

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:30 a.m. on February 16, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Doug Taylor, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Others attending:

See attached list.

The Chairman called for final action on **SB 67 - Amending the crime of mistreatment of a dependent adult**. Jason Thompson, staff revisor, reviewed the substitute bill previously distributed to the Committee. (Attachment 1)

Senator Schodorf moved, Senator Lynn seconded, to delete the language in SB 67 and replace it with the language in the proposed substitute bill as Sub for SB 67. Motion carried.

Senator Vratil moved, Senator Haley seconded, to table Sub for SB 67. Motion failed.

Senator Schmidt moved, Senator Bruce seconded, to recommend Sub for SB 67 favorably for passage. Motion carried.

The Chairman called for final action on **SB 351 - Prohibiting texting while driving; penalties**. A balloon amendment was distributed proposed by the Alliance of Automobile Manufactures Assn. (Attachment 2)

Senator Lynn moved, Senator Schodorf seconded, to amend SB 351 with the proposed balloon amendment. Motion carried.

Senator Vratil moved, Senator Schodorf seconded, to amend SB 351 on page 2, line 5-6, striking the language "upon a first conviction, shall be guilty of a class C misdemeanor" to read " shall be guilty of a traffic infraction". Motion carried.

Senator Bruce moved, Senator Kelly seconded, to amend SB 351 by striking New Section 2, Section 3 and Section 4 and providing the revisor discretion to make any technical corrections. Motion carried.

Senator Lynn moved, Senator Kelly seconded, to recommend SB 351, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 471 - Changing crime of harassment by telephone to harassment by telecommunications**.

Senator Vratil moved, Senator Kelly seconded, to amend SB 417 on page 1, line 16, so the line reads "a telecommunications device". Motion carried.

Senator Bruce moved, Senator Pilcher-Cook seconded, to amend SB 417 on page 1, un-striking lines 20-22. Motion carried.

Senator Bruce moved, Senator Pilcher-Cook seconded to recommend SB 471, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 374 - Enacting the Kansas Adverse Medical Outcome Transparency Act**. Senator Vratil distributed a proposed substitute bill. (Attachment 3)



CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on February 16, 2010, in Room 548-S of the Capitol.

Senator Vratil moved, Senator Pilcher-Cook seconded, to amend **SB 374** by adopting the substitute bill as **Substitute for SB 374**. Motion carried.

Senator Vratil moved, Senator Donovan seconded, to recommend **Substitute for SB 374** favorably for passage. Motion carried.

The Chairman called for final action on **SB 345 - Increasing the probation services fee and community correctional services fee for persons convicted of felonies or misdemeanors**.

Senator Vratil moved, Senator Lynn seconded, to recommend **SB 345** favorably for passage. Motion carried.

The Chairman called for final action on **SB 455 - Civil commitment of sexually violent predators; expert testimony**. Jason Thompson, staff revisor, reviewed the bill.

Senator Schmidt moved, Senator Kelly seconded, to recommend **SB 345** favorably for passage. Motion carried.

The Chairman called for final action on **SB 456 - Creating the Kansas robo-call privacy act**. Senator Vratil distributed two proposed balloon amendments. (Attachment 4 & 5)

Senator Vratil reviewed the balloon labeled V2.pdf. Senator Vratil moved, Senator Schodorf seconded, to adopt the proposed balloon amendment. Motion carried.

Senator Vratil reviewed the balloon labeled V1.pdf. Senator Vratil moved, Senator Umberger seconded, to adopt the proposed balloon amendment. Motion carried.

A balloon amendment recommended by the Attorney General's office was distributed. Senator Schmidt moved, Senator Vratil seconded, to amend **SB 456** on page 2, line 7, striking the language and inserting the word "and". Motion carried.

Senator Haley moved strike page 1, line 39-40 striking "to benefit United States military vertans." Motion died for lack of a second.

Senator Vratil moved, Senator Kelly seconded, to recommend **SB 456**, as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 442 - Court fees, surcharge to fund costs of non-judicial personnel** and **HB 2476 - Court fees, surcharge to fund costs of non-judicial personnel**. Chairman Owens questioned if the Committee wanted to concur with the **HB 2476** or continue on **SB 442**. The Committee preferred to continue with **SB 442**. Senator Vratil distributed a proposed balloon amendment on **SB 442** and reviewed the proposed changes. (Attachment 6)

Senator Vratil moved, Senator Kelly seconded, to amend **SB 442** by adopting the proposed balloon amendment. Motion carried.

Senator Vratil brought attention to a proposed amendment recommended by the Kansas Credit Attorneys Association. (Attachment 7)

Senator Schmidt moved, Senator Vratil seconded, to amend **SB 442** as reflected the balloon amendment. Motion carried.

Senator Vratil moved, Senator Schmidt seconded, to delete the contents of **HB 2476**, insert the contents of **SB 442** as amended, and recommend Substitute for **HB 2476** favorably for passage.

The next meeting is scheduled for February 17, 2010.  
The meeting was adjourned at 10:33 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 16, 2010

NAME	REPRESENTING
Ed Kump	KACP/KSD/KPOA
Mark JWD	DTT
Jean Miller	CAPITOL STRATEGIES
Dina Funk	University of Kansas
Beth Salzer	
J. Rhye	KS Council on DD
Cynthia Smith	SQL Health System
Trevor Love	Little Govt Relators
Richard Samwigo	Kenway Assoc.
DE	KSAG
M. Barnds	KSAG
Ally Woods	Ks Lincoln Association
Pete Bodyk	KDOT
Joe Ewert	KAHSA
Nancy Strouse	Judicial Council
Christy Molzen	Judicial Council
Jean Krahn	KS G-ship Prog.
Berend Koops	Flein Law Firm

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2.16.10

NAME	REPRESENTING
Kim Fowler	Judicial Branch
Callie Jill Denton	KS Assn for Justice
<del>Mary White</del>	<del>KS Assn for Justice</del>
Levi J. Henry	Sandstone Group LLC
Kathy Denton	KSNB
Jeff Boenke	Pols. nelli Shytl
Patrick Woods	SRS
Aleen Pedigo	KS Sentencing Commission
JOSEPH MOLINA	KS BAR ASSN.
Nick Wood	DISABILITIES RIGHTS CENTER
Sandy Braden	Alliance for Auto <del>Advoc.</del>
CHRIS CARROLL	AT&T
<del>Melissa L. Ness</del>	Shawnee Mission Medical Ctr.
Nelson Krueger	U.S. Cellular
Tom Mohr	LKM

## PROPOSED Substitute for SENATE BILL NO. 67

By

AN ACT concerning crimes and punishment; relating to mistreatment of a dependent adult; amending K.S.A. 21-3437 and repealing the existing section.

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

Section 1. K.S.A. 21-3437 is hereby amended to read as follows: 21-3437. (a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or ~~crue~~ unreasonable punishment upon a dependent adult;

(2) taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense ~~by-a-caretaker-or-another-person~~; or

(3) ~~omitting--or--depriving~~ omission or deprivation of treatment, goods or services ~~by-a-caretaker-or-another-person~~ which that are necessary to maintain physical or mental health of a dependent adult.

(b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult is a member or adherent.

(c) For purposes of this section: "Dependent adult" means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

(1) Any resident of an adult care home including but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

(2) any adult cared for in a private residence;

(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

(4) any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto;

(5) any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(6) any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

(d) (1) Mistreatment of a dependent adult as defined in subsection (a)(1) is a severity level 6 (5), person felony.

(2) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 6 (5), person felony if the aggregate amount of the value of the resources is \$100,000 or more.

(3) Mistreatment of a dependent adult as defined in

subsection (a)(2) is a severity level 7, person felony if the aggregate amount of the value of the resources is at least \$25,000 but less than \$100,000.

(4) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is at least \$1,000 but less than \$25,000.

(5) Mistreatment of a dependent adult as defined in subsection (a)(2) is a class A person misdemeanor if the aggregate amount of the value of the resources is less than \$1,000.

(6) Mistreatment of a dependent adult as defined in subsection (a)(3) is a ~~class-A-person-misdemeanor~~ severity level 8, person felony.

(7) Mistreatment of a dependent adult as defined in subsection (a)(2) is a severity level 9, person felony if the aggregate amount of the value of the resources is less than \$1,000 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of mistreatment of a dependent adult two or more times.

Sec. 2. K.S.A. 21-3437 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

2/16/10 ADOPTED

Senate Judiciary  
2-16-10  
Attachment 2

SENATE BILL No. 351

By Committee on Ways and Means

1-11

Sen. Lynn  
SB351-Balloon1.pdf  
RS - JThompson - 02/16/10

9 AN ACT relating to crimes and punishment; prohibiting text messaging  
10 while operating a moving motor vehicle; amending K.S.A. 21-3404 and  
11 repealing the existing section.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) As used in this section:

15 (1) "Handheld wireless communication device" means a handheld  
16 device used for the transfer of information without the use of electrical  
17 conductors or wires and includes a:

- 18 (A) Wireless telephone;
- 19 (B) personal digital assistant;
- 20 (C) pager;
- 21 (D) text messaging device; or
- 22 (E) laptop computer.

"Handheld wireless communication device" does not include a voice-operated or hands-free device.

23 (2) "Text messaging" means a communication in the form of elec-  
24 tronic text or one or more electronic images sent by a person from a  
25 telephone or computer to another person's telephone or computer by  
26 addressing the communication to the person's telephone number.

"Text messaging" shall not include an emergency, traffic or weather alert or message related to the operation or navigation of a motor vehicle.

27 (3) "Conviction" means a final conviction without regard to whether  
28 the sentence was suspended or probation granted after such conviction.  
29 Forfeiture of bail, bond or collateral deposited to secure a defendant's  
30 appearance in court, which forfeiture has not been vacated, shall be equiv-  
31 alent to a conviction.

32 (b) Except as provided in subsection (c), it shall be unlawful for a  
33 person to use a handheld wireless communication device for text mes-  
34 saging or electronic mail communication while driving a moving motor  
35 vehicle on a highway in this state.

, except to activate or deactivate a feature or function of a voice-operated or hands-free device

36 (c) The provisions of subsection (b) shall not prohibit a person from  
37 using a handheld wireless communication device while driving a moving  
38 motor vehicle:

- 39 (1) During a medical emergency;
- 40 (2) when reporting a safety hazard or requesting assistance relating  
41 to a safety hazard;
- 42 (3) when reporting criminal activity or requesting assistance relating  
43 to criminal activity;

(4) if the person reads, selects or enters a telephone number or name in a handheld wireless communication device for the purpose of making or receiving a phone call;



2-2

1 ~~(4)~~ when providing roadside or medical assistance; or  
 2 ~~(5)~~ when used by a law enforcement officer or emergency service  
 3 personnel acting within the course and scope of the law enforcement  
 4 officer's or emergency service personnel's employment.

(5)

(6)

5 (d) (1) A person convicted of violating subsection (b), upon a first  
 6 conviction, shall be guilty of a class C misdemeanor.

7 (2) A person convicted of violating subsection (b), upon a second or  
 8 subsequent conviction, shall be guilty of a class B misdemeanor.

9 (3) A person convicted of violating subsection (b) and such person  
 10 has inflicted serious bodily injury upon another person as a result of such  
 11 violation, upon conviction, shall be guilty of a class A misdemeanor.

12 (e) Upon conviction of a violation of subsection (b), the court, in  
 13 addition to any other penalty or disposition ordered pursuant to law, may  
 14 suspend the person's driving privileges for 90 days.

15 (f) The provisions of this section shall be applicable and uniform  
 16 throughout the state and no city, county, subdivision or local authority  
 17 shall enact or enforce any law, ordinance, rule, regulation or resolution  
 18 in conflict with, in addition to, or supplemental to, the provisions of this  
 19 section.

20 (g) This section shall be part of and supplemental to the uniform act  
 21 regulating traffic on highways.

22 New Sec. 2. Involuntary manslaughter while driving and texting is  
 23 the unintentional killing of a human being committed in the commission  
 24 of, or attempt to commit, or flight from an act described in section 1, and  
 25 amendments thereto.

26 Involuntary manslaughter while driving and texting is a severity level  
 27 4, person felony.

28 Sec. 3. K.S.A. 21-3404 is hereby amended to read as follows: 21-  
 29 3404. Involuntary manslaughter is the unintentional killing of a human  
 30 being committed:

31 (a) Recklessly;

32 (b) in the commission of, or attempt to commit, or flight from any  
 33 felony, other than an inherently dangerous felony as defined in K.S.A.  
 34 21-3436, and amendments thereto, that is enacted for the protection of  
 35 human life or safety or a misdemeanor that is enacted for the protection  
 36 of human life or safety, including acts described in K.S.A. 8-1566 and  
 37 subsection (a) of 8-1568, and amendments thereto, but excluding the acts  
 38 described in K.S.A. 8-1567, and amendments thereto *or section 1, and*  
 39 *amendments thereto*; or

40 (c) during the commission of a lawful act in an unlawful manner.

