

# Journal of the House

## FIFTY-SIXTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, April 30, 2014, 10:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 121 members present.

Rep. Carmichael was excused on verified illness.

Reps. Hutton and Schwab were excused on legislative business.

Rep. Jones was excused on excused absence by the Speaker.

Present later: Reps. Jones and Hutton.

Prayer by Rabbi Debbie Stiel, Temple Beth Sholom, Topeka:

You may or may not know that this week is designated as the Days of Remembrance of the Holocaust by the United States Congress.

Governor Sam Brownback has also designated them as such for our state. Earlier this week here in Topeka there was a State of Kansas Holocaust Commemoration with approximately 300 people in attendance. I am on the Kansas appointed commission that creates that annual commemoration, and I wanted to make sure you know of its existence. We try to educate our state about the evils of prejudice, persecution and bigotry and give a fitting memorial to the 1/3 of world Jews and 5 million others who perished in the state sponsored killing in the Holocaust.

It is with these Days of Remembrance in mind that I would like to share with you these words from German-American Rabbi Joachim Prinz when he spoke at the March on Washington in 1963 alongside Martin Luther King, Jr. Rabbi Prinz's words still ring true. He said, "when I was the rabbi of the Jewish community in Berlin under the Hitler regime, I learned many things. The most important thing that I learned in my life and under those tragic circumstances is that bigotry and hatred are not the most urgent problem. The most urgent, the most disgraceful, the most shameful, and the most tragic problem is silence."

And so I would like to offer this prayer,

Source of justice, wisdom and mercy, Creator of all,

You have formed each of us to be unique, but created us to be part of one family of life. It is challenging – how to share our own voices, our own truth, but still find common ground and solutions.

We pray for courage and insight for our leaders in Kansas. May they listen to the truths they know in their own hearts. May they work hard to find solutions that help the widow, the orphan, and the poor – as we are reminded so often to do in our many faith traditions. May they speak out for those whose voices are often not heard. Help those who are gathered here to stand strong for what they believe is right and noble, while at the same time opening their hearts and minds to views different than their own as they search for what is truly right.

You have given us, God, the ability and the sacred challenge to be Your partner in making the world a better place. Yet we humans are so limited in our knowledge and understanding. We ask for Your blessing and Your help. We pray that our leaders will work together to create wise and good solutions to what we know are complicated problems. May those gathered here be ever cognizant that the decisions they make today will affect the generations to come. May they speak out boldly and work diligently to create a Kansas that is good for the common person.

We pray God that you bless our legislators, bless us all, bless Kansas, bless these United States, and bless our world. Amen.

The Pledge of Allegiance was led by Rep. Powell.

### **INTRODUCTION OF GUESTS**

There being no objection, the following remarks of Rep. Esau are spread upon the Journal:

I want to take a moment to introduce you to someone who was an encouraging influence on me during my teenage years and has help myriad students in the state of Kansas in their development of musical talents.

Ray James is an accomplished teacher and musician. I got to know Ray, then Mr. James, as he took over the band program at Buhler High School when I was a sophomore. Formally, I participated in band, took tuba lessons, and also served as a teacher's aide for him. But he went beyond just the basics and encouraged me in arranging music and in learning the trombone to play in the jazz band. His encouragement eventually led me to work towards and obtain a music degree in college.

Ray taught at high schools in Florida, Kansas, Oklahoma, and California and eventually came to work at Baker University in the 1990s. He has taught there for 17 years and will be retiring at the end of this month. He initiated multiple band festivals when he came to Baker -- a jazz festival, an honor band festival, a pre-festival clinic, and a marching band festival.

Today, I ask you to join me in honoring Ray James for the inspiration he has been to the thousands of students that he has taught over the years and for the love of music and learning that he has instilled in all of us that were fortunate to have him as our teacher. Thank you, Ray for the music you have brought into our lives.

Rep. Esau presented Mr. James with a House certificate.

**MESSAGES FROM THE GOVERNOR**

S Sub for **HB 2023, HB 2047, HB 2445, HB 2455, HB 2478, HB 2501, HB 2533, HB 2547, HB 2548, HB 2549, HB 2564, HB 2566, HB 2576, HB 2727** approved on April 8, 2014.

