

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2575

By Committee on Judiciary

1-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to sentencing; requiring automatic expungement of certain records;
3 amending K.S.A. 2021 Supp. 21-6614 and repealing the existing
4 section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) (1) **(A)** On and after July 1, 2022, notwithstanding
8 the provisions of K.S.A. 2021 Supp. 21-6614, and amendments thereto,
9 and except as provided in paragraph (3) and subsection (c)(3), if a court
10 enters an order of acquittal of criminal charges against a person or enters
11 an order dismissing, with or without prejudice, all criminal charges in a
12 case against a person, the court shall order the record of such charges and
13 related arrest records expunged 30 days after such order is entered unless
14 the person objects to the expungement—~~or~~, an appeal is filed **or the**
15 **prosecutor files a written objection to the expungement.**

16 **(B)** If an appeal is filed and the appellate court issues a mandate
17 affirming the district court's dismissal, the district court shall order the
18 records expunged 30 days after such mandate is filed.

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

24 **(D)** An order expunging records pursuant to this paragraph shall not
25 require any action by the person.

26 ~~(2)–(A)~~ Notwithstanding the provisions of K.S.A. 2021 Supp. 21-
27 6614, and amendments thereto, and except as provided in paragraph (3), a
28 person who has been charged with a criminal offense and who has been
29 acquitted of such charges or against whom charges have been dismissed,
30 and whose records have not been expunged pursuant to paragraph (1), may
31 petition the court in which the disposition of charges was made to expunge
32 all charges and related arrest records. A petition for expungement brought
33 under this paragraph shall be filed not sooner than 60 days after the order
34 of acquittal or dismissal, with or without prejudice, is entered by the court.

35 (3) The provisions of paragraphs (1) and (2) do not apply to diversion
36 agreements entered into in lieu of further criminal proceedings for a

1 violation of driving under the influence, K.S.A. 8-1567, and amendments
2 thereto, or to violations of a city ordinance or county resolution prohibiting
3 the acts prohibited by K.S.A. 8-1567, and amendments thereto.

4 (b) (1) After the filing of a petition pursuant to subsection (a)(2), the
5 court shall notify the prosecutor and provide such prosecutor with the
6 opportunity to respond to the petition. Such response shall be filed within
7 30 days after the filing of the petition. The prosecutor shall notify the
8 arresting law enforcement agency of such petition.

9 (2) (A) If a response objecting to the expungement is filed, the court
10 shall set the matter for hearing. The prosecutor shall notify any victim of
11 such hearing as required by K.S.A. 74-7335, and amendments thereto.

12 (B) If a response objecting to the expungement is not filed, the court
13 shall order the expungement of such records 30 days after the filing of the
14 petition pursuant to subparagraph (C).

15 (C) If the court finds that a petition filed pursuant to subsection (a)(2)
16 is properly filed, the court shall grant the petition and order the court
17 records and related arrest records expunged if such order is consistent with
18 the public welfare.

19 (c) (1) An order of expungement pursuant to this section shall
20 expunge all criminal records in the custody of the court and any criminal
21 records in the custody of any other agency or official, including law
22 enforcement records, related to the charges described in such order.

23 (2) When a court has issued an order of expungement pursuant to this
24 section, the clerk of the court shall send a certified copy of the order of
25 expungement to the Kansas bureau of investigation. The Kansas bureau of
26 investigation shall ~~notify~~ **send a copy of such order to** the federal bureau
27 of investigation, the secretary of corrections, the appellate courts and any
28 other criminal justice agency that may have a record of the arrest, charge,
29 conviction, acquittal, dismissal or diversion. If the case was appealed from
30 municipal court, the clerk of the district court shall send a certified copy of
31 the order of expungement to the municipal court. The municipal court shall
32 order the case expunged once the certified copy of the order of
33 expungement is received. After the order of expungement is entered, the
34 petitioner shall be treated as not having been arrested, charged, acquitted,
35 dismissed or diverted of the crime, except that:

36 (A) Upon conviction for any subsequent crime, the diversion that was
37 expunged may be considered as a prior conviction in determining the
38 sentence to be imposed;

39 (B) the petitioner shall disclose that the arrest, acquittal, dismissal or
40 diversion occurred if asked about previous arrests, convictions or
41 diversions:

42 (i) In any application for licensure as a private detective, private
43 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-

- 1 7b21, and amendments thereto, or employment as a detective with a
2 private detective agency, as defined by K.S.A. 75-7b01, and amendments
3 thereto; as security personnel with a private patrol operator, as defined by
4 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
5 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
6 for aging and disability services;
- 7 (ii) in any application for admission, or for an order of reinstatement,
8 to the practice of law in this state;
- 9 (iii) to aid in determining the petitioner's qualifications for
10 employment with the Kansas lottery or for work in sensitive areas within
11 the Kansas lottery as deemed appropriate by the executive director of the
12 Kansas lottery;
- 13 (iv) to aid in determining the petitioner's qualifications for executive
14 director of the Kansas racing and gaming commission, for employment
15 with the commission or for work in sensitive areas in parimutuel racing as
16 deemed appropriate by the executive director of the commission, or to aid
17 in determining qualifications for licensure or renewal of licensure by the
18 commission;
- 19 (v) to aid in determining the petitioner's qualifications for the
20 following under the Kansas expanded lottery act:
- 21 (a) Lottery gaming facility manager or prospective manager,
22 racetrack gaming facility manager or prospective manager, licensee or
23 certificate holder; or
- 24 (b) an officer, director, employee, owner, agent or contractor thereof;
- 25 (vi) upon application for a commercial driver's license under K.S.A.
26 8-2,125 through 8-2,142, and amendments thereto;
- 27 (vii) to aid in determining the petitioner's qualifications to be an
28 employee of the state gaming agency;
- 29 (viii) to aid in determining the petitioner's qualifications to be an
30 employee of a tribal gaming commission or to hold a license issued
31 pursuant to a tribal-state gaming compact;
- 32 (ix) in any application for registration as a broker-dealer, agent,
33 investment adviser or investment adviser representative, all as defined in
34 K.S.A. 17-12a102, and amendments thereto;
- 35 (x) in any application for employment as a law enforcement officer as
36 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
- 37 (xi) to aid in determining the petitioner's qualifications for a license to
38 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
39 7e09, and amendments thereto, and K.S.A. 2021 Supp. 50-6,141, and
40 amendments thereto;
- 41 (C) the court, in the order of expungement, may specify other
42 circumstances under which the conviction is to be disclosed;
- 43 (D) the diversion may be disclosed in a subsequent prosecution for an

1 offense that requires as an element of such offense a prior conviction of
2 the type expunged; and

3 (E) upon commitment to the custody of the secretary of corrections,
4 any previously expunged record in the possession of the secretary of
5 corrections may be reinstated and the expungement disregarded, and the
6 record continued for the purpose of the new commitment.

7 (3) Upon a motion establishing good cause, the court may set aside
8 the order expunging a record pursuant to this section.

9 ~~(d) If an expungement is ordered under subsection (a)(1) or (a)(2),~~
10 ~~any appellate court that issued an opinion in the case shall order the~~
11 ~~appellate case file to be sealed and also direct that the version of the~~
12 ~~appellate opinion on the court's website be modified to avoid use of the~~
13 ~~defendant's name in the case title and the body of the opinion.~~

14 ~~(e)(d)~~ (1) Subject to the disclosures required pursuant to subsection
15 (c), in any application for employment, license or other civil right or
16 privilege, or any appearance as a witness, a person whose records of arrest,
17 acquittal, dismissal or diversion related to a criminal charge have been
18 expunged under this statute may state that such person has never been
19 arrested, charged, acquitted, dismissed or diverted of the crime.