41 Involuntary manslaughter is a severity level 5, person felony.

42 Sec. 4. K.S.A. 21-3404 is hereby repealed.

43

By

AN ACT enacting the Kansas adverse medical outcome transparency act; concerning evidence in civil actions; expression of apology, sympathy, compassion or benevolent acts by health care providers not admissible as evidence of an admission of liability or as evidence of an admission against interest.

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

Section 1. (a) This section may be cited as the "Kansas adverse medical outcome transparency act."

(b) In any claim or civil action brought by or on behalf of a patient allegedly experiencing an adverse outcome of medical care, any and all statements, activities, waivers of charges for medical care provided or other conduct expressing benevolence, regret, mistake, error, sympathy, apology, commiseration, condolence, compassion or a general sense of benevolence which are made by a health care provider, an employee or agent of a health care provider, shall be inadmissible as evidence and shall not constitute an admission of liability or an admission against interest.

(c) A defendant in a medical malpractice action may waive the inadmissibility of statements defined in subsection (b) that are attributable to such defendant by expressly stating, in writing, the intent to make such a waiver.

(d) As used in this section:

(1) "Health care provider" has the meaning prescribed in K.S.A. 65-4915, and amendments thereto.

(2) "Adverse outcome" means the outcome of a medical treatment or procedure, whether or not resulting from an intentional act, that differs from an intended result of such medical treatment

or procedure.

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

**SENATE BILL No. 456**

By Committee on Judiciary

1-26

Sen. Vratil

SB456-Balloon-V2.pdf  
RS - JThompson - 02/16/10

Senate Judiciary  
2-16-10  
Attachment 4

9 AN ACT concerning consumer protection; creating the Kansas robo-call  
10 privacy act.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. As used in sections 1 through 6, and amendments thereto:

14 (a) "Automatic dialing-announcing device" shall have the same mean-  
15 ing as provided in K.S.A. 50-670, and amendments thereto.

16 (b) "Caller" means a person, corporation, firm, partnership, associa-  
17 tion or legal or commercial entity who attempts to contact, or who con-  
18 tacts, a subscriber in this state by using a telephone or a telephone line.

19 (c) "Established business relationship" shall have the same meaning  
20 as provided in K.S.A. 50-670, and amendments thereto.

21 (d) "Message" means any call, regardless of its content.

22 (e) "Subscriber" means a person who has subscribed to telephone  
23 service from a telephone company or any other persons living or residing  
24 with the subscribing person.

25 Sec. 2. (a) A caller shall not use or connect to a telephone line an  
26 automatic dialing-announcing device unless: (1) The subscriber has know-  
27 ingly or voluntarily requested, consented to, permitted or authorized re-  
28 ceipt of the message; or (2) the message is immediately preceded by a  
29 live operator who obtains the subscriber's consent before the message is  
30 delivered.

31 (b) This section and section 5, and amendments thereto, do not apply  
32 to: (1) Messages from school districts to students, parents or employees;  
33 (2) messages to subscribers with whom the caller has an established busi-  
34 ness relationship or personal relationship; (3) messages advising employ-  
35 ees of work schedules; or (4) messages on behalf of correctional facilities  
36 advising victims.

37 (c) This section does not apply to messages from a nonprofit tax-  
38 exempt charitable organization sent solely for the purpose of soliciting  
39 voluntary donations of clothing to benefit disabled United States military  
40 veterans and containing no request for monetary donations or other so-  
41 licitations of any kind.

42 Sec. 3. A caller shall not use an automatic dialing-announcing device  
43 unless the device is designed and operated so as to disconnect within 25

H-2

1 seconds after termination of the telephone call by the subscriber.

2 Sec. 4. Where the message is immediately preceded by a live oper-  
3 ator, the operator must, at the outset of the message, disclose:

4 (a) The name of the business, firm, organization, association, part-  
5 nership or entity on whose behalf the message is being communicated;

6 (b) the purpose of the message;

7 (c) the identity or kinds of goods or services the message is promot-  
8 ing; and

9 (d) if applicable, the fact that the message intends to solicit payment  
10 or commitment of funds.

11 Sec. 5. A caller shall not use an automatic dialing-announcing device  
12 to call a subscriber before 9:00 a.m. or after 9:00 p.m. local standard time.  
13 For the purposes of this section, "local standard time" means the local  
14 time of the subscriber.

15 Sec. 6. (a) Any violation of sections 2 through 5, and amendments  
16 thereto, is an unconscionable act or practice under the Kansas consumer  
17 protection act.

18 (b) A caller who is found to have violated any of the provisions of  
19 sections 2 through 5, and amendments thereto, is subject to the penalties  
20 and remedies, including a private right of action to recover damages, as  
21 provided in the Kansas consumer protection act.

22 (c) Penalties and fees recovered from prosecutions of violations of  
23 sections 2 through 5, and amendments thereto, shall be paid to the court  
24 cost account of the office of the attorney general to investigate and pros-  
25 ecute violations of the Kansas consumer protection act.

except civil penalties recovered  
in a private cause of action,

26 (d) The attorney general may adopt such rules and regulations nec-  
27 essary to carry out the provisions of sections 1 through 6, and amendments  
28 thereto.

29 (e) The provisions of sections 1 through 6, and amendments thereto,  
30 shall be a part of and supplemental to the Kansas consumer protection  
31 act.

32 (f) The provisions of sections 1 through 6, and amendments thereto,  
33 shall be known and may be cited as the Kansas robo-call privacy act.

34 (g) If any provision of sections 1 through 6, and amendments thereto,  
35 or its application to any person or circumstance is held invalid, the inva-  
36 lidity shall not affect any other provision or application of sections 1  
37 through 6, and amendments thereto, which can be given effect without  
38 the invalid provision or application. To this end the provisions of sections  
39 1 through 6, and amendments thereto, are severable.

40 Sec. 7. This act shall take effect and be in force from and after its  
41 publication in the statute book.

SENATE BILL No. 456

By Committee on Judiciary

1-26

9 AN ACT concerning consumer protection; creating the Kansas robo-call
10 privacy act.

11
12 Be it enacted by the Legislature of the State of Kansas:

13 Section 1. As used in sections 1 through 6, and amendments thereto:

14 (a) "Automatic dialing-announcing device" shall have the same mean-
15 ing as provided in K.S.A. 50-670, and amendments thereto.

16 (b) "Caller" means a person, corporation, firm, partnership, associa-
17 tion or legal or commercial entity who attempts to contact, or who con-
18 tacts, a subscriber in this state by using a telephone or a telephone line.

19 (c) "Established business relationship" shall have the same meaning
20 as provided in K.S.A. 50-670, and amendments thereto.

21 (d) "Message" means any call, regardless of its content.

22 (e) "Subscriber" means a person who has subscribed to telephone
23 service from a telephone company or any other persons living or residing
24 with the subscribing person.

25 Sec. 2. (a) A caller shall not use or connect to a telephone line an
26 automatic dialing-announcing device unless: (1) The subscriber has know-
27 ingly or voluntarily requested, consented to, permitted or authorized re-
28 ceipt of the message; or (2) the message is immediately preceded by a
29 live operator who obtains the subscriber's consent before the message is
30 delivered.

31 (b) This section and section 5, and amendments thereto, do not apply
32 to: (1) Messages from school districts to students, parents or employees;
33 (2) messages to subscribers with whom the caller has an established busi-
34 ness relationship or personal relationship; (3) messages advising employ-
35 ees of work schedules; or (4) messages on behalf of correctional facilities
36 advising victims.

37 (c) This section does not apply to messages from a nonprofit tax-
38 exempt charitable organization sent solely for the purpose of soliciting
39 voluntary donations of clothing to benefit disabled United States military
40 veterans and containing no request for monetary donations or other so-
41 licitations of any kind.

42 Sec. 3. A caller shall not use an automatic dialing-announcing device
43 unless the device is designed and operated so as to disconnect within 25

Sen. Vratil

SB456-Balloon-V1.pdf
RS - JThompson - 02/16/10

Senate Judiciary
2-16-10
Attachment 5

enrolled in such district, parents or
guardians of such students or employees of
such district; (2) messages from private or
public schools to students attending such
school, parents or guardians of such
students or employees of such school

(3)

(4)

(5)

**SENATE BILL No. 442**

By Committee on Judiciary

1-25

Sen. Vratil

SB442-Balloon1.pdf  
RS - JThompson - 02/16/10

Senate Judiciary  
2-16-10  
Attachment 6

9 AN ACT concerning courts; relating to court fees and costs; relating to  
10 the judicial branch surcharge fund; docket fees for expungement of  
11 records; amending K.S.A. 2009 Supp. 8-2107, 8-2110, 21-4619, 22-  
12 2410, 23-108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-  
13 2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and  
14 repealing the existing sections.

15

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

17 Section 1. K.S.A. 2009 Supp. 8-2107 is hereby amended to read as  
18 follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uni-  
19 form act regulating traffic on highways, when a person is stopped by a  
20 police officer for any of the offenses described in subsection (d) and such  
21 person is not immediately taken before a judge of the district court, the  
22 police officer may require the person stopped, subject to the provisions  
23 of subsection (c), to deposit with the officer a valid Kansas driver's license  
24 in exchange for a receipt therefor issued by such police officer, the form  
25 of which shall be approved by the division of vehicles. Such receipt shall  
26 be recognized as a valid temporary Kansas driver's license authorizing the  
27 operation of a motor vehicle by the person stopped until the date of the  
28 hearing stated on the receipt. The driver's license and a written copy of  
29 the notice to appear shall be delivered by the police officer to the court  
30 having jurisdiction of the offense charged as soon as reasonably possible.  
31 If the hearing on such charge is continued for any reason, the judge may  
32 note on the receipt the date to which such hearing has been continued  
33 and such receipt shall be recognized as a valid temporary Kansas driver's  
34 license until such date, but in no event shall such receipt be recognized  
35 as a valid Kansas driver's license for a period longer than 30 days from  
36 the date set for the original hearing. Any person who has deposited a  
37 driver's license with a police officer under this subsection (a) shall have  
38 such license returned upon final determination of the charge against such  
39 person.

40 (2) In the event the person stopped deposits a valid Kansas driver's  
41 license with the police officer and fails to appear in the district court on  
42 the date set for appearance, or any continuance thereof, and in any event  
43 within 30 days from the date set for the original hearing, the court shall

1 forward such person's driver's license to the division of vehicles with an  
2 appropriate explanation attached thereto. Upon receipt of such person's  
3 driver's license, the division shall suspend such person's privilege to op-  
4 erate a motor vehicle in this state until such person appears before the  
5 court having jurisdiction of the offense charged, the court makes a final  
6 disposition thereof and notice of such disposition is given by the court to  
7 the division. No new or replacement license shall be issued to any such  
8 person until such notice of disposition has been received by the division.  
9 The provisions of K.S.A. 8-256, and amendments thereto, limiting the  
10 suspension of a license to one year, shall not apply to suspensions for  
11 failure to appear as provided in this subsection (a).

12 (b) No person shall apply for a replacement or new driver's license  
13 prior to the return of such person's original license which has been de-  
14 posited in lieu of bond under this section. Violation of this subsection (b)  
15 is a class C misdemeanor. The division may suspend such person's driver's  
16 license for a period of not to exceed one year from the date the division  
17 receives notice of the disposition of the person's charge as provided in  
18 subsection (a).

19 (c) (1) In lieu of depositing a valid Kansas driver's license with the  
20 stopping police officer as provided in subsection (a), the person stopped  
21 may elect to give bond in the amount specified in subsection (d) for the  
22 offense for which the person was stopped. When such person does not  
23 have a valid Kansas driver's license, such person shall give such bond.  
24 Such bond shall be subject to forfeiture if the person stopped does not  
25 appear at the court and at the time specified in the written notice pro-  
26 vided for in K.S.A. 8-2106, and amendments thereto.

27 (2) Such bond may be a cash bond, a bank card draft from any valid  
28 and unexpired credit card approved by the division of vehicles or super-  
29 intendent of the Kansas highway patrol or a guaranteed arrest bond cer-  
30 tificate issued by either a surety company authorized to transact such  
31 business in this state or an automobile club authorized to transact business  
32 in this state by the commissioner of insurance. If any of the approved  
33 bank card issuers redeem the bank card draft at a discounted rate, such  
34 discount shall be charged against the amount designated as the fine for  
35 the offense. If such bond is not forfeited, the amount of the bond less  
36 the discount rate shall be reimbursed to the person providing the bond  
37 by the use of a bank card draft. Any such guaranteed arrest bond certif-  
38 icate shall be signed by the person to whom it is issued and shall contain  
39 a printed statement that such surety company or automobile club guar-  
40 antees the appearance of such person and will, in the event of failure of  
41 such person to appear in court at the time of trial, pay any fine or forfei-  
42 ture imposed on such person not to exceed an amount to be stated on  
43 such certificate.