Sub **HB 2002, S Sub for HB 2146, HB 2152, HB 2398, Sub HB 2424, HB 2444, HB 2463, HB 2491, HB 2602** approved on April 10, 2014.

S Sub for **HB 2101, S Sub for HB 2182, S Sub for HB 2197, S Sub for HB 2378, HB 2419, HB 2420, Sub HB 2436, HB 2447, HB 2479, S Sub for HB 2482, HB 2516, HB 2577, HB 2636, HB 2724, HB 2728, HB 2744** approved on April 16, 2014

**HB 2057, S Sub for HB 2065, Sub HB 2223, S Sub for HB 2298, S Sub for HB 2338, Sub HB 2442, Sub HB 2451, Sub HB 2452, HB 2552, H Sub for HB 2681,** approved on April 17, 2014.

**MESSAGE FROM THE GOVERNOR**

The following message from the Governor regarding **HB 2272**, which will become law without the governor's signature, was received and read.

**HB 2272** amends the Kansas Expanded Lottery Act (KELA) by reducing the total minimum investment threshold from \$250 million to \$55.5 million that a Lottery gaming facility manager would be required to present to the State for the right to bid for and be awarded the management contract of a Lottery-owned gaming facility in the Southeast Kansas Gaming Zone. While I have reservations about state ownership of casinos in general and the quality of regional economic development associated with casino gaming, many in southeast Kansas have expressed their desire for this change in KELA through their elected representatives. The Legislature passed **HB 2272** with large majorities in both the Senate and the House of Representatives, and therefore I will allow this bill to become law without my signature.

Dated: April 18, 2014

SAM BROWNBACK  
*Governor*

**MESSAGE FROM THE GOVERNOR**

**HB 2506** approved on April 21, 2014

**MESSAGE FROM THE GOVERNOR**

**HB 2553** approved on April 22, 2014.

**HB 2553**, which I have signed today, approves the "Health Care Compact." Under the Compact, member states would have authority to "suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care," thereby preserving individual liberty and personal control over health care decisions. The Compact would only become effective upon the federal consent required by Article 1, Section 10, of the United States Constitution.

Significantly, Kansas already has experience with a successful state level reform of a federal health care program. In January 2013, Kansas launched a major reform of its Medicaid system by covering nearly 400,000 Kansans under KanCare. KanCare has provided many new services that were unavailable under Medicaid, including adult

dental care, incentive programs to encourage healthy and preventative behaviors, and life saving operations such as heart/lung transplant. I am proud of the achievements of KanCare - a pro-patient and pro-taxpayer solution.

Similar to the KanCare reforms to Medicaid, the Compact could play an important role in preserving and enhancing Medicare for Kansas seniors. Under the Compact, I would support reversal of the unfortunate Medicare cuts initiated by the federal Affordable Care Act. Furthermore, I would strongly oppose any effort at the state level to reduce Medicare benefits or coverage for Kansas seniors. I have signed **HB 2553** with this understanding, and I will work to make it a reality when the Compact becomes effective.

Dated: April 22, 2014

SAM BROWNBACK  
*Governor*

## MESSAGE FROM THE GOVERNOR

**HB 2418, HB 2578, S Sub for HB 2655** approved on April 22, 2014.

## COMMUNICATIONS FROM STATE OFFICERS

From David N. Harper, Director, Division of Property Valuation, Kansas Department of Revenue, 2013 Statistical Report of Property Assessment and Taxation which can be found at <http://www.ksrevenue.org/pvdstatewide.html>.

From Duane Cantrell, President and CEO, Kansas Bioscience Authority, Kansas Economic Growth Act of 2004, Mandate biannual report on the Bioscience Research Matching Fund.

From William B. Swearer, Chair, Kansas Commission Judicial Qualifications, 2013 Annual Report.

The complete reports are kept on file and open for inspection in the office of the Chief Clerk.

## INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Boldra, **HR 6074**, by Reps. Boldra, Alford, Barker, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Concannon, Couture-Lovelady, Dierks, Doll, Estes, Ewy, Hibbard, Highland, Hineman, Hoffman, Huebert, Jennings, Johnson, Kinzer, Lusk, Mast, Merrick, Moxley, Proehl, Rhoades, Ryckman Sr., Schwab, Schwartz, Sloan, Swanson, Vickrey, Waymaster and Weigel, as follows, was introduced and adopted:

HOUSE RESOLUTION No. **HR 6074**—

A RESOLUTION congratulating and commending Fort Hays State University President Dr. Edward H. Hammond on his retirement.