20 (2) A person whose arrest record, conviction or diversion of a crime
21 that resulted in such person being prohibited by state or federal law from
22 possessing a firearm has been expunged under this statute shall be deemed
23 to have had such person's right to keep and bear arms fully restored. This
24 restoration of rights shall include, but not be limited to, the right to use,
25 transport, receive, purchase, transfer and possess firearms. The provisions
26 of this paragraph shall apply to all orders of expungement pursuant to this
27 section.

28 ~~(f)(e)~~ Whenever the records of arrest, acquittal, dismissal, conviction
29 or diversion related to a criminal charge have been expunged under the
30 provisions of this section or under the provisions of any other existing or
31 former statute, the custodian of the records of arrest, acquittal, dismissal,
32 conviction, diversion or incarceration relating to such criminal charge shall
33 not disclose the existence of such records, except when requested by:

34 (1) The person whose record was expunged;

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

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

41 (4) the secretary for aging and disability services, or a designee of the
42 secretary, for the purpose of obtaining information relating to employment
43 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,

1 of the Kansas department for aging and disability services of any person
2 whose record has been expunged;

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

5 (6) a prosecutor, for the purpose of a potential prosecution;

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

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

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

24 (10) the Kansas racing and gaming commission, or a designee of the
25 commission, and the request is accompanied by a statement that the
26 request is being made to aid in determining qualifications of the following
27 under the Kansas expanded lottery act:

28 (A) Lottery gaming facility managers and prospective managers,
29 racetrack gaming facility managers and prospective managers, licensees
30 and certificate holders; and

31 (B) their officers, directors, employees, owners, agents and
32 contractors;

33 (11) the Kansas sentencing commission;

34 (12) the state gaming agency, and the request is accompanied by a
35 statement that the request is being made to aid in determining
36 qualifications:

37 (A) To be an employee of the state gaming agency; or

38 (B) to be an employee of a tribal gaming commission or to hold a
39 license issued pursuant to a tribal-gaming compact;

40 (13) the Kansas securities commissioner or a designee of the
41 commissioner, and the request is accompanied by a statement that the
42 request is being made in conjunction with an application for registration as
43 a broker-dealer, agent, investment adviser or investment adviser

1 representative by such agency and the application was submitted by the
2 person whose record has been expunged;

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

7 (15) a law enforcement agency for the purposes of a criminal
8 investigation;

9 (16) (A) the attorney general and the request is accompanied by a
10 statement that the request is being made to aid in determining
11 qualifications for a license to act as a bail enforcement agent pursuant to
12 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
13 2021 Supp. 50-6,141, and amendments thereto; or

14 (B) the attorney general for any other purpose authorized by law,
15 except that an expungement record shall not be the basis for denial of a
16 license to carry a concealed handgun under the personal and family
17 protection act; or

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

22 ~~(g)~~(f) As used in this section, "criminal charges" does not include a
23 traffic infraction that is not classified as a misdemeanor.

24 ~~(h)~~(g) The provisions of this section, except for the provisions of
25 subsection (a)(1), shall be construed and applied retroactively.

26 Sec. 2. K.S.A. 2021 Supp. 21-6614 is hereby amended to read as
27 follows: 21-6614. ~~(a)-(1)~~ Except as provided in subsections (b), (c), (d), (e)
28 and (f), any person convicted in this state of a traffic infraction, cigarette
29 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
30 committed on or after July 1, 1993, any nongrid felony or felony ranked in
31 severity levels 6 through 10 of the nondrug grid, or for crimes committed
32 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in
33 severity level 4 of the drug grid, or for crimes committed on or after July
34 1, 2012, any felony ranked in severity level 5 of the drug grid may petition
35 the convicting court for the expungement of such conviction or related
36 arrest records if three or more years have elapsed since the person:

37 ~~(A)~~(1) Satisfied the sentence imposed; or

38 ~~(B)~~(2) was discharged from probation, a community correctional
39 services program, parole, postrelease supervision, conditional release or a
40 suspended sentence.