6-3

1 (3) Such cash bond shall be taken in the following manner: The police  
 2 officer shall furnish the person stopped a stamped envelope addressed to  
 3 the judge or clerk of the court named in the written notice to appear and  
 4 the person shall place in such envelope the amount of the bond, and in  
 5 the presence of the police officer shall deposit the same in the United  
 6 States mail. After such cash payment, the person stopped need not sign  
 7 the written notice to appear, but the police officer shall note the amount  
 8 of the bond mailed on the notice to appear form and shall give a copy of  
 9 such form to the person. If the person stopped furnishes the police officer  
 10 with a guaranteed arrest bond certificate or bank card draft, the police  
 11 officer shall give such person a receipt therefor and shall note the amount  
 12 of the bond on the notice to appear form and give a copy of such form  
 13 to the person stopped. Such person need not sign the written notice to  
 14 appear, and the police officer shall present the notice to appear and the  
 15 guaranteed arrest bond certificate or bank card draft to the court having  
 16 jurisdiction of the offense charged as soon as reasonably possible.

17 (d) The offenses for which appearance bonds may be required as  
 18 provided in subsection (c) and the amounts thereof shall be as follows:

19 On and after July 1, 1996:

20 Reckless driving .....	\$82
21 Driving when privilege is canceled, suspended or revoked .....	82
22 Failure to comply with lawful order of officer .....	57
23 Registration violation (registered for 12,000 pounds or less) .....	52
24 Registration violation (registered for more than 12,000 pounds) .....	92
25 No driver's license for the class of vehicle operated or violation of	
26 restrictions .....	52
27 Spilling load on highway .....	52
28 Transporting open container of alcoholic liquor or cereal malt beverage	
29 accessible while vehicle in motion .....	223

30 (e) In the event of forfeiture of any bond under this section, \$75 of  
 31 the amount forfeited shall be regarded as a docket fee in any court having  
 32 jurisdiction over the violation of state law.

33 (f) None of the provisions of this section shall be construed to conflict  
 34 with the provisions of the nonresident violator compact.

35 (g) When a person is stopped by a police officer for any traffic in-  
 36 fraction and the person is a resident of a state which is not a member of  
 37 the nonresident violator compact, K.S.A. 8-1219 et seq., and amendments  
 38 thereto, or the person is licensed to drive under the laws of a foreign  
 39 country, the police officer may require a bond as provided for under  
 40 subsection (c). The bond shall be in the amount specified in the uniform  
 41 fine schedule in subsection (c) of K.S.A. 8-2118, and amendments  
 42 thereto, plus \$75 which shall be regarded as a docket fee in any court  
 43 having jurisdiction over the violation of state law.

1 (h) When a person is stopped by a police officer for failure to provide  
 2 proof of financial security pursuant to K.S.A. 40-3104, and amendments  
 3 thereto, and the person is a resident of another state or the person is  
 4 licensed to drive under the laws of a foreign country, the police officer  
 5 may require a bond as provided for under subsection (c). The bond shall  
 6 be in the amount of \$75, plus \$75 which shall be regarded as a docket  
 7 fee in any court having jurisdiction over the violation of state law.

8 (i) Except as provided further, the docket fee established in this sec-  
 9 tion shall be the only fee collected or moneys in the nature of a fee  
 10 collected for the docket fee. Such fee shall only be established by an act  
 11 of the legislature and no other authority is established by law or otherwise  
 12 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
 13 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
 14 charge, not to exceed ~~\$10~~ \$15 per docket fee, to fund the costs of non-  
 15 judicial personnel.

\$20
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16 Sec. 2. K.S.A. 2009 Supp. 8-2110 is hereby amended to read as fol-  
 17 lows: 8-2110. (a) Failure to comply with a traffic citation means failure  
 18 either to (1) appear before any district or municipal court in response to  
 19 a traffic citation and pay in full any fine and court costs imposed or (2)  
 20 otherwise comply with a traffic citation as provided in K.S.A. 8-2118, and  
 21 amendments thereto. Failure to comply with a traffic citation is a mis-  
 22 demeanor, regardless of the disposition of the charge for which such  
 23 citation was originally issued.

24 (b) (1) In addition to penalties of law applicable under subsection  
 25 (a), when a person fails to comply with a traffic citation, except for illegal  
 26 parking, standing or stopping, the district or municipal court in which the  
 27 person should have complied with the citation shall mail notice to the  
 28 person that if the person does not appear in district or municipal court  
 29 or pay all fines, court costs and any penalties within 30 days from the date  
 30 of mailing notice, the division of vehicles will be notified to suspend the  
 31 person's driving privileges. The district or municipal court may charge an  
 32 additional fee of \$5 for mailing such notice. Upon the person's failure to  
 33 comply within such 30 days of mailing notice, the district or municipal  
 34 court shall electronically notify the division of vehicles. Upon receipt of  
 35 a report of a failure to comply with a traffic citation under this subsection,  
 36 pursuant to K.S.A. 8-255, and amendments thereto, the division of ve-  
 37 hicles shall notify the violator and suspend the license of the violator until  
 38 satisfactory evidence of compliance with the terms of the traffic citation  
 39 has been furnished to the informing court. When the court determines  
 40 the person has complied with the terms of the traffic citation, the court  
 41 shall immediately electronically notify the division of vehicles of such  
 42 compliance. Upon receipt of notification of such compliance from the  
 43 informing court, the division of vehicles shall terminate the suspension

6-5

1 or suspension action.

2 (2) (A) In lieu of suspension under paragraph (1), the driver may  
3 submit to the division of vehicles a written request for restricted driving  
4 privileges, with a non-refundable \$25 application fee, to be applied by  
5 the division of vehicles for additional administrative costs to implement  
6 restricted driving privileges. The division shall remit all restricted driving  
7 privilege application fees to the state treasurer in accordance with the  
8 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
9 each such remittance, the state treasurer shall deposit the entire amount  
10 in the state treasury to the credit of the division of vehicles operating  
11 fund.

12 (B) Upon review and approval of the driver's eligibility, the driving  
13 privileges will be restricted by the division of vehicles for a period up to  
14 one year or until the terms of the traffic citation have been complied with  
15 and the court shall immediately electronically notify the division of ve-  
16 hicles of such compliance. If the driver fails to comply with the traffic  
17 citation within the one year restricted period, the driving privileges will  
18 be suspended by the division of vehicles until the court determines the  
19 person has complied with the terms of the traffic citation and the court  
20 shall immediately electronically notify the division of vehicles of such  
21 compliance. Upon receipt of notification of such compliance from the  
22 informing court, the division of vehicles shall terminate the suspension  
23 action. When restricted driving privileges are approved pursuant to this  
24 section, the person's driving privileges shall be restricted to driving only  
25 under the following circumstances: (i) In going to or returning from the  
26 person's place of employment or schooling; (ii) in the course of the per-  
27 son's employment; (iii) during a medical emergency; (iv) in going to and  
28 returning from probation or parole meetings, drug or alcohol counseling  
29 or any place the person is required to go by a court. The provisions of  
30 this paragraph shall expire on January 1, 2012.

31 (c) Except as provided in subsection (d), when the district or munic-  
32 ipal court notifies the division of vehicles of a failure to comply with a  
33 traffic citation pursuant to subsection (b), the court shall assess a rein-  
34 statement fee of \$59 for each charge on which the person failed to make  
35 satisfaction regardless of the disposition of the charge for which such  
36 citation was originally issued and regardless of any application for re-  
37 stricted driving privileges. Such reinstatement fee shall be in addition to  
38 any fine, restricted driving privilege application fee, district or municipal  
39 court costs and other penalties. The court shall remit all reinstatement  
40 fees to the state treasurer in accordance with the provisions of K.S.A. 75-  
41 4215, and amendments thereto. Upon receipt of each such remittance,  
42 the state treasurer shall deposit the entire amount in the state treasury  
43 and shall credit 42.37% of such moneys to the division of vehicles oper-

9-9  
6-9

1 ating fund, 31.78% to the community alcoholism and intoxication pro-  
2 grams fund created by K.S.A. 41-1126, and amendments thereto, 10.59%  
3 to the juvenile detention facilities fund created by K.S.A. 79-4803, and  
4 amendments thereto, and 15.26% to the judicial branch nonjudicial salary  
5 adjustment fund created by K.S.A. 2009 Supp. 20-1a15, and amendments  
6 thereto.

7 (d) The district court or municipal court shall waive the reinstatement  
8 fee provided for in subsection (c), if the failure to comply with a traffic  
9 citation was the result of such person enlisting in or being drafted into  
10 the armed services of the United States, being called into service as a  
11 member of a reserve component of the military service of the United  
12 States, or volunteering for such active duty, or being called into service  
13 as a member of the state of Kansas national guard, or volunteering for  
14 such active duty, and being absent from Kansas because of such military  
15 service. In any case of a failure to comply with a traffic citation which  
16 occurred on or after August 1, 1990, and prior to the effective date of  
17 this act, in which a person was assessed and paid a reinstatement fee and  
18 the person failed to comply with a traffic citation because the person was  
19 absent from Kansas because of any such military service, the reinstatement  
20 fee shall be reimbursed to such person upon application therefor.  
21 The state treasurer and the director of accounts and reports shall pre-  
22 scribe procedures for all such reimbursement payments and shall create  
23 appropriate accounts, make appropriate accounting entries and issue such  
24 appropriate vouchers and warrants as may be required to make such re-  
25 imbursement payments.

26 (e) Except as provided further, the reinstatement fee established in  
27 this section shall be the only fee collected or moneys in the nature of a  
28 fee collected for such reinstatement. Such fee shall only be established  
29 by an act of the legislature and no other authority is established by law  
30 or otherwise to collect a fee. On and after ~~July 1, 2009~~ *the effective date*  
31 *of this act* through June 30, ~~2010~~ 2011, the supreme court may impose  
32 an additional charge, not to exceed ~~\$10~~ \$15 per reinstatement fee, to  
33 fund the costs of non-judicial personnel.

\$20

34 Sec. 3. K.S.A. 2009 Supp. 21-4619 is hereby amended to read as  
35 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),  
36 any person convicted in this state of a traffic infraction, cigarette or to-  
37 bacco infraction, misdemeanor or a class D or E felony, or for crimes  
38 committed on or after July 1, 1993, nondrug crimes ranked in severity  
39 levels 6 through 10 or any felony ranked in severity level 4 of the drug  
40 grid, may petition the convicting court for the expungement of such con-  
41 viction or related arrest records if three or more years have elapsed since  
42 the person: (A) Satisfied the sentence imposed; or (B) was discharged  
43 from probation, a community correctional services program, parole, post-

1 release supervision, conditional release or a suspended sentence.

2 (2) Except as provided in subsections (b) and (c), any person who has  
3 fulfilled the terms of a diversion agreement may petition the district court  
4 for the expungement of such diversion agreement and related arrest re-  
5 cords if three or more years have elapsed since the terms of the diversion  
6 agreement were fulfilled.

7 (b) Except as provided in subsection (c), no person may petition for  
8 expungement until five or more years have elapsed since the person sat-  
9 isfied the sentence imposed, the terms of a diversion agreement or was  
10 discharged from probation, a community correctional services program,  
11 parole, postrelease supervision, conditional release or a suspended sen-  
12 tence, if such person was convicted of a class A, B or C felony, or for  
13 crimes committed on or after July 1, 1993, if convicted of an off-grid  
14 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
15 felony ranked in severity levels 1 through 3 of the drug grid, or:

16 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
17 ments thereto, or as prohibited by any law of another state which is in  
18 substantial conformity with that statute;

19 (2) driving while the privilege to operate a motor vehicle on the public  
20 highways of this state has been canceled, suspended or revoked, as pro-  
21 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
22 any law of another state which is in substantial conformity with that stat-  
23 ute;

24 (3) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
25 ments thereto, or resulting from the violation of a law of another state  
26 which is in substantial conformity with that statute;

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

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

33 (6) failing to stop at the scene of an accident and perform the duties  
34 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,  
35 or required by a law of another state which is in substantial conformity  
36 with those statutes;

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

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

40 (c) There shall be no expungement of convictions for the following  
41 offenses or of convictions for an attempt to commit any of the following  
42 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;  
43 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and

1 amendments thereto; (3) aggravated indecent liberties with a child as  
2 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy  
3 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-  
4 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-  
5 3506, and amendments thereto; (6) indecent solicitation of a child as  
6 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-  
7 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-  
8 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-  
9 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.  
10 21-3603, and amendments thereto; (10) endangering a child as defined  
11 in K.S.A. 21-3608, and amendments thereto; (11) aggravated endangering  
12 a child as defined in K.S.A. 21-3608a, and amendments thereto; (12)  
13 abuse of a child as defined in K.S.A. 21-3609, and amendments thereto;  
14 (13) capital murder as defined in K.S.A. 21-3439, and amendments  
15 thereto; (14) murder in the first degree as defined in K.S.A. 21-3401, and  
16 amendments thereto; (15) murder in the second degree as defined in  
17 K.S.A. 21-3402, and amendments thereto; (16) voluntary manslaughter  
18 as defined in K.S.A. 21-3403, and amendments thereto; (17) involuntary  
19 manslaughter as defined in K.S.A. 21-3404, and amendments thereto;  
20 (18) involuntary manslaughter while driving under the influence of al-  
21cohol or drugs as defined in K.S.A. 21-3442, and amendments thereto;  
22 (19) sexual battery as defined in K.S.A. 21-3517, and amendments  
23 thereto, when the victim was less than 18 years of age at the time the  
24 crime was committed; (20) aggravated sexual battery as defined in K.S.A.  
25 21-3518, and amendments thereto; (21) a violation of K.S.A. 8-1567, and  
26 amendments thereto, including any diversion for such violation; (22) a  
27 violation of K.S.A. 8-2,144, and amendments thereto, including any di-  
28 version for such violation; or (23) any conviction for any offense in effect  
29 at any time prior to the effective date of this act, that is comparable to  
30 any offense as provided in this subsection.