WHEREAS, Fort Hays State University is a forward-thinking liberal and applied arts university, and is recognized internationally for offering more than 60 degrees in a technology-rich environment. Fort Hays State University aggressively seeks innovative solutions to meet the educational needs of Kansans and enhance the economic future of

the state; and

WHEREAS, Dr. Edward H. Hammond, the eighth president of Fort Hays State University, was born in McAllen, Texas, and raised in the Kansas City, Kansas area; and

WHEREAS, President Hammond received his bachelor's and master's degrees from Emporia State University and his Ph.D. from the University of Missouri, Columbia; and

WHEREAS, Prior to accepting the presidency at FHSU in 1987, he held administrative positions at the universities of Louisville, Seton Hall, Southern Illinois, Purdue and Missouri. Now in his 28<sup>th</sup> year, he is the longest-serving president in the Kansas Board of Regents system and the longest-serving president in the 112-year history of FHSU; and

WHEREAS, President Hammond has published widely and is recognized as a futurist. He is in demand nationally as a speaker and educational consultant in the areas of educational business planning, risk management, and staff and institutional liability. In recent years, due to FHSU's success in China, he has also been sought as a consultant and speaker concerning the world's most populous nation. Through partnerships with universities there, FHSU serves about 3,400 students with more than 50 faculty and has produced more than 7,000 FHSU graduates to date. FHSU is the largest provider of higher education in China that is not a Chinese university; and

WHEREAS, President Hammond has been extremely active at FHSU, building an institution that delivers education by way of three modalities: On campus, at a distance through the Virtual College and in China. His first priority after assuming the presidency was to develop a unique high-tech and high-touch learning environment with a value-added focus. Other value-added initiatives include the internationalization of the curriculum, development of a Leadership Studies Program and development of a Four Year Guaranteed Degree program. The university's Virtual College now serves more than 5,000 students by means of internet classes and other mediated forms of instruction. The virtual students reside in Kansas, nearly every state and in several other nations; and

WHEREAS, President Hammond has been instrumental in: Increasing enrollment from 4,500 to 13,500, despite a decreasing population in the university's primary service area; establishing Student Recognition Programs to award scholarships to academically outstanding high school seniors in Kansas, Colorado and Nebraska; establishing private scholarships for African-American, Hispanic and Asian-American students; developing a mobile learning and living environment that includes wireless connectivity throughout the FHSU campus; launching capital campaigns that have raised hundreds of millions of dollars for the renovation and construction of campus buildings; quadrupling the number of scholarships awarded yearly; and establishing the national FHSU Alumni Club system; and

WHEREAS, President Hammond is passionate about alcohol awareness on college campuses. He served as chair of the Board of Trustees for Boost Alcohol Consciousness Concerning the Health of University Students, the chair for the National Collegiate Alcohol Awareness Week and as a board member for the Inter-Association Task Force on Alcohol and Other Substance Abuse Issues. He has been an active member of his fraternity, Sigma Phi Epsilon, including serving as president of the foundation board of Sigma Phi Epsilon. He is also a past National President of the fraternity and served as a member of the Executive Committee of the North American Interfraternity Conference; and

WHEREAS, President Hammond has received numerous awards over his career, including: The Hays Area Chamber of Commerce Citizen of the Year for 1994; the Chief Executive Leader Award in 2008 from the Council for the Advancement and Support of Education; the Chinese Jade Award in 2009 from Sias International University in Xinzheng, China; the Region IV-West Presidential Excellence Award in Fall 2011 from the National Association of Student Personnel Administration (NASPA); the NASPA President's Award in January 2013; and the Pillar of the Profession Award in 2013 from NASPA. Additionally, he was inducted into the Mid-America Education Hall of Fame in 1997; and

WHEREAS, President Hammond and his wife Mary have three children and seven grandchildren, including a daughter, Kelly Williams, her husband, Chris, and their children Lily and Jack; a daughter, Julie Mohajir, her husband, Terry, and their children Molly, Maria and Marco; and a son, Lance Hammond, his wife, Shannon, and their children, Trent and Grayce; and

WHEREAS, After 28 years of serving Fort Hays State University, President Hammond is now retiring: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we honor President Hammond for his many years of service to Fort Hays State University. We thank him for being a leader in higher education for the state of Kansas and we wish him all the best in his retirement; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives shall send five enrolled copies of this resolution to Representative Boldra.