41 ~~(2) Except as provided in subsections (b), (c), (d), (e) and (f), any~~
42 ~~person who has fulfilled the terms of a diversion agreement may petition~~
43 ~~the district court for the expungement of such diversion agreement and~~

1 related arrest records if three or more years have elapsed since the terms of
2 the diversion agreement were fulfilled:

3 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
4 3512, prior to its repeal, convicted of a violation of K.S.A. 2021 Supp. 21-
5 6419, and amendments thereto, ~~or who entered into a diversion agreement~~
6 ~~in lieu of further criminal proceedings for such violation,~~ may petition the
7 convicting court for the expungement of such conviction ~~or diversion~~
8 ~~agreement~~ and related arrest records if:

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

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

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

31 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
32 repeal, or K.S.A. 2021 Supp. 21-5406, and amendments thereto, or as
33 prohibited by any law of another state that is in substantial conformity
34 with that statute;

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

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

42 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments
43 thereto, relating to fraudulent applications or violating the provisions of a

1 law of another state that is in substantial conformity with that statute;

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

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

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

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

11 (d) (1) No person may petition for expungement until five or more
12 years have elapsed since the person satisfied the sentence imposed or the
13 terms of a diversion agreement or was discharged from probation, a
14 community correctional services program, parole, postrelease supervision,
15 conditional release or a suspended sentence, if such person was convicted
16 of a first violation of K.S.A. 8-1567, and amendments thereto, including
17 any diversion for such violation.

18 (2) No person may petition for expungement until 10 or more years
19 have elapsed since the person satisfied the sentence imposed or was
20 discharged from probation, a community correctional services program,
21 parole, postrelease supervision, conditional release or a suspended
22 sentence, if such person was convicted of a second or subsequent violation
23 of K.S.A. 8-1567, and amendments thereto.

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

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

31 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
32 2021 Supp. 21-5503, and amendments thereto;

33 (2) indecent liberties with a child or aggravated indecent liberties
34 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
35 or K.S.A. 2021 Supp. 21-5506, and amendments thereto;

36 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),
37 prior to its repeal, or K.S.A. 2021 Supp. 21-5504(a)(3) or (a)(4), and
38 amendments thereto;

39 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
40 to its repeal, or K.S.A. 2021 Supp. 21-5504, and amendments thereto;

41 (5) indecent solicitation of a child or aggravated indecent solicitation
42 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
43 or K.S.A. 2021 Supp. 21-5508, and amendments thereto;

- 1 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
2 to its repeal, or K.S.A. 2021 Supp. 21-5510, and amendments thereto;
- 3 (7) internet trading in child pornography or aggravated internet
4 trading in child pornography, as defined in K.S.A. 2021 Supp. 21-5514,
5 and amendments thereto;
- 6 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its
7 repeal, or K.S.A. 2021 Supp. 21-5604, and amendments thereto;
- 8 (9) endangering a child or aggravated endangering a child, as defined
9 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2021 Supp.
10 21-5601, and amendments thereto;
- 11 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
12 or K.S.A. 2021 Supp. 21-5602, and amendments thereto;
- 13 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
14 or K.S.A. 2021 Supp. 21-5401, and amendments thereto;
- 15 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to
16 its repeal, or K.S.A. 2021 Supp. 21-5402, and amendments thereto;
- 17 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
18 to its repeal, or K.S.A. 2021 Supp. 21-5403, and amendments thereto;
- 19 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
20 its repeal, or K.S.A. 2021 Supp. 21-5404, and amendments thereto;
- 21 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
22 its repeal, or K.S.A. 2021 Supp. 21-5405, and amendments thereto;
- 23 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
24 or K.S.A. 2021 Supp. 21-5505, and amendments thereto, when the victim
25 was less than 18 years of age at the time the crime was committed;
- 26 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
27 its repeal, or K.S.A. 2021 Supp. 21-5505, and amendments thereto;
- 28 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
29 including any diversion for such violation; or
- 30 (19) any conviction for any offense in effect at any time prior to July
31 1, 2011, that is comparable to any offense as provided in this subsection.
- 32 (f) Notwithstanding any other law to the contrary, for any offender
33 who is required to register as provided in the Kansas offender registration
34 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no
35 expungement of any conviction or any part of the offender's criminal
36 record while the offender is required to register as provided in the Kansas
37 offender registration act.
- 38 (g) (1) When a petition for expungement is filed, the court shall set a
39 date for a hearing of such petition and shall cause notice of such hearing to
40 be given to the prosecutor and the arresting law enforcement agency. The
41 petition shall state the:
 - 42 (A) Defendant's full name;
 - 43 (B) full name of the defendant at the time of arrest, conviction or