31 (d) When a petition for expungement is filed, the court shall set a  
32 date for a hearing of such petition and shall cause notice of such hearing  
33 to be given to the prosecuting attorney and the arresting law enforcement  
34 agency. The petition shall state: (1) The defendant's full name;

35 (2) the full name of the defendant at the time of arrest, conviction or  
36 diversion, if different than the defendant's current name;

37 (3) the defendant's sex, race and date of birth;

38 (4) the crime for which the defendant was arrested, convicted or di-  
39 verted;

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

41 (6) the identity of the convicting court, arresting law enforcement  
42 authority or diverting authority. Except as *otherwise* provided further,

43 ~~there shall be no docket fee for filing a petition pursuant to this section~~

1 *by law, a petition for expungement shall be accompanied by a docket fee*  
2 *in the amount of \$100. On and after ~~July 1, 2009~~ the effective date of this*  
3 *act through June 30, 2010 2011, the supreme court may impose a charge,*  
4 *not to exceed ~~\$10~~ \$50 per case, to fund the costs of non-judicial person-*  
5 *nel. The charge established in this section shall be the only fee collected*  
6 *or moneys in the nature of a fee collected for the case. Such charge shall*  
7 *only be established by an act of the legislature and no other authority is*  
8 *established by law or otherwise to collect a fee. All petitions for expunge-*  
9 *ment shall be docketed in the original criminal action. Any person who*  
10 *may have relevant information about the petitioner may testify at the*  
11 *hearing. The court may inquire into the background of the petitioner and*  
12 *shall have access to any reports or records relating to the petitioner that*  
13 *are on file with the secretary of corrections or the Kansas parole board.*

14 (e) At the hearing on the petition, the court shall order the peti-  
15 tioner's arrest record, conviction or diversion expunged if the court finds  
16 that:

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

20 (2) the circumstances and behavior of the petitioner warrant the  
21 expungement; and

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

23 (f) When the court has ordered an arrest record, conviction or diver-  
24 sion expunged, the order of expungement shall state the information re-  
25 quired to be contained in the petition. The clerk of the court shall send  
26 a certified copy of the order of expungement to the Kansas bureau of  
27 investigation which shall notify the federal bureau of investigation, the  
28 secretary of corrections and any other criminal justice agency which may  
29 have a record of the arrest, conviction or diversion. After the order of  
30 expungement is entered, the petitioner shall be treated as not having been  
31 arrested, convicted or diverted of the crime, except that:

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

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

37 (A) In any application for licensure as a private detective, private  
38 detective agency, certification as a firearms trainer pursuant to K.S.A.  
39 2009 Supp. 75-7b21, and amendments thereto, or employment as a de-  
40 tective with a private detective agency, as defined by K.S.A. 75-7b01, and  
41 amendments thereto; as security personnel with a private patrol operator,  
42 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-  
43 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the

6-10

1 department of social and rehabilitation services;

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

4 (C) to aid in determining the petitioner's qualifications for employ-  
5 ment with the Kansas lottery or for work in sensitive areas within the  
6 Kansas lottery as deemed appropriate by the executive director of the  
7 Kansas lottery;

8 (D) to aid in determining the petitioner's qualifications for executive  
9 director of the Kansas racing and gaming commission, for employment  
10 with the commission or for work in sensitive areas in parimutuel racing  
11 as deemed appropriate by the executive director of the commission, or  
12 to aid in determining qualifications for licensure or renewal of licensure  
13 by the commission;

14 (E) to aid in determining the petitioner's qualifications for the fol-  
15 lowing under the Kansas expanded lottery act: (i) Lottery gaming facility  
16 manager or prospective manager, racetrack gaming facility manager or  
17 prospective manager, licensee or certificate holder; or (ii) an officer, di-  
18 rector, employee, owner, agent or contractor thereof;

19 (F) upon application for a commercial driver's license under K.S.A.  
20 8-2,125 through 8-2,142, and amendments thereto;

21 (G) to aid in determining the petitioner's qualifications to be an em-  
22 ployee of the state gaming agency;

23 (H) to aid in determining the petitioner's qualifications to be an em-  
24 ployee of a tribal gaming commission or to hold a license issued pursuant  
25 to a tribal-state gaming compact;

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

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

31 (K) for applications received on and after July 1, 2006, to aid in de-  
32 termining the petitioner's qualifications for a license to carry a concealed  
33 weapon pursuant to the personal and family protection act, K S A. 2009  
34 Supp. 75-7c01 et seq., and amendments thereto;

35 (3) the court, in the order of expungement, may specify other cir-  
36 cumstances under which the conviction is to be disclosed

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

40 (5) upon commitment to the custody of the secretary of corrections  
41 any previously expunged record in the possession of the secretary of cor-  
42 rections may be reinstated and the expungement disregarded, and the  
43 record continued for the purpose of the new commitment.



1 (g) Whenever a person is convicted of a crime, pleads guilty and pays  
2 a fine for a crime, is placed on parole, postrelease supervision or proba-  
3 tion, is assigned to a community correctional services program, is granted  
4 a suspended sentence or is released on conditional release, the person  
5 shall be informed of the ability to expunge the arrest records or convic-  
6 tion. Whenever a person enters into a diversion agreement, the person  
7 shall be informed of the ability to expunge the diversion.

8 (h) Subject to the disclosures required pursuant to subsection (f), in  
9 any application for employment, license or other civil right or privilege,  
10 or any appearance as a witness, a person whose arrest records, conviction  
11 or diversion of a crime has been expunged under this statute may state  
12 that such person has never been arrested, convicted or diverted of such  
13 crime, but the expungement of a felony conviction does not relieve an  
14 individual of complying with any state or federal law relating to the use  
15 or possession of firearms by persons convicted of a felony.

16 (i) Whenever the record of any arrest, conviction or diversion has  
17 been expunged under the provisions of this section or under the provi-  
18 sions of any other existing or former statute, the custodian of the records  
19 of arrest, conviction, diversion and incarceration relating to that crime  
20 shall not disclose the existence of such records, except when requested  
21 by:

22 (1) The person whose record was expunged;

23 (2) a private detective agency or a private patrol operator, and the  
24 request is accompanied by a statement that the request is being made in  
25 conjunction with an application for employment with such agency or op-  
26 erator by the person whose record has been expunged;

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

29 (4) the secretary of social and rehabilitation services, or a designee of  
30 the secretary, for the purpose of obtaining information relating to em-  
31 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
32 ments thereto, of the department of social and rehabilitation services of  
33 any person whose record has been expunged;

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

36 (6) a prosecuting attorney, and such request is accompanied by a  
37 statement that the request is being made in conjunction with a prosecu-  
38 tion of an offense that requires a prior conviction as one of the elements  
39 of such offense;

40 (7) the supreme court, the clerk or disciplinary administrator thereof,  
41 the state board for admission of attorneys or the state board for discipline  
42 of attorneys, and the request is accompanied by a statement that the  
43 request is being made in conjunction with an application for admission,

6-12

1 or for an order of reinstatement, to the practice of law in this state by the  
2 person whose record has been expunged;

3 (8) the Kansas lottery, and the request is accompanied by a statement  
4 that the request is being made to aid in determining qualifications for  
5 employment with the Kansas lottery or for work in sensitive areas within  
6 the Kansas lottery as deemed appropriate by the executive director of the  
7 Kansas lottery;

8 (9) the governor or the Kansas racing and gaming commission, or a  
9 designee of the commission, and the request is accompanied by a state-  
10 ment that the request is being made to aid in determining qualifications  
11 for executive director of the commission, for employment with the com-  
12 mission, for work in sensitive areas in parimutuel racing as deemed ap-  
13 propriate by the executive director of the commission or for licensure,  
14 renewal of licensure or continued licensure by the commission;

15 (10) the Kansas racing and gaming commission, or a designee of the  
16 commission, and the request is accompanied by a statement that the re-  
17 quest is being made to aid in determining qualifications of the following  
18 under the Kansas expanded lottery act: (A) Lottery gaming facility man-  
19 agers and prospective managers, racetrack gaming facility managers and  
20 prospective managers, licensees and certificate holders; and (B) their of-  
21 ficers, directors, employees, owners, agents and contractors;

22 (11) the Kansas sentencing commission;

23 (12) the state gaming agency, and the request is accompanied by a  
24 statement that the request is being made to aid in determining qualifi-  
25 cations: (A) To be an employee of the state gaming agency; or (B) to be  
26 an employee of a tribal gaming commission or to hold a license issued  
27 pursuant to a tribal-gaming compact;

28 (13) the Kansas securities commissioner or a designee of the com-  
29 missioner, and the request is accompanied by a statement that the request  
30 is being made in conjunction with an application for registration as a  
31 broker-dealer, agent, investment adviser or investment adviser represen-  
32 tative by such agency and the application was submitted by the person  
33 whose record has been expunged;

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

38 (15) a law enforcement agency and the request is accompanied by a  
39 statement that the request is being made to aid in determining eligibility  
40 for employment as a law enforcement officer as defined by K.S.A. 22-  
41 2202, and amendments thereto; or

42 (16) the attorney general and the request is accompanied by a state-  
43 ment that the request is being made to aid in determining qualifications

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

3 Sec. 4. K.S.A. 2009 Supp. 22-2410 is hereby amended to read as  
4 follows: 22-2410. (a) Any person who has been arrested in this state may  
5 petition the district court for the expungement of such arrest record.

6 (b) When a petition for expungement is filed, the court shall set a  
7 date for hearing on such petition and shall cause notice of such hearing  
8 to be given to the prosecuting attorney and the arresting law enforcement  
9 agency. When a petition for expungement is filed, the official court file  
10 shall be separated from the other records of the court, and shall be dis-  
11 closed only to a judge of the court and members of the staff of the court  
12 designated by a judge of the district court, the prosecuting attorney, the  
13 arresting law enforcement agency, or any other person when authorized  
14 by a court order, subject to any conditions imposed by the order. Except  
15 as otherwise provided by law, a petition for expungement shall be accom-  
16 panied by a docket fee in the amount of \$100. Except as provided further,  
17 the docket fee established in this section shall be the only fee collected  
18 or moneys in the nature of a fee collected for the docket fee. Such fee  
19 shall only be established by an act of the legislature and no other authority  
20 is established by law or otherwise to collect a fee. On and after July 1,  
21 ~~2009~~ *the effective date of this act* through June 30, ~~2010~~ 2011, the su-  
22 preme court may impose an additional charge, not to exceed ~~\$10~~ \$50 per  
23 docket fee, to fund the costs of non-judicial personnel. The petition shall  
24 state:

- 25 (1) The petitioner's full name;
- 26 (2) the full name of the petitioner at the time of arrest, if different  
27 than the petitioner's current name;
- 28 (3) the petitioner's sex, race and date of birth;
- 29 (4) the crime for which the petitioner was arrested;
- 30 (5) the date of the petitioner's arrest; and
- 31 (6) the identity of the arresting law enforcement agency.

32 No surcharge or fee shall be imposed to any person filing a petition  
33 pursuant to this section, who was arrested as a result of being a victim of  
34 identity theft under K.S.A. 21-4018, and amendments thereto. Any per-  
35 son who may have relevant information about the petitioner may testify  
36 at the hearing. The court may inquire into the background of the peti-  
37 tioner.

- 38 (c) At the hearing on a petition for expungement, the court shall order  
39 the arrest record and subsequent court proceedings, if any, expunged  
40 upon finding: (1) The arrest occurred because of mistaken identity;  
41 (2) a court has found that there was no probable cause for the arrest;  
42 (3) the petitioner was found not guilty in court proceedings; or  
43 (4) the expungement would be in the best interests of justice and (A)

1 charges have been dismissed; or (B) no charges have been or are likely  
2 to be filed.

