

Journal of the Senate

FIFTY-SEVENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 7, 2021, 10:00 a.m.

The Senate was called to order by Vice President Rick Wilborn.
The roll was called with 38 senators present.
Senators O'Shea and Thompson were excused.
Invocation by Reverend Cecil T. Washington:

Oh, To Be Close To God
Genesis 4:1; Exodus 33:13

Heavenly Father, Your word says, in Genesis 4:1, that Adam knew Eve and she conceived a son. They became so intimate that new life was brought forth. The prayer today is that You would help us to know You, not just to know some things about You. But, to know You so closely and so intimately that new life-giving ideas and ways of thinking will be conceived.

In Exodus 33:13, Moses asked You to show him Your ways that he might know You and find grace in Your sight, that You would be pleased with him. Help us to know You like that, to the degree that we will conceive and give birth to that which is new and improved. New and improved thoughts, new and improved decisions that will bring forth new and improved lives. Not only for us, but for our families and for the people we serve.

So, Lord, keep us from arbitrarily straying away from You. Hold us close, real close. In Jesus' Name, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 310, AN ACT concerning reapportionment; establishing the Kansas reapportionment commission; providing requirements for enactment of reapportionment plans, by Committee on Federal and State Affairs.

SB 311, AN ACT concerning sales taxation; relating to exemptions; providing an exemption for certain purchases and sales by the Johnson county Christmas bureau association; amending K.S.A. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Education: **Sub HB 2119**.
Public Health and Welfare: **HB 2448**.
Ways and Means: **Sub HB 2397**.

CHANGE OF REFERENCE

Under the authority of the President, the Vice President withdrew **HB 2209** from the Calendar under the heading of **General Orders**, and referred the bill to the Committee on **Federal and State Affairs**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **HB 2071**.

The House adopts the Conference Committee report on **HB 2104**.

The House announced the appointment of Representatives Williams, Hoffman and Winn as conferees on **SB 175** to replace Representatives Landwehr, Eplee and Parker.

The House accedes to the request of the Senate for a conference on **SB 38** and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 55** and has appointed Representatives Williams, Huebert and Stogsdill as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 142** and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 143** and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 160** and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2039**, requests a conference and has appointed Representatives Huebert, Thomas and Stogsdill as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2077**, requests a conference and has appointed Representatives Jennings, Owens and Highberger as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2079**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2121**, requests a conference and has appointed Representatives Jennings, Owens and Highberger as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub Sub HB 2196**, requests a conference and has appointed Representatives Tarwater, Long and Clayton as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub HB 2201**, requests a conference and has appointed Representatives Proehl, Delperdang and Helgerson as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub HB 2208**, requests a conference and has appointed Representatives Landwehr, Eplee and Parker as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2390**, requests a conference and has appointed Representatives Patton, Ralph and Carmichael as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2391**, requests a conference and has appointed Representatives Tarwater, Long and Clayton as conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Billinger introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1718—

A RESOLUTION designating April 7, 2021, as Joey Weber Remembrance Day to honor Joey Weber's life and those who dedicate their lives to working with persons diagnosed with cognitive disabilities throughout Kansas.

WHEREAS, On August 18, 2016, Joey Weber had a fatal encounter with a police officer in Hays, Kansas; and

WHEREAS, Joey was a lifelong Kansan who had been diagnosed with autism; and

WHEREAS, John and Nancy Weber chose to honor the tragic death of their son by advocating for the protection of those diagnosed with cognitive disabilities; and

WHEREAS, The Webers' advocacy resulted in the passage of Joey's Law, which helps law enforcement to be better equipped with the ability to handle encounters with Kansans with cognitive disabilities; and

WHEREAS, The Webers continue to honor the memory of their son by establishing the Joey Weber Endowment Fund at the Developmental Services of Northwest Kansas, Inc.; and

WHEREAS, Developmental Services of Northwest Kansas, Inc., provides numerous programs to enrich the lives of those facing lifelong mental or physical challenges: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate April 7, 2021, as Joey Weber Remembrance Day to honor Joey's life and those who dedicate their lives working with persons diagnosed with cognitive disabilities; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Billinger.

On emergency motion of Senator Billinger **SR 1718** was adopted unanimously.

ORIGINAL MOTION

On motion of Senator Baumgardner, the Senate acceded to the request of the House for a conference on **HB 2039**.

The Vice President appointed Senators Baumgardner, Erickson and Sykes as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2077**.

The Vice President appointed Senators Warren, Wilborn and Haley as conferees on

the part of the Senate.

On motion of Senator Billinger, the Senate acceded to the request of the House for a conference on **HB 2079**.

The Vice President appointed Senators Billinger, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Warren, the Senate acceded to the request of the House for a conference on **HB 2121**.

The Vice President appointed Senators Warren, Wilborn and Haley as conferees on the part of the Senate.

On motion of Senator Olson, the Senate acceded to the request of the House for a conference on **S Sub Sub HB 2196**.

The Vice President appointed Senators Olson, Steffen and Holland as conferees on the part of the Senate.

On motion of Senator Petersen, the Senate acceded to the request of the House for a conference on **S Sub HB 2201**.

The Vice President appointed Senators Petersen, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Hilderbrand, the Senate acceded to the request of the House for a conference on **S Sub HB 2208**.

The Vice President appointed Senators Hilderbrand, Gossage and Pettey as conferees on the part of the Senate.

On motion of Senator Bowers, the Senate acceded to the request of the House for a conference on **HB 2390**.

The Vice President appointed Senators Bowers, McGinn and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Bowers, the Senate acceded to the request of the House for a conference on **HB 2391**.

The Vice President appointed Senators Bowers, McGinn and Faust-Goudeau as conferees on the part of the Senate.

CHANGE OF CONFERENCE

The Vice President appointed Senators McGinn and Kerschen to replace Senators Billinger and Claeys as members of the conference committee on **HB 2218**.

On motion of Senator Alley, the Senate recessed until 2:00 p.m.

The Senate met pursuant to recess with Vice President Wilborn in the chair.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **HB 2247**.

The House concurs in Senate amendments to **HB 2165**.

The House concurs in Senate amendments to **HB 2167**.

The House concurs in Senate amendments to **HB 2245**.

The House nonconcurrs in Senate amendments to **HB 2106**, requests a conference and has appointed Representatives Smith, A., Mason and Gartner as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2143**, requests a conference and has appointed Representatives Smith, A., Mason and Gartner as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2183**, requests a conference and has appointed Representatives B. Carpenter, Bergquist and Miller as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2332**, requests a conference and has appointed Representatives B. Carpenter, Bergquist and Miller as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2021**, requests a conference and has appointed Representatives Waymaster, Hoffman and Wolfe Moore as conferees on the part of the House.