1 diversion, if different than the defendant's current name;

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

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

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

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

8 (2) Except as otherwise provided by law, a petition for expungement
9 shall be accompanied by a docket fee in the amount of \$176. On and after
10 July 1, 2019, through June 30, 2025, the supreme court may impose a
11 charge, not to exceed \$19 per case, to fund the costs of non-judicial
12 personnel. The charge established in this section shall be the only fee
13 collected or moneys in the nature of a fee collected for the case. Such
14 charge shall only be established by an act of the legislature and no other
15 authority is established by law or otherwise to collect a fee.

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

22 (h) At the hearing on the petition, the court shall order the petitioner's
23 arrest record, conviction or diversion expunged if the court finds that:

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

27 (2) the circumstances and behavior of the petitioner warrant the
28 expungement;

29 (3) the expungement is consistent with the public welfare; and

30 (4) with respect to petitions seeking expungement of a felony
31 conviction, possession of a firearm by the petitioner is not likely to pose a
32 threat to the safety of the public.

33 (i) When the court has ordered an arrest record, conviction or
34 diversion expunged, the order of expungement shall state the information
35 required to be contained in the petition. The clerk of the court shall send a
36 certified copy of the order of expungement to the Kansas bureau of
37 investigation that shall notify the federal bureau of investigation, the
38 secretary of corrections and any other criminal justice agency that may
39 have a record of the arrest, conviction or diversion. If the case was
40 appealed from municipal court, the clerk of the district court shall send a
41 certified copy of the order of expungement to the municipal court. The
42 municipal court shall order the case expunged once the certified copy of
43 the order of expungement is received. After the order of expungement is

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

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

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

8 (A) In any application for licensure as a private detective, private
9 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-
10 7b21, and amendments thereto, or employment as a detective with a
11 private detective agency, as defined by K.S.A. 75-7b01, and amendments
12 thereto; as security personnel with a private patrol operator, as defined by
13 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined
14 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department
15 for aging and disability services;

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

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

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

28 (E) to aid in determining the petitioner's qualifications for the
29 following under the Kansas expanded lottery act:

30 (i) Lottery gaming facility manager or prospective manager, racetrack
31 gaming facility manager or prospective manager, licensee or certificate
32 holder; or

33 (ii) an officer, director, employee, owner, agent or contractor thereof;

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

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

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

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

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

3 (K) to aid in determining the petitioner's qualifications for a license to
4 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-
5 7e09, and amendments thereto, and K.S.A. 2021 Supp. 50-6,141, and
6 amendments thereto;

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

9 (4) the conviction may be disclosed in a subsequent prosecution for
10 an offense that requires as an element of such offense a prior conviction of
11 the type expunged; and

12 (5) upon commitment to the custody of the secretary of corrections,
13 any previously expunged record in the possession of the secretary of
14 corrections may be reinstated and the expungement disregarded, and the
15 record continued for the purpose of the new commitment.