3 (d) When the court has ordered expungement of an arrest record and  
4 subsequent court proceedings, if any, the order shall state the information  
5 required to be stated in the petition and shall state the grounds for  
6 expungement under subsection (c). The clerk of the court shall send a  
7 certified copy of the order to the Kansas bureau of investigation which  
8 shall notify the federal bureau of investigation, the secretary of corrections  
9 and any other criminal justice agency which may have a record of the  
10 arrest. If an order of expungement is entered, the petitioner shall be  
11 treated as not having been arrested.

12 (e) If the ground for expungement is as provided in subsection (c)(4),  
13 the court shall determine whether, in the interests of public welfare, the  
14 records should be available for any of the following purposes: (1) In any  
15 application for employment as a detective with a private detective agency,  
16 as defined in K.S.A. 75-7b01, and amendments thereto; as security per-  
17 sonnel with a private patrol operator, as defined by K.S.A. 75-7b01, and  
18 amendments thereto; or with an institution, as defined in K.S.A. 76-  
19 12a01, and amendments thereto, of the department of social and reha-  
20 bilitation services;

21 (2) in any application for admission, or for an order of reinstatement,  
22 to the practice of law in this state;

23 (3) to aid in determining the petitioner's qualifications for employ-  
24 ment with the Kansas lottery or for work in sensitive areas within the  
25 Kansas lottery as deemed appropriate by the executive director of the  
26 Kansas lottery;

27 (4) to aid in determining the petitioner's qualifications for executive  
28 director of the Kansas racing commission, for employment with the com-  
29 mission or for work in sensitive areas in parimutuel racing as deemed  
30 appropriate by the executive director of the commission, or to aid in  
31 determining qualifications for licensure or renewal of licensure by the  
32 commission;

33 (5) in any application for a commercial driver's license under K.S.A.  
34 8-2,125 through 8-2,142, and amendments thereto;

35 (6) to aid in determining the petitioner's qualifications to be an em-  
36 ployee of the state gaming agency;

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

40 (8) in any other circumstances which the court deems appropriate.

41 (f) Subject to any disclosures required under subsection (e), in any  
42 application for employment, license or other civil right or privilege, or  
43 any appearance as a witness, a person whose arrest records have been

6-14

6-15

1 expunged as provided in this section may state that such person has never  
2 been arrested.

3 (g) Whenever a petitioner's arrest records have been expunged as  
4 provided in this section, the custodian of the records of arrest, incarceration  
5 ation due to arrest or court proceedings related to the arrest, shall not  
6 disclose the arrest or any information related to the arrest, except as  
7 directed by the order of expungement or when requested by the person  
8 whose arrest record was expunged.

9 (h) The docket fee collected at the time the petition for expungement  
10 is filed shall be disbursed in accordance with K.S.A. 20-362, and amend-  
11 ments thereto.

12 Sec. 5. K.S.A. 2009 Supp. 23-108a is hereby amended to read as  
13 follows: 23-108a. (a) The judge or clerk of the district court shall collect  
14 from the applicant for a marriage license a fee of \$59.

15 (b) The clerk of the court shall remit all fees prescribed by this section  
16 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
17 and amendments thereto. Upon receipt of each such remittance, the state  
18 treasurer shall deposit the entire amount in the state treasury. Of each  
19 remittance, the state treasurer shall credit 38.98% to the protection from  
20 abuse fund, 15.19% to the family and children trust account of the family  
21 and children investment fund created by K.S.A. 38-1808, and amend-  
22 ments thereto, 16.95% to the crime victims assistance fund created by  
23 K.S.A. 74-7334, and amendments thereto, 15.25% to the judicial branch  
24 nonjudicial salary adjustment fund created by K.S.A. 2009 Supp. 20-1a15,  
25 and amendments thereto, and the remainder to the state general fund.

26 (c) Except as provided further, the marriage license fee established  
27 in this section shall be the only fee collected or moneys in the nature of  
28 a fee collected for a marriage license. Such fee shall only be established  
29 by an act of the legislature and no other authority is established by law  
30 or otherwise to collect a fee. On and after ~~July 1, 2009~~ *the effective date*  
31 *of this act* through June 30, ~~2010~~ 2011, the supreme court may impose  
32 an additional charge, not to exceed ~~\$10~~ \$41 per marriage license fee, to  
33 fund the costs of non-judicial personnel.

34 Sec. 6. K.S.A. 2009 Supp. 28-170 is hereby amended to read as fol-  
35 lows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and  
36 amendments thereto and the fees for service of process, shall be the only  
37 costs assessed for services of the clerk of the district court and the sheriff  
38 in any case filed under chapter 60 or chapter 61 of the Kansas Statutes  
39 Annotated, and amendments thereto, except that no fee shall be charged  
40 for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-  
41 31a01 et seq., and amendments thereto. For services in other matters in  
42 which no other fee is prescribed by statute, the following fees shall be  
43 charged and collected by the clerk. Only one fee shall be charged for each

9/16

1 bond, lien or judgment:

- 2 1. For filing, entering and releasing a bond, mechanic's lien, notice of
- 3 intent to perform, personal property tax judgment or any judgment
- 4 on which execution process cannot be issued..... \$14
- 5 2. For filing, entering and releasing a judgment of a court of this state
- 6 on which execution or other process can be issued ..... \$24
- 7 3. For a certificate, or for copying or certifying any paper or writ, such
- 8 fee as shall be prescribed by the district court.

9 (b) The fees for entries, certificates and other papers required in  
 10 naturalization cases shall be those prescribed by the federal government  
 11 and, when collected, shall be disbursed as prescribed by the federal gov-  
 12 ernment. The clerk of the court shall remit to the state treasurer at least  
 13 monthly all moneys received from fees prescribed by subsection (a) or  
 14 (b) or received for any services performed which may be required by law.  
 15 The state treasurer shall deposit the remittance in the state treasury and  
 16 credit the entire amount to the state general fund.

17 (c) In actions pursuant to the revised Kansas code for care of children  
 18 (K.S.A. 2009 Supp. 38-2201 et seq. and amendments thereto), the revised  
 19 Kansas juvenile justice code (K.S.A. 2009 Supp. 38-2301 et seq. and  
 20 amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001  
 21 et seq. and amendments thereto), the act for treatment of drug abuse  
 22 (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treat-  
 23 ment act for mentally ill persons (K.S.A. 59-2945 et seq. and amendments  
 24 thereto), the clerk shall charge an additional fee of \$1 which shall be  
 25 deducted from the docket fee and credited to the prosecuting attorneys'  
 26 training fund as provided in K.S.A. 28-170a and amendments thereto.

27 (d) In actions pursuant to the revised Kansas code for care of children  
 28 (K.S.A. 2009 Supp. 38-2201 et seq. and amendments thereto), the revised  
 29 Kansas juvenile justice code (K.S.A. 2009 Supp. 38-2301 et seq. and  
 30 amendments thereto), the act for treatment of alcoholism (K.S.A. 65-4001  
 31 et seq. and amendments thereto), the act for treatment of drug abuse  
 32 (K.S.A. 65-5201 et seq. and amendments thereto) or the care and treat-  
 33 ment act for mentally ill persons (K.S.A. 59-2945 et seq. and amendments  
 34 thereto), the clerk shall charge an additional fee of \$ .50 which shall be  
 35 deducted from the docket fee and credited to the indigents' defense ser-  
 36 vices fund as provided in K.S.A. 28-172b and amendments thereto.

37 e) Except as provided further, the bond, lien or judgment fee estab-  
 38 lished in subsection (a) shall be the only fee collected or moneys in the  
 39 nature of a fee collected for such bond, lien or judgment. Such fee shall  
 40 only be established by an act of the legislature and no other authority is  
 41 established by law or otherwise to collect a fee. On and after ~~July 1, 2011~~  
 42 *the effective date of this act* through June 30, 2010 2011, the supreme  
 43 court may impose an additional charge, not to exceed \$10 ~~\$15~~ per bond,

\$20

6-17

1 lien or judgment fee, to fund the costs of non-judicial personnel.

2 Sec. 7. K.S.A. 2009 Supp. 28-172a is hereby amended to read as  
3 follows: 28-172a. (a) Except as otherwise provided in this section, when-  
4 ever the prosecuting witness or defendant is adjudged to pay the costs in  
5 a criminal proceeding in any county, a docket fee shall be taxed as follows:

6 (1) On and after July 1, 2009 through June 30, 2013:

7 Murder or manslaughter.....	\$182.50
8 Other felony.....	173.00
9 Misdemeanor.....	138.00
10 Forfeited recognizance .....	74.50
11 Appeals from other courts.....	74.50

12 (2) On and after July 1, 2013:

13 Murder or manslaughter.....	\$180.50
14 Other felony.....	171.00
15 Misdemeanor.....	136.00
16 Forfeited recognizance .....	72.50
17 Appeals from other courts.....	72.50

18 (b) (1) Except as provided in paragraph (2), in actions involving the  
19 violation of any of the laws of this state regulating traffic on highways  
20 (including those listed in subsection (c) of K.S.A. 8-2118, and amend-  
21 ments thereto), a cigarette or tobacco infraction, any act declared a crime  
22 pursuant to the statutes contained in chapter 32 of Kansas Statutes An-  
23 notated and amendments thereto or any act declared a crime pursuant  
24 to the statutes contained in article 8 of chapter 82a of the Kansas Statutes  
25 Annotated, and amendments thereto, whenever the prosecuting witness  
26 or defendant is adjudged to pay the costs in the action, on and after July  
27 1, 2009 through June 30, 2013, a docket fee of \$76 shall be charged, and  
28 on and after July 1, 2013, a docket fee of \$74 shall be charged. When an  
29 action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or  
30 subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by  
31 mail or in person, on and after July 1, 2009 through June 30, 2013, the  
32 docket fee to be paid as court costs shall be \$76, and on and after July 1,  
33 2013, the docket fee to be paid as court costs shall be \$74.

34 (2) In actions involving the violation of a moving traffic violation un-  
35 der K.S.A. 8-2118, and amendments thereto, as defined by rules and  
36 regulations adopted under K.S.A. 8-249, and amendments thereto, when-  
37 ever the prosecuting witness or defendant is adjudged to pay the costs in  
38 the action, on and after July 1, 2009 through June 30, 2013, a docket fee  
39 of \$76 shall be charged, and on and after July 1, 2013, a docket fee of  
40 \$74 shall be charged. When an action is disposed of under subsection (a)  
41 and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or  
42 in person, on and after July 1, 2009 through June 30, 2013, the docket  
43 fee to be paid as court costs shall be \$76, and on and after July 1, 2013,

1 the docket fee to be paid as court costs shall be \$74.

2 (c) If a conviction is on more than one count, the docket fee shall be  
3 the highest one applicable to any one of the counts. The prosecuting  
4 witness or defendant, if assessed the costs, shall pay only one fee. Multiple  
5 defendants shall each pay one fee.

6 (d) Statutory charges for law library funds, the law enforcement training  
7 center fund, the prosecuting attorneys' training fund, the juvenile  
8 detention facilities fund, the judicial branch education fund, the emer-  
9 gency medical services operating fund and the judiciary technology fund  
10 shall be paid from the docket fee; the family violence and child abuse and  
11 neglect assistance and prevention fund fee shall be paid from criminal  
12 proceedings docket fees. All other fees and expenses to be assessed as  
13 additional court costs shall be approved by the court, unless specifically  
14 fixed by statute. Additional fees shall include, but are not limited to, fees  
15 for Kansas bureau of investigation forensic or laboratory analyses, fees for  
16 detention facility processing pursuant to K.S.A. 12-16,119, and amend-  
17 ments thereto, fees for the sexual assault evidence collection kit, fees for  
18 conducting an examination of a sexual assault victim, fees for service of  
19 process outside the state, witness fees, fees for transcripts and depositions,  
20 costs from other courts, doctors' fees and examination and evaluation  
21 fees. No sheriff in this state shall charge any district court of this  
22 state a fee or mileage for serving any paper or process.

23 (e) In each case charging a violation of the laws relating to parking  
24 of motor vehicles on the statehouse grounds or other state-owned or  
25 operated property in Shawnee county, Kansas, as specified in K.S.A. 75-  
26 4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and  
27 amendments thereto, the clerk shall tax a fee of \$2 which shall constitute  
28 the entire costs in the case, except that witness fees, mileage and expenses  
29 incurred in serving a warrant shall be in addition to the fee. Appearance  
30 bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amend-  
31 ments thereto, shall be \$3, unless a warrant is issued. The judge may  
32 order the bond forfeited upon the defendant's failure to appear, and \$2  
33 of any bond so forfeited shall be regarded as court costs.

34 (f) Except as provided further, the docket fee established in this section  
35 shall be the only fee collected or moneys in the nature of a fee  
36 collected for the docket fee. Such fee shall only be established by an act  
37 of the legislature and no other authority is established by law or otherwise  
38 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
39 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
40 charge, not to exceed ~~\$10~~ \$15 per docket fee, to fund the costs of non-  
41 judicial personnel.