The House nonconcur in Senate amendments to **S Sub for HB 2074**, requests a conference and has appointed Representatives Kelly, Hoheisel and Xu as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 159** and has appointed Representatives Waymaster, Hoffman and Wolfe Moore as conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **Sub HB 2166**, and has appointed Representatives Proehl, Delperdang and Helgerson as Second conferees on the part of the House.

COMMITTEE OF THE WHOLE

On motion of Senator Alley, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Baumgardner in the chair.

HB 2408 be passed.

HB 2401, HB 2405 be amended by the adoption of the committee amendments, and the bills be passed as amended.

An amendment was offered on **HB 2405** by Senator Tyson. A ruling of the chair was requested as to the germaneness to the bill. The Chair of the Rules Committee ruled the amendment not germane.

SB 87 be passed over and retain a place on the calendar.

The Committee rose and reported progress (See Committee of the Whole evening session.)

President Ty Masterson assumed the chair.

ORIGINAL MOTION

On motion of Senator Billinger, the Senate acceded to the request of the House for a conference on **HB 2021**.

The President appointed Senators Billinger, Claeys and Hawk as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **S Sub HB 2074**.

The President appointed Senators Longbine, Fagg and Pittman as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2106**.

The President appointed Senators Tyson, Alley and Holland as conferees on the part of the Senate.

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2143**.

The President appointed Senators Tyson, Alley and Holland as conferees on the part of the Senate.

On motion of Senator Alley, the Senate acceded to the request of the House for a conference on **S Sub HB 2183**.

The President appointed Senators Alley, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Alley, the Senate acceded to the request of the House for a conference on **HB 2332**.

The President appointed Senators Alley, Hilderbrand and Faust-Goudeau as conferees on the part of the Senate.

The Senate recessed to the sound of the gavel.

The Senate met pursuant to recess with President Masterson in the chair.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report to agree to disagree on **SB 175**, and has appointed Representatives Williams, Hoffman and Winn as Second conferees on the part of the House.

COMMITTEE OF THE WHOLE

The Senate returned to Committee of the Whole for considerations of bills under the heading of General Orders with Senator Baumgardner in the Chair.

On motion of Senator Baumgardner the report for the afternoon and the following evening session was adopted:

HB 2224, be amended by the adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Steffen to amend **HB 2224** was offered. A ruling of the chair was requested as to the germaneness of the amendment. The chair ruled the amendment was germane to the bill.

The motion by Senator Steffen to amend **HB 2224** failed and the following amendment was rejected: on page 1, following line 7, by inserting:

"Section 1. K.S.A. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall:

- (1) Be properly heated, plumbed, lighted and ventilated;
- (2) have plumbing, water and sewerage systems—~~which~~ that conform to all applicable state and local laws; and
- (3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be

furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary for children and families shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after-hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall include provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) In addition to any rules and regulations adopted under this section for safe sleep practices, child care facilities shall ensure that all of the following requirements are met for children under 12 months of age:

(1) A child shall only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment;

(2) the sleep surface shall be free from soft or loose bedding, including, but not limited to, blankets, bumpers and pillows; and

(3) the sleep surface shall be free from toys, including mobiles and other types of play equipment or devices.

(e) Child care facilities shall ensure that children over 12 months of age only be placed to sleep on a surface and in an area that has been approved for use as such by the secretary of health and environment.

(f) The secretary of health and environment may exercise discretion to make exceptions to requirements in subsections (d) and (e) where special health needs exist.

(g) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations ~~as the~~

~~secretary of health and environment considers necessary as specified in subsection (h).~~ The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(h) Except as provided in subsection (j), the following immunizations are required for each child cared for in a child care facility pursuant to subsection (g):

- (1) Diphtheria;
- (2) hepatitis A;
- (3) hepatitis B;
- (4) measles (rubeola);
- (5) meningitis;
- (6) mumps;
- (7) pertussis (whooping cough);
- (8) poliomyelitis;
- (9) rubella (German measles);
- (10) tetanus; and
- (11) varicella (chicken pox).

(i) The secretary may deem any immunization specified in subsection (h) as no longer required if the secretary determines that such immunization is not necessary or is unsafe.

(j) The immunization requirement of subsection (g) shall not apply if one of the following is obtained:

- (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
- (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.";

On page 3, following line 34, by inserting:

"Sec. 4. K.S.A. 72-6262 is hereby amended to read as follows: 72-6262. (a) In each school year, every ~~pupil~~ student enrolling or enrolled in any school for the first time in this state, and each child enrolling or enrolled for the first time in a preschool or day care program operated by a school, and such other ~~pupils~~ students as may be designated by the secretary, prior to admission to and attendance at school, shall present to the appropriate school board certification from a physician or local health department that the ~~pupil~~ student has received such tests deemed necessary by the secretary by such means as are approved by the secretary, and ~~inoculations such immunizations as are specified in subsection (b) deemed necessary by the secretary by such means as are approved by the secretary.~~ Pupils Students who have not completed the required ~~inoculations~~ immunizations may enroll or remain enrolled while completing the required ~~inoculations~~ immunizations if a physician or local health department certifies that the ~~pupil~~ student has received the most recent, appropriate ~~inoculations~~ immunizations in all required series. Failure to timely complete all required series shall be deemed non-compliance.

(b) Except as provided in subsection (d), the following immunizations are required

for school attendance pursuant to subsection (a):

- (1) Diphtheria;
- (2) hepatitis A;
- (3) hepatitis B;
- (4) measles (rubeola);
- (5) meningitis;
- (6) mumps;
- (7) pertussis (whooping cough);
- (8) poliomyelitis;
- (9) rubella (German measles);
- (10) tetanus; and
- (11) varicella (chicken pox).

(c) The secretary may deem any immunization specified in subsection (b) as no longer required for school attendance if the secretary determines that such immunization is not necessary for school attendance or is unsafe.

(d) As an alternative to the certification required under subsection (a), a ~~pupil~~ student shall present:

(1) An annual written statement signed by a licensed physician stating the physical condition of the child to be such that the tests or ~~inoculations~~ immunizations would seriously endanger the life or health of the child; or

(2) a written statement signed by one parent or guardian that the child is an adherent of a religious denomination whose religious teachings are opposed to such tests or ~~inoculations~~ immunizations.

~~(e)~~ (f) On or before May 15 of each school year, the school board of every school affected by this act shall notify the parents or guardians of all known ~~pupils~~ students who are enrolled or who will be enrolling in the school of the provisions this act and any policy regarding the implementation of the provisions of this act adopted by the school board.

