly hold a hearing on such objection. If the court finds expungement is appropriate, the court shall order the records expunged 30 days after such hearing. If the court finds expungement is not appropriate, the court shall not order the records expunged.

"(D)";

Also on page 1, in line 19, by striking "(A)";

On page 2, in line 19, by striking "notify" and inserting "send a copy of such order to";

On page 4, by striking all in lines 2 through 6;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 286** be amended by substituting with a new bill to be designated as "House Substitute for Substitute for SENATE BILL NO. 286," as follows:

"House Substitute for Substitute for SENATE BILL NO. 286

By Committee on Judiciary

"AN ACT concerning the governmental response to the COVID-19 pandemic in Kansas; extending the expanded use of telemedicine and expiring such provisions; extending the suspension of certain requirements related to medical care facilities and expiring such provisions; modifying the COVID-19 response and reopening for business liability protection act; extending immunity from civil liability for certain healthcare providers, certain persons conducting business in this state and covered facilities for COVID-19 claims until January 20, 2023; amending K.S.A. 2021 Supp. 48-963, 48-964, 60-5503, 60-5504, 60-5508 and 65-468 and repealing the existing sections."; and the substitute bill be passed.

(**H Sub for Sub SB 286** was thereupon introduced and read by title.)

On motion of Rep. Hawkins, the House adjourned until 11:00 a.m., Monday, February 21, 2022.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