There being no objection, the following remarks of Rep. Boldra are spread upon the Journal:

Dr. Hammond has reinvented Fort Hays State University. The small western Kansas school which began in 1902 and was known as the Western Branch of the Kansas State Normal School, under his watch has become the 3<sup>rd</sup> fastest growing university in the nation and has the lowest tuition rates of any 4- year school in the region.

Late last fall, Dr. Hammond announced “The Power of One Scholarship Campaign, “ a challenge to raise \$8 million dollars within the year. In less than 4 months, contributions have been made bringing the total to 6.7 million, over 80% of the targeted goal.

Dr. Hammond is an educator, an entrepreneur, an accomplished politician, and a visionary. He has garnered the trust, the respect, and the admiration of all who value quality education and fiscal responsibility. From the beautiful campus that blends a compelling history with modern innovation, our nationally recognized distance learning, to our unequalled China connection, Dr. Hammond has been a trail blazer.

Thank you, Dr. Hammond. Kansas and Kansas education have been forever positively impacted as a result of your coming to Kansas and staying for over 28 years.

## **INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

On emergency motion of Rep. Goico, **HR 6073**, by Rep. Meier, as follows, was introduced and adopted:

HOUSE RESOLUTION No. **HR 6073**—

A RESOLUTION recognizing the dedicated service of Employer Support of the Guard and Reserve and the Kansas Committee of Employer Support of the Guard and Reserve.

WHEREAS, The Army National Guard, the Army Reserve, the Marine Corps Reserve, the Navy Reserve, the Air National Guard, the Air Force Reserve and the Coast Guard Reserve constitute a vital and ever more important part of our nation's defense; and

WHEREAS, Members of the National Guard and Reserve are Citizen Warriors who lead dual lives as valued workers, managers, professionals and students throughout our communities, and who as members of our nation's Armed Forces, train and maintain their military skills and have fought America's wars, and provide humanitarian aid at home and abroad; and

WHEREAS, President Richard M. Nixon, on June 22, 1972, authorized the Secretary of Defense to create the National Committee for Employer Support of the Guard and Reserve (ESGR). The Department of Defense established the Kansas Committee for Employer Support of the Guard and Reserve; and

WHEREAS, For over 40 years, dedicated ESGR volunteers in Kansas have spent thousands of hours promoting a cooperative culture of employer support for National Guard and Reserve service by developing and advocating mutually beneficial initiatives, recognizing outstanding employer support; increasing awareness of applicable laws and policies; resolving potential conflicts between employers and their service members; and acting as the employers' principal advocate within the Department of Defense: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we recognize the dedicated service of Employer Support of the Guard and Reserve and especially the Kansas Committee of Employer Support of the Guard and Reserve, and we thank the many ESGR volunteers for their outstanding and dedicated service to Kansas' employers and their employee members of the National Guard and Reserve; and

*Be it further resolved:* That the Chief Clerk of the House of Representatives shall send five enrolled copies of this resolution to Representative Meier.

There being no objection, the following remarks of Reps. Meier and Goico are spread upon the Journal:

Throughout its history, America has recognized the need to protect the men and women who serve in times of armed conflict from employment discrimination. As early as the Civil War, legislation was passed to provide a means for drafted individuals to return to their jobs at the end of hostilities.

In 1968, Congress also recognized that Reservists and National Guardsmen needed protection against employment and reemployment discrimination caused by their military duty, including the requirement for drills and summer training.

These citizen warriors could not defend and protect us at home and abroad without the continued assurance of retaining meaningful civilian employment for themselves and their families.

The Employer Support to the Guard and Reserve Program (ESGR) was formed in

1972 to inform and educate service members and their civilian employers regarding their rights and responsibilities governed by today's Uniformed Service member's Employment and Re-Employment Rights Act.