~~(d)~~ (g) If a ~~pupil~~ student transfers from one school to another, the school from which the ~~pupil~~ student transfers shall forward with the ~~pupil's~~ student's transcript the certification or statement showing evidence of compliance with the requirements of this act to the school to which the ~~pupil~~ student transfers.";

Also on page 3, in line 35, after the first "K.S.A." by inserting "65-508,"; also in line 35, after "65-6009" by inserting "and 72-6262";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "to" by inserting "infectious diseases; powers of the secretary of health and environment; childhood immunizations required for attendance at a child care facility or school;"; in line 4, after the first "K.S.A." by inserting "65-508,"; also in line 4, after "65-6009" by inserting "and 72-6262"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 17; Nays 18; Present and Passing 0; Absent or Not Voting 5.

Yeas: Alley, Baumgardner, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Masterson, Olson, Peck, Petersen, Pyle, Steffen, Straub, Tyson, Warren, Wilborn.

Nays: Bowers, Corson, Dietrich, Doll, Faust-Goudeau, Francisco, Haley, Holland, Holscher, Kerschen, Kloos, Longbine, McGinn, Pettey, Pittman, Suellentrop, Sykes, Ware.

Absent or Not Voting: Billinger, Hawk, O'Shea, Ryckman, Thompson.

The committee report on **HB 2138** recommending **S Sub HB 2138** be adopted, be amended by motion of Senator Alley: on page 4, following line 35, by inserting:

"Sec. 6. K.S.A. 2020 Supp. 41-2640 is hereby amended to read as follows: 41-2640. (a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;

(3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;

(4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;

(5) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through (5).

(b) No public venue, nor any person acting as an employee or agent thereof, shall:

(1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;

(2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acquisition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

(3) sell or serve alcoholic liquor in glass containers to customers in the general admission area;

(4) sell or serve more than two drinks per customer at any one time in the general admission area;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of drinks as prizes;

(6) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or

(7) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through (6).

(c) A public venue, club, drinking establishment, caterer or holder of a temporary permit may:

(1) Offer free food or entertainment at any time;

(2) sell or deliver wine by the bottle or carafe;

(3) sell, offer to sell and serve individual drinks at different prices throughout any day;

(4) sell or serve beer ~~or~~, cereal malt beverage or mixed alcoholic beverage in a pitcher ~~capable of containing not more than 64 fluid ounces; or~~

(5) offer samples of alcohol liquor free of charge as authorized by this act; ~~or~~

~~(6) sell or serve margarita, sangria, daiquiri, mojito or other mixed alcoholic~~

beverages as approved by the director in a pitcher containing not more than 64 fluid ounces.

(d) A hotel of which the entire premises is licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, distribute to its guests coupons redeemable on the hotel premises for drinks containing alcoholic liquor. The hotel shall remit liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink served based on a price which is not less than the acquisition cost of the drink.

(e) (1) A public venue, club or drinking establishment may offer customer self-service of beer or wine, or both, from automated devices on licensed premises so long as the licensee monitors and has the ability to control the dispensing of such beer or wine, or both, from the automated devices.

(2) (A) For purposes of this subsection, "automated device" ~~shall mean~~ means any mechanized device capable of dispensing wine or beer, or both, directly to a customer in exchange for compensation that a licensee has received directly from the customer.

(B) No licensee shall allow an automated device to be used on its licensed premises without first providing written or electronic notification to the director of the licensee's intent to use the automated device. The licensee shall provide this notification at least 48 hours before any automated device is used on the licensed premises.

(C) Each licensee offering customer self-service of wine or beer, or both, from any automated device shall provide constant video monitoring of the automated device at all times during which the licensee is open to the public. The licensee shall keep recorded footage from the video monitoring for at least 60 days and shall provide the footage, upon request, to any agent of the director or other authorized law enforcement agent.

(D) The compensation required by subsection (a) shall be in the form of a programmable, prepaid access card containing a fixed amount of monetary credit that may be directly exchanged for beer or wine dispensed from the automated device. Access cards may be sold, used or reactivated only during a business day. Each access card shall be purchased from the licensee by a customer. A licensee shall not issue more than one active access card to a customer. For purposes of this subsection, an access card shall be deemed active if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine or 32 ounces of beer. Each purchase of an access card under this subparagraph shall be subject to the liquor drink tax imposed by K.S.A. 79-41a02, and amendments thereto.

(E) In order to obtain a prepaid access card from a licensee, each customer shall produce a valid driver's license, identification card or other government-issued document that contains a photograph of the individual and demonstrates that the individual is at least 21 years of age. Each access card shall be programmed to require the production of the customer's valid identification before the access card can be used for the first time during any business day or for any subsequent reactivation as provided in subparagraph (D).

(F) Each access card shall become inactive at the end of each business day.

(G) Each access card shall be programmed to allow the dispensing of no more than 15 ounces of wine or 32 ounces of beer to a customer. Once an access card has been used to dispense 15 ounces of wine or 32 ounces of beer to a customer, the access card shall become inactive. Any customer in possession of an inactive access card may, upon production of the customer's valid identification to the licensee or licensee's employee,

have the access card reactivated to allow the dispensing of an additional 15 ounces of wine or 32 ounces of beer from an automated device.

Subparagraph (D), (E), (F) or (G) shall not apply to wine or beer that is dispensed directly to the licensee or the licensee's agent or employee.

(3) The secretary shall adopt rules and regulations prior to January 1, 2019, as necessary to implement the provisions of this subsection.

(4) Notwithstanding any other provision of law, all laws and rules and regulations applicable to the sale of alcoholic liquor to persons under the legal age of consumption shall be applicable to the sales transaction of the prepaid access card.

(f) A hotel of which the entire premises is not licensed as a drinking establishment may, in accordance with rules and regulations adopted by the secretary, through an agreement with one or more clubs or drinking establishments, distribute to its guests coupons redeemable at such clubs or drinking establishments for drinks containing alcoholic liquor. Each club or drinking establishment redeeming coupons issued by a hotel shall collect from the hotel the agreed price, which shall be not less than the acquisition cost of the drink plus the liquor drink tax for each drink served. The club or drinking establishment shall collect and remit the liquor drink tax in accordance with the provisions of the liquor drink tax act, K.S.A. 79-41a01 et seq., and amendments thereto.

(g) Violation of any provision of this section is a misdemeanor punishable as provided by K.S.A. 41-2633, and amendments thereto.

(h) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a, and amendments thereto.