42 Sec. 8. K.S.A. 2009 Supp. 28-177 is hereby amended to read as fol-  
43 lows: 28-177. (a) Except as provided further, the fees established by leg-

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6-19

1 islative enactment shall be the only fee collected or moneys in the nature  
 2 of a fee collected for court procedures. Such fee shall only be established  
 3 by an act of the legislature and no other authority is established by law  
 4 or otherwise to collect a fee. Court procedures shall include docket fees,  
 5 filing fees or other fees related to access to court procedures. On and  
 6 after ~~July 1, 2009~~ *the effective date of this act* through June 30, ~~2010~~ 2011,  
 7 the supreme court may impose an additional charge, not to exceed ~~\$10~~  
 8 ~~per fee~~ \$50 per fee or the amount established by the applicable statute,  
 9 whichever amount is less, to fund the costs of non-judicial personnel.

10 (b) Any additional charge imposed by the court pursuant to K.S.A. 8-  
 11 2107, 8-2110, 21-4619, 22-2410, 23-108a, 28-170, 28-172a, 59-104, 60-  
 12 1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2009 Supp.  
 13 28-178, 38-2215 and 38-2314, and amendments thereto, shall be remitted  
 14 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
 15 and amendments thereto. Upon receipt of each such remittance, the state  
 16 treasurer shall deposit the entire amount in the state treasury to the credit  
 17 of the judicial branch surcharge fund, which is hereby created in the state  
 18 treasury.

38-2312

19 (c) All moneys credited to the judicial branch surcharge fund shall  
 20 be used for compensation of non-judicial personnel and shall not be ex-  
 21 pended for compensation of judges or justices of the judicial branch.

22 (d) All expenditures from the judicial branch surcharge fund shall be  
 23 made in accordance with appropriation acts and upon warrants of the  
 24 director of accounts and reports issued pursuant to payrolls approved by  
 25 the chief justice of the Kansas supreme court or by a person or persons  
 26 designated by the chief justice.

27 Sec. 9. K.S.A. 2009 Supp. 28-178 is hereby amended to read as fol-  
 28 lows: 28-178. (a) In addition to any other fees specifically prescribed by  
 29 law, on and after ~~July 1, 2009~~ *the effective date of this act* through June  
 30 30, ~~2010~~ 2011, the supreme court may impose a charge, not to exceed  
 31 \$10 per fee, to fund the costs of non-judicial personnel, on the following:

32 (1) A person who requests an order or writ of execution or an *alias*  
 33 *order or writ of execution*, pursuant to K.S.A. 60-2401 or 61-3602, and  
 34 amendments thereto.

35 (2) Persons who request a hearing in aid of execution or an alias order  
 36 for hearing pursuant to K.S.A. 60-2419, and amendments thereto.

37 (3) A person requesting an order for garnishment or an *alias order*  
 38 *for garnishment*, pursuant to article 7 of chapter 60 of the Kansas Statutes  
 39 Annotated, and amendments thereto, or article 35 of chapter 61 of the  
 40 Kansas Statutes Annotated, and amendments thereto.

41 (4) Persons who request a writ or order of sale or an *alias writ or*  
 42 *order of sale*, pursuant to K.S.A. 60-2401 or 61-3602, and amendments  
 43 thereto.

6-20

1 (5) A person who requests a hearing in aid of execution or an alias  
2 order for hearing in aid of execution, pursuant to K.S.A. 61-3604, and  
3 amendments thereto.

4 (6) A person who requests an attachment or an alias order of attach-  
5 ment against the property of a defendant or any one or more of several  
6 defendants, pursuant to K.S.A. 60-701 or 61-3501, and amendments  
7 thereto.

8 (b) The clerk of the district court shall remit all revenues received  
9 from the fees imposed pursuant to subsection (a) to the state treasurer,  
10 in accordance with the provisions of K.S.A. 75-4215, and amendments  
11 thereto. Upon receipt of each such remittance, the state treasurer shall  
12 deposit the entire amount in the state treasury to the credit of the judicial  
13 branch surcharge fund.

14 (c) The fees established in this section shall be the only fee collected  
15 or moneys in the nature of a fee collected for such court procedures.  
16 Such fee shall only be established by an act of the legislature and no other  
17 authority is established by law or otherwise to collect a fee.

18 Sec. 10. K.S.A. 2009 Supp. 38-2215 is hereby amended to read as  
19 follows: 38-2215. (a) *Docket fee.* The docket fee for proceedings under  
20 this code, if one is assessed as provided in this section, shall be \$34. Only  
21 one docket fee shall be assessed in each case. Except as provided further,  
22 the docket fee established in this section shall be the only fee collected  
23 or moneys in the nature of a fee collected for the docket fee. Such fee  
24 shall only be established by an act of the legislature and no other authority  
25 is established by law or otherwise to collect a fee. On and after July 1,  
26 ~~2009~~ the effective date of this act through June 30, ~~2010~~ 2011, the su-  
27 preme court may impose an additional charge, not to exceed ~~\$10~~ \$15 per  
28 docket fee, to fund the costs of non-judicial personnel.

\$20

29 (b) *Expenses.* The expenses for proceedings under this code, includ-  
30 ing fees and mileage allowed witnesses and fees and expenses approved  
31 by the court for appointed attorneys, shall be paid by the board of county  
32 commissioners from the general fund of the county.

33 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket  
34 fee may be assessed or waived by the court conducting the initial dispos-  
35 itional hearing and the docket fee may be assessed against the complain-  
36 ing witness or person initiating the proceedings or a party or interested  
37 party other than the state, a political subdivision of the state, an agency  
38 of the state or of a political subdivision of the state, or a person acting in  
39 the capacity of an employee of the state or of a political subdivision of  
40 the state. Any docket fee received shall be remitted to the state treasurer  
41 pursuant to K.S.A. 20-362, and amendments thereto.

42 (2) *Expenses.* Expenses may be assessed against the complaining wit-  
43 ness, a person initiating the proceedings, a party or an interested party,

1 other than the state, a political subdivision of the state, an agency of the  
2 state or of a political subdivision of the state or a person acting in the  
3 capacity of an employee of the state or of a political subdivision of the  
4 state. When expenses are recovered from a person against whom they  
5 have been assessed the general fund of the county shall be reimbursed  
6 in the amount of the recovery. If it appears to the court in any proceedings  
7 under this code that expenses were unreasonably incurred at the request  
8 of any party the court may assess that portion of the expenses against the  
9 party.

10 (d) *Cases in which venue is transferred.* If venue is transferred from  
11 one county to another, the court from which the case is transferred shall  
12 send to the receiving court a statement of expenses paid from the general  
13 fund of the sending county. If the receiving court collects any of the  
14 expenses owed in the case, the receiving court shall pay to the sending  
15 court an amount proportional to the sending court's share of the total  
16 expenses owed to both counties. The expenses of the sending county shall  
17 not be an obligation of the receiving county except to the extent that the  
18 sending county's proportion of the expenses is collected by the receiving  
19 court. All amounts collected shall first be applied toward payment of the  
20 docket fee.

21 Sec. 11. K.S.A. 2009 Supp. 38-2312 is hereby amended to read as  
22 follows: 38-2312. (a) Except as provided in subsection (b), any records or  
23 files specified in this code concerning a juvenile may be expunged upon  
24 application to a judge of the court of the county in which the records or  
25 files are maintained. The application for expungement may be made by  
26 the juvenile, if 18 years of age or older or, if the juvenile is less than 18  
27 years of age, by the juvenile's parent or next friend.

28 (b) There shall be no expungement of records or files concerning acts  
29 committed by a juvenile which, if committed by an adult, would constitute  
30 a violation of K.S.A. 21-3401, and amendments thereto, murder in the  
31 first degree, K.S.A. 21-3402, and amendments thereto, murder in the  
32 second degree, K.S.A. 21-3403, and amendments thereto, voluntary man-  
33 slaughter, K.S.A. 21-3404, and amendments thereto, involuntary man-  
34 slaughter, K.S.A. 21-3439, and amendments thereto, capital murder  
35 K.S.A. 21-3442, and amendments thereto, involuntary manslaughter  
36 while driving under the influence of alcohol or drugs, K.S.A. 21-3502  
37 and amendments thereto, rape, K.S.A. 21-3503, and amendments  
38 thereto, indecent liberties with a child, K.S.A. 21-3504, and amendments  
39 thereto, aggravated indecent liberties with a child, K.S.A. 21-3506, and  
40 amendments thereto, aggravated criminal sodomy, K.S.A. 21-3510, and  
41 amendments thereto, indecent solicitation of a child, K.S.A. 21-3511, and  
42 amendments thereto, aggravated indecent solicitation of a child, K.S.A.  
43 21-3516, and amendments thereto, sexual exploitation, K.S.A. 21-3603,

6-22

1 and amendments thereto, aggravated incest, K.S.A. 21-3608, and amend-  
2 ments thereto, endangering a child, K.S.A. 21-3609, and amendments  
3 thereto, abuse of a child, or which would constitute an attempt to commit  
4 a violation of any of the offenses specified in this subsection.

5 (c) When a petition for expungement is filed, the court shall set a  
6 date for a hearing on the petition and shall give notice thereof to the  
7 county or district attorney. The petition shall state: (1) The juvenile's full  
8 name; (2) the full name of the juvenile as reflected in the court record,  
9 if different than (1); (3) the juvenile's sex and date of birth; (4) the offense  
10 for which the juvenile was adjudicated; (5) the date of the trial; and (6)  
11 the identity of the trial court. ~~There shall be no docket fee for filing a~~  
12 ~~petition pursuant to this section.~~ *Except as otherwise provided by law, a*  
13 *petition for expungement shall be accompanied by a docket fee in the*  
14 *amount of \$100. On and after the effective date of this act through June*  
15 *30, 2011, the supreme court may impose a charge, not to exceed \$50 per*  
16 *case, to fund the costs of non-judicial personnel.* All petitions for expunge-  
17 ment shall be docketed in the original action. Any person who may have  
18 relevant information about the petitioner may testify at the hearing. The  
19 court may inquire into the background of the petitioner.

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

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

24 (B) since the final discharge of the juvenile, the juvenile has not been  
25 convicted of a felony or of a misdemeanor other than a traffic offense or  
26 adjudicated as a juvenile offender under the revised Kansas juvenile jus-  
27 tice code and no proceedings are pending seeking such a conviction or  
28 adjudication; and

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

31 (2) The court may require that all court costs, fees and restitution  
32 shall be paid.

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

1 (f) Copies of any order made pursuant to subsection (a) or (c) shall  
2 be sent to each public officer and agency in the county having possession  
3 of any records or files ordered to be expunged. If the officer or agency  
4 fails to comply with the order within a reasonable time after its receipt,  
5 the officer or agency may be adjudged in contempt of court and punished  
6 accordingly.

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

9 (h) Nothing in this section shall be construed to prohibit the main-  
10 tenance of information relating to an offense after records or files con-  
11 cerning the offense have been expunged if the information is kept in a  
12 manner that does not enable identification of the juvenile.

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

16 (j) Whenever the records or files of any adjudication have been ex-  
17 punged under the provisions of this section, the custodian of the records  
18 or files of adjudication relating to that offense shall not disclose the ex-  
19 istence of such records or files, except when requested by:

20 (1) The person whose record was expunged;

21 (2) a private detective agency or a private patrol operator, and the  
22 request is accompanied by a statement that the request is being made in  
23 conjunction with an application for employment with such agency or op-  
24 erator by the person whose record has been expunged;

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

27 (4) the secretary of social and rehabilitation services, or a designee of  
28 the secretary, for the purpose of obtaining information relating to em-  
29 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
30 ments thereto, of the department of social and rehabilitation services of  
31 any person whose record has been expunged;

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

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

39 (7) the governor or the Kansas racing commission, or a designee of  
40 the commission, and the request is accompanied by a statement that the  
41 request is being made to aid in determining qualifications for executive  
42 director of the commission, for employment with the commission, for  
43 work in sensitive areas in parimutuel racing as deemed appropriate by

6-24

1 the executive director of the commission or for licensure, renewal of  
2 licensure or continued licensure by the commission; or

3 (8) the Kansas sentencing commission.

4 Sec. 12. K.S.A. 2009 Supp. 38-2314 is hereby amended to read as  
5 follows: 38-2314. (a) *Docket fee.* The docket fee for proceedings under  
6 this code, if one is assessed as provided by this section, shall be \$34. Only  
7 one docket fee shall be assessed in each case. Except as provided further,  
8 the docket fee established in this section shall be the only fee collected  
9 or moneys in the nature of a fee collected for the docket fee. Such fee  
10 shall only be established by an act of the legislature and no other authority  
11 is established by law or otherwise to collect a fee. On and after July 1,  
12 ~~2009~~ the effective date of this act through June 30, ~~2010~~ 2011, the su-  
13 preme court may impose an additional charge, not to exceed \$10 ~~\$15~~ per  
14 docket fee, to fund the costs of non-judicial personnel.