ESGR works to foster a culture in which all employers support and value the employment and military service of members of the National Guard and Reserve. ESGR serves as a neutral, free resource for employers and service members.

ESGR is supported by a network of more than 4,900 volunteers across all 50 states, the District of Columbia, Guam-CNMI, Puerto Rico and the U.S. Virgin Islands. Volunteers come from small business and industry, government, education and prior military service, and bring a vast wealth of experience to assist in serving employers, service members and their families.

The Statement of Support Program is the cornerstone of ESGR's effort to gain and maintain employer support for the Guard and Reserve. The intent of the program is to increase employer support by encouraging employers to act as advocates for employee participation in the military. Supportive employers are critical to maintaining the strength and readiness of the nation's Guard and Reserve units.

The first Statement of Support was signed on December 13, 1972 in the Office of the Secretary of Defense by the Chairman of the Board of General Motors. President Nixon was the first President to sign a Statement of Support, and in 2005 every federal Cabinet Secretary and all federal agencies signed a Statement of Support to signify their continuing efforts to be model employers.

Since its inception, hundreds of thousands of employers have signed Statements of Support, pledging their support to Guard and Reserve employees. On your desk you will find your very own personalized Statement of Support for you to keep and display.

By signing a statement of support you pledge that:

You recognize, honor and enforce the Uniformed Services Employment and Reemployment Rights Act (USERRA).

You appreciate the values, leadership and unique skills Service members bring to the workforce and will encourage opportunities to employ Guardsmen, Reservists, and Veterans.

And you will continually recognize and support our country's Service members and their families in peace, in crisis, and in war.

I am honored to introduce some of the members of our Kansas ESGR staff and volunteers that are here today:

First of all is Mr. Walt Frederick, The Kansas Chair of the Employer Support of the Guard and Reserve.

We also have:

Paul Swanson, Employer Support of the Guard and Reserve; Diane Boeger, Employer Support of the Guard and Reserve; Greg Sims, Employer Support of the Guard and Reserve; Rodd Miller, Employer Support of the Guard and Reserve; Ron Brown, Employer Support of the Guard and Reserve; and George Pogge, Employer Support of the Guard and Reserve.

I am especially honored to introduce representatives and volunteers from each of our military services here today:

Maj Gen Lee Tafanelli, The Adjutant General of the Kansas National Guard; Colonel Jarrod K. Frantz, Air National Guard; Major Joseph Blubaugh, Air National Guard; Chief Master Sergeant Patrick Moore, Air National Guard; Captain Stuart Lebruska,



U.S. Coast Guard; Master Chief Eric Norris, U.S. Coast Guard; YN2 (Yeoman Second class) Steve Rogers, U.S. Coast Guard; Major Maurice Pritz, Jr, U.S. Army Reserve; Colonel David Scheideler, U.S. Army Reserve; Gunnery Sergeant Max Coons, U.S. Marine Corps; Staff Sergeant Ambrose Salazar, U.S. Marine Corps; HM1 (Petty Officer First Class) Jamie Tuttle, U.S. Navy.

Please join me in recognizing the dedicated service of the ESGR and especially our Kansas Committee and volunteers.

On motion of Rep. Vickrey, the House recessed until 1:00 p.m..

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#### EARLY AFTERNOON SESSION

The House met pursuant to recess with Speaker Merrick in the chair.

#### MESSAGE FROM THE SENATE

The Senate adopts the Conference Committee report to agree to disagree on **S Sub for HB 2389** and has appointed Senators King, Smith and Haley as second conferees on the part of the Senate.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 274, HB 2130, HB 2296, HB 2537, S Sub for HB 2446, S Sub for HB 2448, HB 2490, HB 2568, SB 329, HB 2433, HB 2588, SB 367, S Sub for HB 2693, HB 2596.**

On motion of Rep. Vickrey, the House recessed until 2:00 p.m..

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#### AFTERNOON SESSION

The House met pursuant to recess with Speaker Merrick in the chair.

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2446** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2446, as follows:

On page 5, following line 11, by inserting:

"New Sec. 4. (a) (1) A district court shall enter and file its decision on motions and non-jury trials within 120 days after the matter is submitted for decision.