(i) For the purposes of this section, ~~the term:~~

(1) "Day" means from 6:00 a.m. until 2:00 a.m. the following calendar day;

(2) "mixed alcoholic beverage" means a beverage that is made by combining alcoholic liquor with a non-alcoholic liquid or other edible substance and that is comprised of at least 25% non-alcoholic liquid or other edible substance, including, but not limited to, margarita, sangria, daiquiri or mojito; and

(3) "pitcher" means any container that is capable of containing more than 32 fluid ounces but not more than 64 fluid ounces that is used to serve alcoholic liquor or cereal malt beverage to one or more individuals.;"

On page 13, in line 29, after the first comma by inserting "41-2640,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "specifying requirements for serving alcoholic liquor in pitchers;"; in line 7, after the second comma by inserting "41-2640,"

S Sub HB 2138 be further amended by motion of Senator Peck: on page 3, in line 9, before "Thanksgiving" by inserting "Memorial Day, Independence Day, Labor Day,";

On page 10, in line 1, before "as" by inserting "and on Memorial Day, Independence Day and Labor Day"; in line 9, before the period by inserting ", Memorial Day, Independence Day and Labor Day";

On page 11, in line 3, before "as" by inserting "and on Memorial Day, Independence Day and Labor Day"; in line 4, before the parenthesis by inserting ", Memorial Day, Independence Day and Labor Day"; in line 31, before "as" by inserting "and on

Memorial Day, Independence Day and Labor Day"; in line 33, before the parenthesis by inserting ", Memorial Day, Independence Day and Labor Day"; in line 43, before "as" by inserting "and on Memorial Day, Independence Day and Labor Day";

On page 12, in line 6, before the period by inserting ", Memorial Day, Independence Day and Labor Day"; in line 39, before "as" by inserting "and on Memorial Day, Independence Day and Labor Day"; in line 41, before the parenthesis by inserting ", Memorial Day, Independence Day and Labor Day";

On page 13, in line 22, before "as" by inserting "and on Memorial Day, Independence Day and Labor Day"; in line 23, before the parenthesis by inserting ", Memorial Day, Independence Day and Labor Day"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 20; Nays 15; Present and Passing 1; Absent or Not Voting 4.

Yeas: Baumgardner, Bowers, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, McGinn, Peck, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Tyson, Warren.

Nays: Alley, Claeys, Corson, Dietrich, Faust-Goudeau, Haley, Holland, Holscher, Longbine, Olson, Petersen, Pettey, Sykes, Ware, Wilborn.

Present and Passing: Francisco.

Absent or Not Voting: Billinger, Hawk, O'Shea, Thompson.

and **S Sub HB 2138** be passed as amended.

Sub HB 2089 be amended by the adoption of the committee amendments, and the bill be passed as amended.

A motion by Senator Faust-Goudeau to amend **HB 2089** failed.

A motion by Senator Ware to amend **HB 2089** failed.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2058**, as amended by House Committee of the Whole, be amended on page 1, following line 8, by inserting:

"WHEREAS, The amendments made to the provisions of K.S.A. 2020 Supp. 21-6304 and 21-6614 by this act shall be known as the Kansas protection of firearms rights act.

Now, therefore:";

On page 9, following line 25, by inserting:

"Sec. 4. K.S.A. 2020 Supp. 21-6304 is hereby amended to read as follows: 21-6304. (a) Criminal possession of a weapon by a convicted felon is possession of any weapon by a person who:

(1) Has been convicted of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, or a crime under a law of another jurisdiction ~~which that~~ is substantially the same as such felony or violation, or was adjudicated a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony or a violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009, and was found

~~by the convicting court to have been in possession of used a firearm at the time of in the commission of the crime;~~

~~(2) within the preceding five years has been convicted of a felony, other than those specified in subsection (a)(3)(A), under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as such felony, has been released from imprisonment for a felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a felony, and was not found to have been in possession of a firearm at the time of the commission of the crime; or~~

~~(3) within the preceding 10 years, has been~~

~~(A) (i) Has been convicted of a person felony, other than those specified in subsection (a)(3)(A)(i), under the laws of Kansas or a crime under the law of another jurisdiction which is substantially the same as such person felony; or~~

~~(ii) was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a person felony;~~

~~(B) was not found by the convicting court to have used a firearm in the commission of such crime; and~~

~~(C) less than three years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence;~~

~~(3) (A) (i) has been convicted of a:~~

~~(A) felony under:~~

~~(a) K.S.A. 2020 Supp. 21-5402, 21-5403, 21-5404, 21-5405, 21-5408, subsection (b) or (d) of 21-5412 (b) or (d), subsection (b) or (d) of 21-5413 (b) or (d), subsection (a) of 21-5415 (a), subsection (b) of 21-5420 (b), 21-5503, subsection (b) of 21-5504 (b), subsection (b) of 21-5505 (b), and subsection (b) of 21-5807 (b), and amendments thereto;~~

~~(b) article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;~~

~~(c) K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer;~~

~~(d) K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their repeal;~~

~~(e) an attempt, conspiracy or criminal solicitation as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2020 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such felony; or~~

~~(f) a crime under a law of another jurisdiction which that is substantially the same as such felony, has been; or~~

~~(ii) has been released from imprisonment for such felony, or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of such felony, was not found to have been in possession of a firearm at the time of the commission of the crime, and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j) (2) of K.S.A. 2020 Supp. 21-6614, and amendments thereto, shall not apply to an individual who has had a conviction under this paragraph expunged; or~~

~~(B) nonperson felony under the laws of Kansas or a crime under the laws of~~

~~another jurisdiction which is substantially the same as such nonperson felony, has been released from imprisonment for such nonperson felony or was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony, and was found to have been in possession of a firearm at the time of the commission of the crime; and~~

~~(B) less than eight years have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or~~

~~(4) (A) (i) has been convicted of any other nonperson felony, other than those specified in subsections (a)(1) through (a)(3), under the laws of Kansas or a crime under the law of another jurisdiction which is substantially the same as such nonperson felony; or~~

~~(ii) was adjudicated as a juvenile offender because of the commission of an act which if done by an adult would constitute the commission of a nonperson felony; and~~

~~(B) less than three months have elapsed since such person satisfied the sentence imposed or the terms of any diversion agreement for such crime, or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.~~

(b) Criminal possession of a weapon by a convicted felon is a severity level 8, nonperson felony.

(c) The provisions of subsections (a)(1), (a)(2) and (a)(4) shall not apply to a person who has been convicted of a crime and has had the conviction of such crime expunged or has been pardoned for such crime.