16 (j) Whenever a person is convicted of a crime, pleads guilty and pays
17 a fine for a crime, is placed on parole, postrelease supervision or
18 probation, is assigned to a community correctional services program, is
19 granted a suspended sentence or is released on conditional release, the
20 person shall be informed of the ability to expunge the arrest records or
21 conviction. Whenever a person enters into a diversion agreement, the
22 person shall be informed of the ability to expunge the diversion.

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

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

36 (l) Whenever the record of any arrest, conviction or diversion has
37 been expunged under the provisions of this section or under the provisions
38 of any other existing or former statute, the custodian of the records of
39 arrest, conviction, diversion and incarceration relating to that crime shall
40 not disclose the existence of such records, except when requested by:

41 (1) The person whose record was expunged;

42 (2) a private detective agency or a private patrol operator, and the
43 request is accompanied by a statement that the request is being made in

1 conjunction with an application for employment with such agency or
2 operator by the person whose record has been expunged;

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

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

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

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

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

21 (8) the Kansas lottery, and the request is accompanied by a statement
22 that the request is being made to aid in determining qualifications for
23 employment with the Kansas lottery or for work in sensitive areas within
24 the Kansas lottery as deemed appropriate by the executive director of the
25 Kansas lottery;

26 (9) the governor or the Kansas racing and gaming commission, or a
27 designee of the commission, and the request is accompanied by a
28 statement that the request is being made to aid in determining
29 qualifications for executive director of the commission, for employment
30 with the commission, for work in sensitive areas in parimutuel racing as
31 deemed appropriate by the executive director of the commission or for
32 licensure, renewal of licensure or continued licensure by the commission;

33 (10) the Kansas racing and gaming commission, or a designee of the
34 commission, and the request is accompanied by a statement that the
35 request is being made to aid in determining qualifications of the following
36 under the Kansas expanded lottery act:

37 (A) Lottery gaming facility managers and prospective managers,
38 racetrack gaming facility managers and prospective managers, licensees
39 and certificate holders; and

40 (B) their officers, directors, employees, owners, agents and
41 contractors;

42 (11) the Kansas sentencing commission;

43 (12) the state gaming agency, and the request is accompanied by a

1 statement that the request is being made to aid in determining
2 qualifications:

3 (A) To be an employee of the state gaming agency; or

4 (B) to be an employee of a tribal gaming commission or to hold a
5 license issued pursuant to a tribal-gaming compact;

6 (13) the Kansas securities commissioner or a designee of the
7 commissioner, and the request is accompanied by a statement that the
8 request is being made in conjunction with an application for registration as
9 a broker-dealer, agent, investment adviser or investment adviser
10 representative by such agency and the application was submitted by the
11 person whose record has been expunged;

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

16 (15) a law enforcement agency and the request is accompanied by a
17 statement that the request is being made to aid in determining eligibility
18 for employment as a law enforcement officer as defined by K.S.A. 22-
19 2202, and amendments thereto;

20 (16) (A) the attorney general and the request is accompanied by a
21 statement that the request is being made to aid in determining
22 qualifications for a license to act as a bail enforcement agent pursuant to
23 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.
24 2021 Supp. 50-6,141, and amendments thereto; or

25 (B) the attorney general for any other purpose authorized by law,
26 except that an expungement record shall not be the basis for denial of a
27 license to carry a concealed handgun under the personal and family
28 protection act; or

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

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

35 (2) Upon the issuance of an order of expungement that resulted in the
36 restoration of a person's right to keep and bear arms, the Kansas bureau of
37 investigation shall report to the federal bureau of investigation that such
38 expunged record be withdrawn from the national instant criminal
39 background check system. The Kansas bureau of investigation shall
40 include such order of expungement in the person's criminal history record
41 for purposes of documenting the restoration of such person's right to keep
42 and bear arms.

43 Sec. 3. K.S.A. 2021 Supp. 21-6614 is hereby repealed.

1 Sec. 4. This act shall take effect and be in force from and after its
2 publication in the statute book.