(2) If the district court does not enter and file its decision on a submitted matter within 120 days of submission, all counsel shall, within 130 days after the matter is submitted for decision, file with the court a joint request that such decision be entered without further delay. A copy of such request shall be sent to the chief judge of the judicial district and made available to the public.

(3) Within 30 days after the filing of a joint request, the district court shall enter its decision or advise the parties in writing of the date by which the decision will be entered. A copy of such written advice shall be filed in the case, sent to the chief judge of the judicial district and made available to the public.

(4) In the event the district court fails to enter its decision or to advise the parties of an intended decision date as required by subsection (a)(3), all counsel shall then file a joint request with the chief judge of the judicial district to establish an intended decision date. A copy of such request shall be filed in the case and made available to the public.

(5) Upon receipt of a request under subsection (a)(4), the chief judge of the judicial district shall, after consultation with the judge to whom the matter is assigned, establish a firm intended decision date by which the district court's decision shall be made. Such setting of a final intended decision date shall be in writing, filed in the case, served on the parties and made available to the public.

(b) (1) The court of appeals shall render and file its decision on motions and appeals within 180 days after the matter is submitted for decision.

(2) If the court of appeals does not enter and file its decision on a submitted matter within 180 days of submission, all counsel shall, within 190 days after the matter is submitted for decision, file with the court a joint request that such decision be entered without further delay. A copy of such request shall be sent to the chief judge of the court of appeals and made available to the public.

(3) Within 30 days after the filing of a joint request, the court of appeals shall enter its decision or advise the parties in writing of the date by which the decision will be entered. A copy of such written advice shall be filed in the case, sent to the chief judge of the court of appeals and made available to the public.

(4) In the event the court of appeals fails to enter its decision or to advise the parties of an intended decision date as required by subsection (b)(3), all counsel shall then file a joint request with the chief judge of the court of appeals to establish an intended decision date. A copy of such request shall be filed in the case and made available to the public.

(5) Upon receipt of a request under subsection (b)(4), the chief judge of the court of appeals shall, after consultation with the judge or judges to whom the matter is assigned, establish a firm intended decision date by which the court's decision shall be made. Such setting of a final intended decision date shall be in writing, filed in the case, served on the parties and made available to the public.

(c) (1) The supreme court shall render and file its decision on motions and appeals within 180 days after the matter is submitted for decision.

(2) If the supreme court does not enter and file its decision on a submitted matter within 180 days of submission, all counsel shall, within 190 days after the matter is submitted for decision, file with the court a joint request that such decision be entered without further delay. A copy of such request shall be sent to the chief justice and made available to the public.

(3) Within 30 days after the filing of a joint request, the supreme court shall enter its decision or advise the parties in writing of the date by which the decision will be entered. A copy of such written advice shall be filed in the case, sent to the chief justice and made available to the public.

(4) In the event the supreme court fails to enter its decision or to advise the parties of an intended decision date as required by subsection (c)(3), all counsel shall then file a

joint request with the chief justice to establish an intended decision date. A copy of such request shall be filed in the case and made available to the public.

(5) Upon receipt of a request under subsection (c)(4), the chief justice shall, after consultation with the justice or justices to whom the matter is assigned, establish a firm intended decision date by which the court's decision shall be made. Such setting of a final intended decision date shall be in writing, filed in the case, served on the parties and made available to the public.

(d) For the purposes of this section:

(1) A motion shall be deemed submitted for decision on the date the: (A) Court announces on the record in open court, at the conclusion of the hearing thereon, that the matter is submitted for decision; or (B) last memorandum or other document is permitted to be filed. If no oral argument is conducted on the motion, a motion shall be deemed submitted for decision as of the date the last memorandum or other document is permitted to be filed.

(2) A non-jury trial shall be deemed submitted for decision on the date the: (A) District court announces on the record in open court, at the conclusion of the trial, that the matter is submitted for decision; or (B) last memorandum or other document is permitted to be filed.

(3) An appeal shall be deemed submitted for decision on the date the: (A) Court announces on the record in open court, at the conclusion of oral argument, that the matter is submitted for decision; or (B) last memorandum or other document is permitted to be filed. If no oral argument is conducted, an appeal shall be deemed submitted for decision as of the date the case is considered on a non-argued calendar.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "fund;" by inserting "time limits for decisions;"

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Kinzer, the conference committee report on **S Sub for HB 2446** was adopted.