(d) As used in this section:

(1) "Knife" means a dagger, dirk, switchblade, stiletto, straight-edged razor or any other dangerous or deadly cutting instrument of like character; and

(2) "weapon" means a firearm or a knife.";

On page 11, following line 15, by inserting:

"Sec. 6. K.S.A. 2020 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, any nongrid felony or felony ranked in severity levels 6 through 10 of the nondrug grid, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

(b) Any person convicted of prostitution, as defined in K.S.A. 21-3512, prior to its repeal, convicted of a violation of K.S.A. 2020 Supp. 21-6419, and amendments

thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

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

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

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

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 2020 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state ~~which that~~ is in substantial conformity with that statute;

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

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

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

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

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

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

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

(d) (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services

program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a first violation of K.S.A. 8-1567, and amendments thereto, including any diversion for such violation.

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

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

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

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2020 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child or aggravated indecent liberties with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal, or K.S.A. 2020 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2020 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2020 Supp. 21-5504, and amendments thereto;

(5) indecent solicitation of a child or aggravated indecent solicitation of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2020 Supp. 21-5508, and amendments thereto;

(6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2020 Supp. 21-5510, and amendments thereto;

(7) internet trading in child pornography or aggravated internet trading in child pornography, as defined in K.S.A. 2020 Supp. 21-5514, and amendments thereto;

(8) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2020 Supp. 21-5604, and amendments thereto;

(9) endangering a child or aggravated endangering a child, as defined in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2020 Supp. 21-5601, and amendments thereto;

(10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2020 Supp. 21-5602, and amendments thereto;

(11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2020 Supp. 21-5401, and amendments thereto;

(12) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2020 Supp. 21-5402, and amendments thereto;

(13) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2020 Supp. 21-5403, and amendments thereto;

(14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2020 Supp. 21-5404, and amendments thereto;

(15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2020 Supp. 21-5405, and amendments thereto;

(16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A.

2020 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2020 Supp. 21-5505, and amendments thereto;

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

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

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

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

- (A) Defendant's full name;
- (B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;
- (C) defendant's sex, race and date of birth;
- (D) crime for which the defendant was arrested, convicted or diverted;
- (E) date of the defendant's arrest, conviction or diversion; and
- (F) identity of the convicting court, arresting law enforcement authority or diverting authority.

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

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

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

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

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

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

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

(i) When the court has ordered an arrest record, conviction or diversion expunged,

the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation—~~which that~~ shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency—~~which that~~ may have a record of the arrest, conviction or diversion. If the case was appealed from municipal court, the clerk of the district court shall send a certified copy of the order of expungement to the municipal court. The municipal court shall order the case expunged once the certified copy of the order of expungement is received. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:

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

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

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

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

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

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

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

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

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

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

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

(J) in any application for employment as a law enforcement officer as defined in

K.S.A. 22-2202 or 74-5602, and amendments thereto; or

~~(K) to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 75-7e01 et seq., and amendments thereto; or~~

~~(L) to aid in determining the petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2020 Supp. 50-6,141, and amendments thereto;~~

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

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

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

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

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

~~(2) Notwithstanding the provisions of subsection (k)(1), and except as provided in K.S.A. 2020 Supp. 21-6304(a)(3)(A), and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony. A person whose arrest record, conviction or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but not be limited to, the right to use, transport, receive, purchase, transfer and possess firearms. The provisions of this paragraph shall apply to all orders of expungement, including any orders issued prior to July 1, 2021.~~

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

(1) The person whose record was expunged;

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

has been expunged;

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

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

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

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

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

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

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

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

(11) the Kansas sentencing commission;

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

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

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

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

(16) ~~(A)~~ the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to:

~~(A) Carry a concealed weapon pursuant to the personal and family protection act; or~~

~~(B) act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 2020 Supp. 50-6,141, and amendments thereto; or~~

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

(17) the Kansas bureau of investigation, for the ~~purposes~~ purpose of:

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

~~(B) providing information or documentation to the federal bureau of investigation, in connection with the national instant criminal background check system, to determine a person's qualification to possess a firearm.~~

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

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

On page 20, in line 14, after the comma, by inserting "21-6304,"; also in line 14, after "21-6309" by inserting ", 21-6614";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "crimes, punishment and criminal procedure; relating to"; also in line 1, by striking all after the semicolon; in line 2, by striking all before the first semicolon and inserting "reducing the underlying felonies for the crime of criminal possession of a weapon by a convicted felon; restoration of the right to possess firearms upon expungement of convictions"; also in line 2, after "licenses" by inserting "under the personal and family protection act"; in line 7, after "21-6302," by inserting "21-6304,"; in line 8, after "6309" by inserting ", 21-6614"; and the bill be passed as amended.

The Committee on **Ways and Means** recommends **HB 2363**, as amended by House Committee, be amended on page 2, in line 5, by striking "\$80 per hour" and inserting "the maximum rate"; and the bill be passed as amended.

ORIGINAL MOTION

Senator Alley moved **HB 2058**, as amended by Senate Committee, be advanced to Final Action, subject to amendment, debate and roll call. Motion carried.

Senator Hilderbrand moved the adoption of the committee report on **HB 2058**. Motion carried.

A motion by Senator Sykes to amend **HB 2058** failed.

A motion by Senator Sykes to amend **HB 2058** failed and the following amendment was rejected: on page 1, by striking all in lines 20 through 32;

By striking all on pages 2 through 8;

On page 9, by striking all in lines 1 through 36;

On page 12, by striking all in lines 13 through 43;

By striking all on page 13;

On page 14, by striking all in lines 1 and 2;

On page 23, by striking all in lines 4 through 43;

On page 24, by striking all in lines 1 through 30; in line 43, by striking all after "license";

On page 25, in line 1, by striking all before "and"; by striking all in lines 36 through 43;

By striking all on page 26;

On page 27, by striking all in lines 1 through 22;

On page 30, by striking all in lines 37 through 43;

On page 31, by striking all in lines 1 through 42; in line 43, by striking "75-7c02,"; also in line 43, by striking ", 75-7c04," and inserting "and";

On page 32, in line 1, by striking ", 75-7c08 and 75-7c21"; also in line 1, by striking all after "Supp."; in line 2, by striking "21-6302,"; also in line 2, by striking ", 21-6309," and inserting "and"; also in line 2, by striking "and 32-1002";

And by renumbering sections accordingly;

On page 1, in the title, in line 7, by striking all after the semicolon; in line 8, by striking all before "authorizing"; in line 10, by striking "75-7c02,"; also in line 10, by striking ", 75-7c04," and inserting "and"; also in line 10, by striking all after "75-7c05"; in line 11, by striking all before the second "and"; also in line 11, by striking all after "Supp."; in line 12, by striking "6302,"; also in line 12, by striking ", 21-6309," and inserting "and"; also in line 12, by striking "and 32-1002"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 7; Nays 23; Present and Passing 2; Absent or Not Voting 8.