\$20

15 (b) *Expenses.* The expenses for proceedings under this code, includ-  
16 ing fees and mileage allowed witnesses and fees and expenses approved  
17 by the court for appointed attorneys, shall be paid by the board of county  
18 commissioners from the general fund of the county.

19 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket  
20 fee may be assessed or waived by the court conducting the initial sen-  
21 tencing hearing and may be assessed against the juvenile or the parent of  
22 the juvenile. Any docket fee received shall be remitted to the state trea-  
23 surer pursuant to K.S.A. 20-362, and amendments thereto.

24 (2) *Expenses.* Expenses may be waived or assessed against the juve-  
25 nile or a parent of the juvenile. When expenses are recovered from a  
26 party against whom they have been assessed the general fund of the  
27 county shall be reimbursed in the amount of the recovery.

28 (3) *Prohibited assessment.* Docket fees or expenses shall not be as-  
29 sessed against the state, a political subdivision of the state, an agency of  
30 the state or of a political subdivision of the state or a person acting in the  
31 capacity of an employee of the state or of a political subdivision of the  
32 state.

33 (d) *Cases in which venue is transferred.* If venue is transferred from  
34 one county to another, the court from which the case is transferred shall  
35 send to the receiving court a statement of expenses paid from the general  
36 fund of the sending county. If the receiving court collects any of the  
37 expenses owed in the case, the receiving court shall pay to the sending  
38 court an amount proportional to the sending court's share of the total  
39 expenses owed to both counties. The expenses of the sending county shall  
40 not be an obligation of the receiving county except to the extent that the  
41 sending county's proportionate share of the expenses is collected by the  
42 receiving court. Unless otherwise ordered by the court, all amounts col-  
43 lected shall first be applied toward payment of restitution, then toward

6-25

1 the payment of the docket fee.

2 Sec. 13. K.S.A. 2009 Supp. 59-104 is hereby amended to read as  
3 follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law,  
4 no case shall be filed or docketed in the district court under the provisions  
5 of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52  
6 of chapter 65 of the Kansas Statutes Annotated without payment of an  
7 appropriate docket fee as follows:

8 (A) On and after July 1, 2009 through June 30, 2013:

9	Treatment of mentally ill .....	\$59.00
10	Treatment of alcoholism or drug abuse.....	36.50
11	Determination of descent of property .....	51.50
12	Termination of life estate.....	50.50
13	Termination of joint tenancy .....	50.50
14	Refusal to grant letters of administration .....	50.50
15	Adoption.....	50.50
16	Filing a will and affidavit under K.S.A. 59-618a.....	50.50
17	Guardianship .....	71.50
18	Conservatorship .....	71.50
19	Trusteeship .....	71.50
20	Combined guardianship and conservatorship.....	71.50
21	Certified probate proceedings under K.S.A. 59-213, and amendments	
22	thereto .....	25.50
23	Decrees in probate from another state .....	110.50
24	Probate of an estate or of a will .....	111.50
25	Civil commitment under K.S.A. 59-29a01 et seq.....	35.50

26 (B) On and after July 1, 2013:

27	Treatment of mentally ill .....	34.50
28	Treatment of alcoholism or drug abuse.....	34.50
29	Determination of descent of property .....	49.50
30	Termination of life estate.....	48.50
31	Termination of joint tenancy .....	48.50
32	Refusal to grant letters of administration .....	48.50
33	Adoption.....	48.50
34	Filing a will and affidavit under K.S.A. 59-618a.....	48.50
35	Guardianship .....	69.50
36	Conservatorship .....	69.50
37	Trusteeship .....	69.50
38	Combined guardianship and conservatorship.....	69.50
39	Certified probate proceedings under K.S.A. 59-213, and amendments	
40	thereto .....	23.50
41	Decrees in probate from another state .....	108.50
42	Probate of an estate or of a will .....	109.50
43	Civil commitment under K.S.A. 59-29a01 et seq.....	33.50

1 (2) Except as provided further, the docket fee established in this sec-  
 2 tion shall be the only fee collected or moneys in the nature of a fee  
 3 collected for the docket fee. Such fee shall only be established by an act  
 4 of the legislature and no other authority is established by law or otherwise  
 5 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
 6 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
 7 charge, not to exceed ~~\$10~~ \$15 per docket fee, to fund the costs of non-  
 8 judicial personnel.

\$20
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9 (b) *Poverty affidavit in lieu of docket fee and exemptions.* The pro-  
 10 visions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and  
 11 amendments thereto, shall apply to probate docket fees prescribed by  
 12 this section.

13 (c) *Disposition of docket fee.* Statutory charges for the law library and  
 14 for the prosecuting attorneys' training fund shall be paid from the docket  
 15 fee. The remainder of the docket fee shall be paid to the state treasurer  
 16 in accordance with K.S.A. 20-362, and amendments thereto.

17 (d) *Additional court costs.* Other fees and expenses to be assessed as  
 18 additional court costs shall be approved by the court, unless specifically  
 19 fixed by statute. Other fees shall include, but not be limited to, witness  
 20 fees, appraiser fees, fees for service of process outside the state, fees for  
 21 depositions, transcripts and publication of legal notice, executor or ad-  
 22 ministrator fees, attorney fees, court costs from other courts and any other  
 23 fees and expenses required by statute. All additional court costs shall be  
 24 taxed and billed against the parties or estate as directed by the court. No  
 25 sheriff in this state shall charge any district court in this state a fee or  
 26 mileage for serving any paper or process.

27 Sec. 14. K.S.A. 2009 Supp. 60-1621 is hereby amended to read as  
 28 follows: 60-1621. (a) No post-decree motion petitioning for a modification  
 29 or termination of separate maintenance, for a change in legal custody,  
 30 residency, visitation rights or parenting time or for a modification of child  
 31 support shall be filed or docketed in the district court without payment  
 32 of a docket fee in the amount of \$42 on and after July 1, 2009 through  
 33 June 30, 2013, and \$40 on and after July 1, 2013, to the clerk of the  
 34 district court.

35 (b) A poverty affidavit may be filed in lieu of a docket fee as estab-  
 36 lished in K.S.A. 60-2001, and amendments thereto.

37 (c) The docket fee shall be the only costs assessed in each case for  
 38 services of the clerk of the district court and the sheriff. The docket fee  
 39 shall be disbursed in accordance with subsection (f) of K.S.A. 20-362, and  
 40 amendments thereto.

41 (d) Except as provided further, the docket fee established in this sec-  
 42 tion shall be the only fee collected or moneys in the nature of a fee  
 43 collected for the docket fee. Such fee shall only be established by an act

6-26



6-27

1 of the legislature and no other authority is established by law or otherwise  
 2 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
 3 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
 4 charge, not to exceed ~~\$10~~ \$20 per docket fee, to fund the costs of non-  
 5 judicial personnel.

6 Sec. 15. K.S.A. 2009 Supp. 60-2001 is hereby amended to read as  
 7 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no  
 8 case shall be filed or docketed in the district court, whether original or  
 9 appealed, without payment of a docket fee in the amount of \$156 on and  
 10 after July 1, 2009 through June 30, 2013, and \$154 on and after July 1,  
 11 2013, to the clerk of the district court. Except as provided further, the  
 12 docket fee established in this subsection shall be the only fee collected  
 13 or moneys in the nature of a fee collected for the docket fee. Such fee  
 14 shall only be established by an act of the legislature and no other authority  
 15 is established by law or otherwise to collect a fee. On and after ~~July 1,~~  
 16 ~~2009~~ *the effective date of this act* through June 30, ~~2010~~ 2011, the su-  
 17 preme court may impose an additional charge, not to exceed ~~\$10~~ ~~\$15~~ per  
 18 docket fee, to fund the costs of non-judicial personnel.

\$20
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19 (b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where  
 20 a plaintiff by reason of poverty is unable to pay a docket fee, and an  
 21 affidavit so stating is filed, no fee will be required. An inmate in the  
 22 custody of the secretary of corrections may file a poverty affidavit only if  
 23 the inmate attaches a statement disclosing the average account balance,  
 24 or the total deposits, whichever is less, in the inmate's trust fund for each  
 25 month in (A) the six-month period preceding the filing of the action; or  
 26 (B) the current period of incarceration, whichever is shorter. Such state-  
 27 ment shall be certified by the secretary. On receipt of the affidavit and  
 28 attached statement, the court shall determine the initial fee to be assessed  
 29 for filing the action and in no event shall the court require an inmate to  
 30 pay less than \$3. The secretary of corrections is hereby authorized to  
 31 disburse money from the inmate's account to pay the costs as determined  
 32 by the court. If the inmate has a zero balance in such inmate's account,  
 33 the secretary shall debit such account in the amount of \$3 per filing fee  
 34 as established by the court until money is credited to the account to pay  
 35 such docket fee. Any initial filing fees assessed pursuant to this subsection  
 36 shall not prevent the court, pursuant to subsection (d), from taxing that  
 37 individual for the remainder of the amount required under subsection (a)  
 38 or this subsection.

39 (2) *Form of affidavit.* The affidavit provided for in this subsection  
 40 shall be in the following form and attached to the petition:

41 State of Kansas, \_\_\_\_\_ County.

42 In the district court of the county: I do solemnly swear that the claim set forth in the  
 43 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to

1 pay a docket fee.

2 (c) *Disposition of fees.* The docket fees and the fees for service of  
3 process shall be the only costs assessed in each case for services of the  
4 clerk of the district court and the sheriff. For every person to be served  
5 by the sheriff, the persons requesting service of process shall provide  
6 proper payment to the clerk and the clerk of the district court shall for-  
7 ward the service of process fee to the sheriff in accordance with K.S.A.  
8 28-110, and amendments thereto. The service of process fee, if paid by  
9 check or money order, shall be made payable to the sheriff. Such service  
10 of process fee shall be submitted by the sheriff at least monthly to the  
11 county treasurer for deposit in the county treasury and credited to the  
12 county general fund. The docket fee shall be disbursed in accordance  
13 with K.S.A. 20-362, and amendments thereto.

14 (d) *Additional court costs.* Other fees and expenses to be assessed as  
15 additional court costs shall be approved by the court, unless specifically  
16 fixed by statute. Other fees shall include, but not be limited to, witness  
17 fees, appraiser fees, fees for service of process, fees for depositions, al-  
18 ternative dispute resolution fees, transcripts and publication, attorney  
19 fees, court costs from other courts and any other fees and expenses re-  
20 quired by statute. All additional court costs shall be taxed and billed  
21 against the parties as directed by the court. No sheriff in this state shall  
22 charge any mileage for serving any papers or process.

23 Sec. 16. K.S.A. 2009 Supp. 60-2203a is hereby amended to read as  
24 follows: 60-2203a. (a) After the commencement of any action in any dis-  
25 trict court of this state, or the courts of the United States in the state of  
26 Kansas or in any action now pending heretofore commenced in such  
27 courts, which does not involve title to real estate, any party to such action  
28 may give notice in any other county of the state of the pendency of the  
29 action by filing for record with the clerk of the district court of such other  
30 county a verified statement setting forth the parties to the action, the  
31 nature of the action, the court in which it is pending, and the relief sought,  
32 which shall impart notice of the pendency of the action and shall result  
33 in the same lien rights as if the action were pending in that county. The  
34 lien shall be effective from the time the statement is filed, but not to  
35 exceed four months prior to the entry of judgment except as provided in  
36 subsection (c). The party filing such notice shall within 30 days after any  
37 satisfaction of the judgment entered in such action or any other final  
38 disposition thereof, cause to be filed with such clerk of the district court  
39 a notice that all claims in such action are released. If the party filing fails  
40 or neglects to do so after reasonable demand by any party in interest,  
41 such party shall be liable in damages in the same amounts and manner  
42 as is provided by law for failure of a mortgagee to enter satisfaction of a  
43 mortgage. Upon the filing of such a notice of the pendency of an action

6-28

1 the clerk shall charge a fee of \$14 and shall enter and index the action in  
 2 the same manner as for the filing of an original action. Upon the filing of  
 3 a notice of release, the notice shall likewise be entered on the docket.  
 4 Except as provided further, the fee established in this subsection shall be  
 5 the only fee collected or moneys in the nature of a fee collected for the  
 6 court procedure. Such fee shall only be established by an act of the leg-  
 7 islatre and no other authority is established by law or otherwise to collect  
 8 a fee. On and after ~~July 1, 2009~~ *the effective date of this act* through June  
 9 30, ~~2010~~ 2011, the supreme court may impose an additional charge, not  
 10 to exceed ~~\$10~~ \$15 per fee, to fund the costs of non-judicial personnel.

\$20
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11 (b) Any notice of the type provided for in subsection (a) which was  
 12 filed on or after January 10, 1977, and prior to the effective date of this  
 13 act shall be deemed to impart notice of the pendency of the action in the  
 14 same manner as if the provisions of subsection (a) were in force and effect  
 15 on and after January 10, 1977.

16 (c) Notwithstanding the foregoing provisions of this section, the filing  
 17 of a notice of the pendency of an action pursuant to subsection (a) shall  
 18 create no lien rights against the property of an employee of the state or  
 19 a municipality prior to the date judgment is rendered if the pleadings in  
 20 the pending action allege a negligent or wrongful act or omission of the  
 21 employee while acting within the scope of such employee's employment,  
 22 regardless of whether or not it is alleged in the alternative that the em-  
 23 ployee was acting outside of such employee's employment. A judgment  
 24 against an employee shall become a lien upon such employee's property  
 25 in the county where notice is filed pursuant to subsection (a) when the  
 26 judgment is rendered only if it is found that (1) the employee's negligent  
 27 or wrongful act or omission occurred when the employee was acting out-  
 28 side the scope of such employee's employment or (2) the employee's  
 29 conduct which gave rise to the judgment was because of actual fraud or  
 30 actual malice of the employee. In such cases the lien shall not be effective  
 31 prior to the date judgment was rendered. As used in this subsection (c),  
 32 "employee" shall have the meaning ascribed to such term in K.S.A. 75-  
 33 6102, and amendments thereto.

34 Sec. 17. K.S.A. 2009 Supp. 61-2704 is hereby amended to read as  
 35 follows: 61-2704. (a) An action seeking the recovery of a small claim shall  
 36 be considered to have been commenced at the time a person files a writ-  
 37 ten statement of the person's small claim with the clerk of the court if,  
 38 within 90 days after the small claim is filed, service of process is obtained  
 39 or the first publication is made for service by publication. Otherwise, the  
 40 action is deemed commenced at the time of service of process or first  
 41 publication. An entry of appearance shall have the same effect as service.

42 (b) Upon the filing of a plaintiff's small claim, the clerk of the court  
 43 shall require from the plaintiff a docket fee of \$39 on and after July 1,

1 2009 through June 30, 2013, and \$37 on and after July 1, 2013, if the  
2 claim does not exceed \$500; or \$59 on and after July 1, 2009 through  
3 June 30, 2013, and \$57 on and after July 1, 2013, if the claim exceeds  
4 \$500; unless for good cause shown the judge waives the fee. The docket  
5 fee shall be the only costs required in an action seeking recovery of a  
6 small claim. No person may file more than 20 small claims under this act  
7 in the same court during any calendar year.

8 (c) Except as provided further, the docket fee established in this sec-  
9 tion shall be the only fee collected or moneys in the nature of a fee  
10 collected for the docket fee. Such fee shall only be established by an act  
11 of the legislature and no other authority is established by law or otherwise  
12 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
13 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
14 charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial  
15 personnel.

16 Sec. 18. K.S.A. 2009 Supp. 61-4001 is hereby amended to read as  
17 follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pur-  
18 suant to the code of civil procedure for limited actions without the pay-  
19 ment of a docket fee in the amount of \$37 on and after July 1, 2009  
20 through June 30, 2013, and \$35 on and after July 1, 2013, if the amount  
21 in controversy or claimed does not exceed \$500; \$57 on and after July 1,  
22 2009 through June 30, 2013, and \$55 on and after July 1, 2013, if the  
23 amount in controversy or claimed exceeds \$500 but does not exceed  
24 \$5,000; or \$103 on and after July 1, 2009 through June 30, 2013, and  
25 \$101 on and after July 1, 2013, if the amount in controversy or claimed  
26 exceeds \$5,000. If judgment is rendered for the plaintiff, the court also  
27 may enter judgment for the plaintiff for the amount of the docket fee  
28 paid by the plaintiff.

29 (b) Poverty affidavit; additional court costs; exemptions for the state  
30 and municipalities. The provisions of subsections (b), (c) and (d) of K.S.A.  
31 60-2001 and 60-2005, and amendments thereto, shall be applicable to  
32 lawsuits brought under the code of civil procedure for limited actions.

33 (c) Except as provided further, the docket fee established in this sec-  
34 tion shall be the only fee collected or moneys in the nature of a fee  
35 collected for the docket fee. Such fee shall only be established by an act  
36 of the legislature and no other authority is established by law or otherwise  
37 to collect a fee. On and after ~~July 1, 2009~~ *the effective date of this act*  
38 through June 30, ~~2010~~ 2011, the supreme court may impose an additional  
39 charge, not to exceed \$10 per docket fee, to fund the costs of non-judicial  
40 personnel.

41 Sec. 19. K.S.A. 2009 Supp. 8-2107, 8-2110, 21-4619, 22-2410, 23-  
42 108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-2314, 59-  
43 104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 are hereby re-

1 pealed.

2 Sec. 20. This act shall take effect and be in force from and after its  
3 publication in the Kansas register.

6-21

**SENATE BILL No. 442**

By Committee on Judiciary

1-25

9 AN ACT concerning courts; relating to court fees and costs; relating to  
10 the judicial branch surcharge fund; docket fees for expungement of  
11 records; amending K.S.A. 2009 Supp. 8-2107, 8-2110, 21-4619, 22-  
12 2410, 23-108a, 28-170, 28-172a, 28-177, 28-178, 38-2215, 38-2312, 38-  
13 2314, 59-104, 60-1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and  
14 repealing the existing sections.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2009 Supp. 8-2107 is hereby amended to read as  
18 follows: 8-2107. (a) (1) Notwithstanding any other provisions of the uni-  
19 form act regulating traffic on highways, when a person is stopped by a  
20 police officer for any of the offenses described in subsection (d) and such  
21 person is not immediately taken before a judge of the district court, the  
22 police officer may require the person stopped, subject to the provisions  
23 of subsection (c), to deposit with the officer a valid Kansas driver's license  
24 in exchange for a receipt therefor issued by such police officer, the form  
25 of which shall be approved by the division of vehicles. Such receipt shall  
26 be recognized as a valid temporary Kansas driver's license authorizing the  
27 operation of a motor vehicle by the person stopped until the date of the  
28 hearing stated on the receipt. The driver's license and a written copy of  
29 the notice to appear shall be delivered by the police officer to the court  
30 having jurisdiction of the offense charged as soon as reasonably possible.  
31 If the hearing on such charge is continued for any reason, the judge may  
32 note on the receipt the date to which such hearing has been continued  
33 and such receipt shall be recognized as a valid temporary Kansas driver's  
34 license until such date, but in no event shall such receipt be recognized  
35 as a valid Kansas driver's license for a period longer than 30 days from  
36 the date set for the original hearing. Any person who has deposited a  
37 driver's license with a police officer under this subsection (a) shall have  
38 such license returned upon final determination of the charge against such  
39 person.

40 (2) In the event the person stopped deposits a valid Kansas driver's  
41 license with the police officer and fails to appear in the district court on  
42 the date set for appearance, or any continuance thereof, and in any event  
43 within 30 days from the date set for the original hearing, the court shall

Kansas Credit Attorneys  
Association  
2/15/10

Senate Judiciary  
2-16-10  
Attachment 7

7-2

1 islative enactment shall be the only fee collected or moneys in the nature  
 2 of a fee collected for court procedures. Such fee shall only be established  
 3 by an act of the legislature and no other authority is established by law  
 4 or otherwise to collect a fee. Court procedures shall include docket fees,  
 5 filing fees or other fees related to access to court procedures. On and  
 6 after ~~July 1, 2009~~ *the effective date of this act* through June 30, ~~2010~~ 2011,  
 7 the supreme court may impose an additional charge, not to exceed ~~\$10~~  
 8 ~~per fee \$50 per fee~~ *or the amount established by the applicable statute,*  
 9 *whichever amount is less,* to fund the costs of non-judicial personnel.

10 (b) Any additional charge imposed by the court pursuant to K.S.A. 8-  
 11 2107, 8-2110, 21-4619, 22-2410, 23-108a, 28-170, 28-172a, 59-104, 60-  
 12 1621, 60-2001, 60-2203a, 61-2704 and 61-4001 and K.S.A. 2009 Supp.  
 13 28-178, 38-2215 and 38-2314, and amendments thereto, shall be remitted  
 14 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
 15 and amendments thereto. Upon receipt of each such remittance, the state  
 16 treasurer shall deposit the entire amount in the state treasury to the credit  
 17 of the judicial branch surcharge fund; which is hereby created in the state  
 18 treasury.

19 (c) All moneys credited to the judicial branch surcharge fund shall  
 20 be used for compensation of non-judicial personnel and shall not be ex-  
 21 pended for compensation of judges or justices of the judicial branch.

22 (d) All expenditures from the judicial branch surcharge fund shall be  
 23 made in accordance with appropriation acts and upon warrants of the  
 24 director of accounts and reports issued pursuant to payrolls approved by  
 25 the chief justice of the Kansas supreme court or by a person or persons  
 26 designated by the chief justice.

27 Sec. 9. K.S.A. 2009 Supp. 28-178 is hereby amended to read as fol-  
 28 lows: 28-178. (a) In addition to any other fees specifically prescribed by  
 29 law, on and after ~~July 1, 2009~~ *the effective date of this act* through June  
 30 30, ~~2010~~ 2011, the supreme court may impose a charge, not to exceed  
 31 \$10 per fee, to fund the costs of non-judicial personnel, on the following:

32 (1) A person who requests an order or writ of execution ~~or an alias~~  
 33 ~~order or writ of execution~~, pursuant to K.S.A. 60-2401 ~~or 61-3602~~, and  
 34 amendments thereto.

\_\_\_\_\_ [ delete

35 (2) Persons who request a hearing in aid of execution ~~or an alias order~~  
 36 ~~for hearing~~ pursuant to K.S.A. 60-2419, and amendments thereto.

\_\_\_\_\_ [ delete

37 (3) A person requesting an order for garnishment ~~or an alias order~~  
 38 ~~for garnishment~~, pursuant to article 7 of chapter 60 of the Kansas Statutes  
 39 Annotated, and amendments thereto, or article 35 of chapter 61 of the  
 40 Kansas Statutes Annotated, and amendments thereto.

41 (4) Persons who request a writ or order of sale ~~or an alias writ or~~  
 42 ~~order of sale~~, pursuant to K.S.A. 60-2401 ~~or 61-3602~~, and amendments  
 43 thereto.

\_\_\_\_\_ [ delete

7-3

1 (5) A person who requests a hearing in aid of execution ~~or an alias~~  
2 ~~order for hearing in aid of execution~~, pursuant to K.S.A. 61-3604, and  
3 amendments thereto.

— [delete]

4 (6) A person who requests an attachment ~~or an alias order of attach-~~  
5 ~~ment against the property of a defendant or any one or more of several~~  
6 ~~defendants, pursuant to K.S.A. 60-701 or 61-3501, and amendments~~  
7 ~~thereto.~~

— [delete]

8 (b) The clerk of the district court shall remit all revenues received  
9 from the fees imposed pursuant to subsection (a) to the state treasurer,  
10 in accordance with the provisions of K.S.A. 75-4215, and amendments  
11 thereto. Upon receipt of each such remittance, the state treasurer shall  
12 deposit the entire amount in the state treasury to the credit of the judicial  
13 branch surcharge fund.

14 (c) The fees established in this section shall be the only fee collected  
15 or moneys in the nature of a fee collected for such court procedures.  
16 Such fee shall only be established by an act of the legislature and no other  
17 authority is established by law or otherwise to collect a fee.

18 Sec. 10. K.S.A. 2009 Supp. 38-2215 is hereby amended to read as  
19 follows: 38-2215. (a) *Docket fee.* The docket fee for proceedings under  
20 this code, if one is assessed as provided in this section, shall be \$34. Only  
21 one docket fee shall be assessed in each case. Except as provided further,  
22 the docket fee established in this section shall be the only fee collected  
23 or moneys in the nature of a fee collected for the docket fee. Such fee  
24 shall only be established by an act of the legislature and no other authority  
25 is established by law or otherwise to collect a fee. On and after ~~July 1,~~  
26 ~~2009~~ the effective date of this act through June 30, ~~2010~~ 2011, the su-  
27 preme court may impose an additional charge, not to exceed \$10 \$15 per  
28 docket fee, to fund the costs of non-judicial personnel.



29 (b) *Expenses.* The expenses for proceedings under this code, includ-  
30 ing fees and mileage allowed witnesses and fees and expenses approved  
31 by the court for appointed attorneys, shall be paid by the board of county  
32 commissioners from the general fund of the county.

33 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket  
34 fee may be assessed or waived by the court conducting the initial dispos-  
35 itional hearing and the docket fee may be assessed against the complain-  
36 ing witness or person initiating the proceedings or a party or interested  
37 party other than the state, a political subdivision of the state, an agency  
38 of the state or of a political subdivision of the state, or a person acting in  
39 the capacity of an employee of the state or of a political subdivision of  
40 the state. Any docket fee received shall be remitted to the state treasurer  
41 pursuant to K.S.A. 20-362, and amendments thereto.

42 (2) *Expenses.* Expenses may be assessed against the complaining wit-  
43 ness, a person initiating the proceedings, a party or an interested party,