Yeas: Corson, Faust-Goudeau, Francisco, Holscher, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Bowers, Claeys, Dietrich, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, Olson, Peck, Petersen, Pittman, Pyle, Ryckman, Steffen, Straub, Tyson, Warren, Wilborn.

Present and Passing: Haley, Holland.

Absent or Not Voting: Billinger, Doll, Hawk, Longbine, McGinn, O'Shea, Suellentrop, Thompson.

A motion by Senator Francisco to amend **HB 2058** failed and the following amendment was rejected: on page 4, in line 30, by striking "18" and inserting "19";

On page 26, in line 3, by striking "18" and inserting "19"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 8; Nays 22; Present and Passing 2; Absent or Not Voting 8.

Yeas: Corson, Faust-Goudeau, Francisco, Holscher, McGinn, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Bowers, Dietrich, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, Olson, Peck, Petersen, Pittman, Pyle, Ryckman, Steffen, Straub, Tyson, Warren, Wilborn.

Present and Passing: Haley, Holland.

Absent or Not Voting: Billinger, Claeys, Doll, Hawk, Longbine, O'Shea, Suellentrop, Thompson.

EXPLANATION OF VOTE

Mr. President: I vote "AYE" on my amendment to increase the age both to possess a firearm with a barrel less than 12 inches long and to obtain a provisional license from no less than 18 years to no less than 19 years. Although I prefer the age be 21, I offered this amendment to decrease the likelihood that high school students socializing with their peers would be doing that with someone who has legal possession of a gun.—
MARC FRANCISCO

A motion by Senator Holscher to amend **HB 2058** failed and the following amendment was rejected: on page 1, following line 19, by inserting:

"New Section 1. (a) The court shall issue an order requiring the defendant to relinquish all firearms in the defendant's custody, control or possession, and any concealed carry license issued to the defendant upon:

(1) The court's issuance of a qualifying protection order against such defendant; or
(2) the conviction of the defendant for domestic battery as described in K.S.A. 2020 Supp. 21-5414, and amendments thereto, or any misdemeanor for a domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301, and amendments thereto.

(b) A defendant subject to a relinquishment order issued pursuant to this section shall:

(1) Relinquish all firearms in the defendant's custody, control or possession to the sheriff of the county in which the court issuing such relinquishment order is located or to a licensed federal firearms dealer; and

(2) relinquish any concealed carry license issued to the defendant to the sheriff of the county in which the court issuing such relinquishment order is located.

(c) (1) If the defendant is physically present in court at the time a relinquishment order is entered against the defendant, the defendant shall comply with the provisions of subsection (b) within 24 hours after such relinquishment order is entered.

(2) If the defendant is not physically present in court at the time a relinquishment order is entered against the defendant, such order shall be personally served on the defendant by a law enforcement officer, or if personal service by a law enforcement officer is not possible, in accordance with K.S.A. 60-301 et seq., and amendments thereto.

(3) If the order is personally served on the defendant, the law enforcement officer serving such order shall require that the defendant immediately surrender all firearms in the defendant's custody, control or possession, and any concealed carry license issued to the defendant. The law enforcement officer shall conduct any search of the defendant permitted by law for such firearms or license. The law enforcement officer shall take possession of any such firearms and license that are relinquished, in plain sight or discovered pursuant to a lawful search.

(4) The defendant shall relinquish, in accordance with subsection (b), any firearms in the defendant's custody, control or possession, and any concealed carry license issued to the defendant that are not relinquished to or removed by a law enforcement officer at the time of service within 24 hours after service of the order.

(d) A law enforcement officer or licensed federal firearms dealer who takes possession of a firearm or concealed carry license pursuant to this section shall issue a proof of relinquishment or removal to the defendant. The proof of relinquishment or removal shall include:

- (1) The name of the defendant;
- (2) the date such firearm or concealed carry license was relinquished or removed;
- (3) the identification number of any relinquished or removed concealed carry license; and

- (4) the make, model and serial number of any relinquished or removed firearm.

(e) Within 48 hours after issuance of a relinquishment order pursuant to subsection (a), a defendant subject to such order shall:

- (1) File one or more proofs of relinquishment or removal showing that all firearms previously in the defendant's custody, control or possession, and any concealed carry license issued to the defendant, were relinquished or removed by a law enforcement officer pursuant to subsection (c), and attest to the court that the defendant does not currently have any firearms in the defendant's custody, control or possession, and does not currently possess a concealed carry license; or

- (2) attest to the court that:

- (A) At the time the relinquishment order was issued, the defendant did not have any firearms in the defendant's custody, control or possession, and did not possess any concealed carry license; and

- (B) the defendant does not currently have any firearms in the defendant's custody, control or possession, and does not currently possess a concealed carry license.

(f) If the defendant fails to file any proofs of relinquishment or removal or any attestations as required under subsection (e) after 48 hours from the issuance of a relinquishment order, the clerk of the court that issued such order shall notify the sheriff of the county in which the court is located that the defendant has failed to make any such filings with the court. Upon receipt of such notification, the sheriff shall make a good faith effort to determine whether there is evidence that the defendant has failed to relinquish any firearm in the defendant's custody, control or possession, or any concealed carry license issued to the defendant, as required under the relinquishment order.

(g) A relinquishment order shall be effective for either the duration of the qualifying protective order issued against the defendant, or for that period of time during which it is unlawful for the defendant to possess a firearm under K.S.A. 2020 Supp. 21-6301 or 21-6304, and amendments thereto.

(h) At any point while a relinquishment order is in effect, the plaintiff, the district attorney or county attorney, or a law enforcement officer may file an affidavit with the court that issued the order alleging that the defendant subject to such order has a firearm in the defendant's custody, control or possession, or possesses a concealed carry license. Upon the filing of such affidavit, the court shall determine whether probable cause exists to believe that the defendant has a firearm in the defendant's custody, control or possession or that the defendant possesses a concealed carry license. If the court finds that such probable cause exists, the court shall issue a search warrant for such firearm or concealed carry license in accordance with K.S.A. 22-2502, and amendments thereto.

(i) Except as provided in subsection (j), upon expiration or termination of a relinquishment order and at the request of the defendant, any items that were

relinquished or removed by the sheriff shall be returned to the defendant, provided the sheriff conducts a state and national criminal history records check that conforms to applicable federal standards, including an inquiry of the national instant criminal background check system and confirms that the defendant is not currently prohibited from possessing or receiving a firearm under state or federal law.

(j) A sheriff may dispose of any firearms relinquished by a defendant pursuant to a relinquishment order issued under subsection (a)(2) only after the defendant is notified of the pending disposal of any such firearm, and the proceeds from the disposal of any such firearm, less the cost to the sheriff for taking possession of, storing and disposing of any such firearm, shall be paid to the defendant.

(k) If a person other than a defendant claims title to a firearm relinquished to or removed by the sheriff, and such person is determined by the sheriff to be the lawful owner of such firearm, the sheriff shall return the firearm to the lawful owner if: (1) The lawful owner agrees to maintain, keep or store such firearm in a manner such that no person who is prohibited from possessing or receiving firearms under state or federal law shall have access to or control of such firearm; and (2) the sheriff conducts a state and national criminal history records check that conforms to applicable federal standards, including an inquiry of the national instant criminal background check system, to confirm that the lawful owner is not currently prohibited from possessing or receiving a firearm under state or federal law.

(l) As used in this section:

(1) "Concealed carry license" means a license to carry concealed handguns issued pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, or by any other jurisdiction.

(2) "Defendant" means:

(A) A person subject to a qualifying protection order; or

(B) a person convicted of domestic battery as described in K.S.A. 2020 Supp. 21-5414, and amendments thereto, or any misdemeanor for a domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301, and amendments thereto.

(3) "Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, an individual who cohabitates or has cohabitated with the person or an individual with whom the person is involved or has been involved in a dating relationship as defined in K.S.A. 2020 Supp. 21-5111, and amendments thereto.

(4) "Plaintiff" means a person who successfully petitions for a qualifying protection order.

(5) "Qualifying protection order" means an order issued under the protection from abuse act, K.S.A. 60-3101 et seq., and amendments thereto, or the protection from stalking, sexual assault or human trafficking act, K.S.A. 60-31a01 et seq., and amendments thereto, and that:

(A) Was issued after a hearing, of which the defendant received actual notice, and at which the defendant had an opportunity to participate;

(B) restrains the defendant from harassing, stalking or threatening an intimate partner of the defendant, or a child of the defendant or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(C) (i) Includes a finding that the defendant represents a credible threat to the

physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

New Sec. 2. (a) It shall be unlawful for a person to possess a firearm or concealed carry license issued to such person while there is a relinquishment order issued pursuant to section 1, and amendments thereto, in effect against such person.

(b) Violation of this section is a severity level 8, nonperson felony.

(c) It is not a violation of this section if the person is possessing, carrying or otherwise transporting a firearm or a concealed carry license for the sole purpose of relinquishing such firearm or concealed carry license in accordance with section 1(b) or (c), and amendments thereto, if:

(1) The person is in possession of a written relinquishment order issued by a court and such order was issued within the previous 24 hours;

(2) any firearm being transported is unloaded; and

(3) the person transports the firearm or concealed carry license directly to the sheriff of the county in which the court that issued the relinquishment order is located, or, in the case of a firearm, directly to a licensed federal firearms dealer.

(d) As used in this section, the term "concealed carry license" means a license to carry concealed handguns issued pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, or by any other jurisdiction.

(e) The provisions of this section shall be a part of and supplemental to the Kansas criminal code.";

On page 23, following line 3, by inserting:

"Sec. 9. K.S.A. 2020 Supp. 22-3426 is hereby amended to read as follows: 22-3426. (a) When judgment is rendered or sentence of imprisonment is imposed, upon a plea or verdict of guilty, a record thereof shall be made upon the journal of the court, reflecting, if applicable, conviction or other judgment, the sentence if imposed, and the commitment, which record among other things shall contain a statement of the crime charged, and under what statute; the plea or verdict and the judgment rendered or sentence imposed, and under what statute, and a statement that the defendant was duly represented by counsel naming such counsel, or a statement that the defendant has stated on the record or in writing that the defendant did not want representation of counsel.

(b) If defendant is sentenced to the custody of the secretary of corrections the journal entry shall record, in a judgment form, if used, all the information required under K.S.A. 2020 Supp. 21-6711, and amendments thereto, unless such section is not applicable.

(c) It shall be the duty of the court personally to examine the journal entry and to sign the same.

(d) For felony convictions for crimes committed on or after July 1, 1993, in addition to the provisions of subsections (a) through (c), the journal entry shall contain the following information:

(1) Court case number;

(2) Kansas bureau of investigation number;

(3) case transaction number;

(4) court O.R.I. number;

- (5) the type of counsel;
- (6) type of trial, if any;
- (7) pretrial status of the offender;
- (8) the date of the sentencing hearing;
- (9) a listing of offenses for which the defendant is convicted;
- (10) the criminal history classification;
- (11) the sentence imposed for each offense including postrelease or probation supervision durations;
- (12) whether the sentences run concurrently or consecutively;
- (13) amount of credit for time spent incarcerated;
- (14) period ordered in county jail as a condition of probation;
- (15) a listing of offenses in which a departure sentence is imposed;
- (16) type of departure sentence; and
- (17) factors cited as a basis for departure sentence.

The journal entry shall be recorded on a form approved by the Kansas sentencing commission.

(e) For convictions of domestic battery as described in K.S.A. 2020 Supp. 21-5414, and amendments thereto, and any misdemeanor for a domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301, and amendments thereto, in addition to the provisions of subsections (a) through (d), the court shall issue a relinquishment order against the defendant pursuant to section 1, and amendments thereto."

On page 24, following line 15, by inserting:

"Sec. 11. K.S.A. 2020 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. Such order shall contain a statement that if such order is violated, such violation may constitute assault as defined in ~~subsection (a) of K.S.A. 2020 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in ~~subsection (a) of K.S.A. 2020 Supp. 21-5413(a)~~, and amendments thereto, domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2020 Supp. 21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

(4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.

(5) Ordering a law enforcement officer to evict the defendant from the residence or

household.

(6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.

(10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.

(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in ~~subsection (d)~~ of K.S.A. 60-3104(d), and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

(c) Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 2020 Supp. 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 2020 Supp. 23-3201 through 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 2020 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall

consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto. Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year, except as provided in subsection (e)(1) and (e)(2).

(1) Upon motion of the plaintiff, such period may be extended for one additional year.

(2) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, if the court determines by a preponderance of the evidence that the defendant has violated a valid protection order; or (A) has previously violated a valid protection order; or (B) has been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household, the court shall extend a protective order for not less than two additional years and may extend the protective order up to the lifetime of the defendant. No service fee shall be required for a motion filed pursuant to this subsection.

(f) The court may amend its order or agreement at any time upon motion filed by either party.

(g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in ~~subsection (a)(1)(C) of~~ K.S.A. 2020 Supp. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as defined in ~~subsection (a) of~~ K.S.A. 2020 Supp. 21-5412(a), and amendments thereto, battery as defined in ~~subsection (a) of~~ K.S.A. 2020 Supp. 21-5413(a), and amendments thereto, domestic battery as defined in K.S.A. 2020 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A.

2020 Supp. 21-5924, and amendments thereto.

(1) Upon the issuance of a qualifying protection from abuse order against a defendant, the court shall issue a relinquishment order against such defendant pursuant to section 1, and amendments thereto.

(2) As used in this subsection, the term "qualifying protection from abuse order" means a protection from abuse order that:

(A) Was issued after a hearing, of which the defendant received actual notice and at which the defendant had an opportunity to participate;

(B) restrains the defendant from harassing, stalking or threatening an intimate partner of the defendant, or a child of the defendant or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(C) (i) includes a finding that the defendant represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Sec. 12. K.S.A. 2020 Supp. 60-31a06 is hereby amended to read as follows: 60-31a06. (a) The court may issue a protection from stalking, sexual assault or human trafficking order granting any one or more of the following orders:

(1) Restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim. The order shall contain a statement that, if the order is violated, the violation may constitute stalking as defined in K.S.A. 2020 Supp. 21-5427, and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.

(2) Restraining the defendant from abusing, molesting or interfering with the privacy rights of the victim. The order shall contain a statement that, if the order is violated, the violation may constitute stalking as defined in K.S.A. 2020 Supp. 21-5427, and amendments thereto, assault as defined in K.S.A. 2020 Supp. 21-5412(a), and amendments thereto, battery as defined in K.S.A. 2020 Supp. 21-5413(a), and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.

(3) Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof. The order shall contain a statement that, if the order is violated, the violation shall constitute criminal trespass as defined in K.S.A. 2020 Supp. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto.

(4) Restraining the defendant from committing or attempting to commit a sexual assault upon the victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute a sex offense under article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such sex offense.

(5) Restraining the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the

human trafficking victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order as defined in K.S.A. 2020 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute an offense under chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such offense.

(6) Any other order deemed necessary by the court to carry out the provisions of this act.

(b) A protection from stalking, sexual abuse or human trafficking order shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year except as provided in subsections (c) and (d).

(c) Upon motion of the plaintiff the court may extend the order for an additional year.

(d) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, the court shall extend a protective order for not less than two additional years and up to a period of time not to exceed the lifetime of the defendant, if the court determines by a preponderance of the evidence that the defendant has:

- (1) Violated a valid protection order;
- (2) previously violated a valid protection order; or
- (3) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household.

No service fee shall be required for a motion filed pursuant to this subsection.

(e) The court may amend its order at any time upon motion filed by either party.

(f) The court shall assess costs against the defendant and may award attorney fees to the victim in any case in which the court issues a protection from stalking, sexual assault or human trafficking order pursuant to this act. The court may award attorney fees to the defendant in any case where the court finds that the petition to seek relief pursuant to this act is without merit.

(g) A no contact or restraining provision in a protective order issued pursuant to this section shall not be construed to prevent:

- (1) Contact between the attorneys representing the parties;
- (2) a party from appearing at a scheduled court or administrative hearing; or
- (3) a defendant or defendant's attorney from sending the plaintiff copies of any legal pleadings filed in court relating to civil or criminal matters presently relevant to the plaintiff.

(h) (1) Upon the issuance of a qualifying protection from stalking, sexual assault or human trafficking order against a defendant, the court shall issue a relinquishment order against such defendant pursuant to section 1, and amendments thereto.

(2) As used in this subsection:

(A) "Intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person.

(B) "Qualifying protection from stalking, sexual assault or human trafficking order"

means a protection from stalking, sexual assault or human trafficking order that:

(i) Was issued after a hearing, of which the defendant received actual notice and at which the defendant had an opportunity to participate;

(ii) restrains the defendant from harassing, stalking or threatening an intimate partner of the defendant, or a child of the defendant or such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and

(iii) (a) includes a finding that the defendant represents a credible threat to the physical safety of such intimate partner or child; or

(b) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.";

On page 32, in line 2, by striking "and" and inserting ", 22-3426,"; also in line 2, after "32-1002" by inserting ", 60-3107 and 60-31a06";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, before "reducing" by inserting "requiring relinquishment of firearms pursuant to certain protection orders,"; in line 12, by striking the first "and" and inserting ", 22-3426,"; also in line 12, after "32-1002" by inserting ", 60-3107 and 60-31a06"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 9; Nays 22; Present and Passing 1; Absent or Not Voting 8.

Yeas: Corson, Dietrich, Faust-Goudeau, Francisco, Haley, Holscher, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Bowers, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, McGinn, Olson, Peck, Petersen, Pittman, Pyle, Ryckman, Steffen, Straub, Tyson, Warren, Wilborn.

Present and Passing: Holland.

Absent or Not Voting: Billinger, Claeys, Doll, Hawk, Longbine, O'Shea, Suellentrop, Thompson.

An amendment was offered by Senator Haley. A ruling of the chair was requested as to the germaneness to the bill. The Chair of the Rules Committee ruled the amendment not germane.

MESSAGE FROM THE HOUSE

The House nonconcurrs in Senate amendments to **HB 2114**, requests a conference and has appointed Representatives Concannon, Esau and Ousley as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2244**, requests a conference and has appointed Representatives Rahjes, Smith, E. and Carlin as conferees on the part of the House.

The House adopts the Conference Committee report on **SB 103**.

The House adopts the Conference Committee report on **SB 106**.

The House adopts the Conference Committee report on **SB 107**.

The House adopts the Conference Committee report on **SB 122**.

The House announced the appointment of Representatives Kelly, Hoheisel and Xu as conferees on **SB 86** to replace Representatives S. Johnson, Croft and Neighbor.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 175** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

KRISTEY WILLIAMS

KYLE HOFFMAN

Conferees on part of House

MOLLY BAUMGARDNER

RENEE ERICKSON

Conferees on part of Senate

On motion of Senator Baumgardner the Senate adopted the conference committee report on **SB 175**, and requested a new conference be appointed.

The President appointed Senators Baumgardner, Erickson and Sykes as a second Conference Committee on the part of the Senate on **SB 175**.

ORIGINAL MOTION

On motion of Senator Hilderbrand, the Senate acceded to the request of the House for a conference on **HB 2114**.

The President appointed Senators Hilderbrand, Gossage and Pettey as conferees on the part of the Senate.

On motion of Senator Kerschen, the Senate acceded to the request of the House for a conference on **HB 2244**.

The President appointed Senators Kerschen, Straub and Ware as conferees on the part of the Senate.

REPORT ON ENROLLED BILLS

SB 50, SB 65, SB 66, SB 90 reported correctly enrolled, properly signed and presented to the Governor on April 6, 2021.

On motion of Senator Alley, the Senate adjourned until 10:00 a.m., Thursday, April 8, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