On roll call, the vote was: Yeas 121; Nays 2; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley,

Kelly, Kiegerl, Kinzer, Kleeb, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Kuether, Ward.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2448** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2448, as follows:

On page 1, following line 7, by inserting the following:

"Section 1. K.S.A. 2013 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) On and after May 2, 1991, any person convicted as an offender pursuant to the Kansas offender registration act, any adult arrested or charged or adjudicated as a juvenile offender because of placed in custody for or charged with the commission of any felony; a violation of the following offenses, regardless of the sentence imposed, shall be required to submit biological samples authorized by and given to the Kansas bureau of investigation in accordance with the provisions of this section:

(1) Any felony;

(2) subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(3) a violation of K.S.A. 21-3508, prior to its repeal, or K.S.A. 2013 Supp. 21-5513, and amendments thereto, when committed in the presence of a person 16 or more years of age;

(4) a violation of K.S.A. 21-4310, prior to its repeal, or K.S.A. 2013 Supp. 21-6412, and amendments thereto;

(5) a violation of K.S.A. 21-3424, prior to its repeal, or K.S.A. 2013 Supp. 21-5411, and amendments thereto, when the victim is less than 18 years of age;

(6) a violation of K.S.A. 21-3507, prior to its repeal, or K.S.A. 2013 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(7) a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto prior to its repeal, when one of the parties involved is less than 18 years of age;

(8) a violation of K.S.A. 21-3515, and amendments thereto prior to its repeal, when one of the parties involved is less than 18 years of age, or K.S.A. 2013 Supp. 21-6421, and amendments thereto, when the offender is less than 18 years of age; or

(9) a violation of K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto; or

(10) including 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. 2013 Supp. 21-5301, 21-

5302 or 21-5303, and amendments thereto, of any such offenses provided in this subsection regardless of the sentence imposed, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

(1) ~~Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;~~

(2) ~~ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or~~

(3) ~~convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 21-4603d, 22-3717 or K.S.A. 2013 Supp. 38-2361, and amendments thereto.~~

(b) ~~Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons, whether juveniles or adults, covered by~~ required to submit a sample under the provisions of this act section.

(c) ~~Any person required by paragraphs (a)(1) and (a)(2) to provide such specimen or sample shall be ordered by the court to have such specimen or sample collected within 10 days after sentencing or adjudication:~~

(1) ~~If placed directly on probation, that person must provide such specimen or sample, at a collection site designated by the Kansas bureau of investigation. Collection of specimens shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation. Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;~~

(2) ~~if sentenced to the secretary of corrections, such specimen or sample will be obtained as soon as practical upon arrival at the correctional facility; or~~

(3) ~~if a juvenile offender is placed in the custody of the commissioner of juvenile justice, in a youth residential facility or in a juvenile correctional facility, such specimen or sample will be obtained as soon as practical upon arrival.~~

Any person required to submit a sample pursuant to subsection (a) shall be required to submit such sample at the same time such person is fingerprinted pursuant to the booking procedure, or as soon as practicable.

(d) ~~Any person required by paragraph (a)(3) convicted as an adult and who was incarcerated on May 2, 1991, for a crime committed prior to May 2, 1991, shall be required to provide such specimen or~~ submit a sample shall be required to provide such samples prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation. Collection of ~~specimens~~ samples shall be conducted by qualified volunteers, contractual personnel or employees designated by the Kansas bureau of investigation.

(e) (1) ~~On and after January 1, 2007 through June 30, 2008, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted~~

commission of any person felony or drug severity level 1 or 2 felony shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure:

~~(2) On and after July 1, 2008, except as provided further, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505; a violation of K.S.A. 21-3508; a violation of K.S.A. 21-4310; a violation of K.S.A. 21-3424, and amendments thereto, when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; shall be required to submit such specimen or sample at the same time such person is fingerprinted pursuant to the booking procedure.~~

~~(3) (c) Prior to taking such samples, the arresting, charging or custodial law enforcement or juvenile justice agency shall search the Kansas criminal history files through the Kansas criminal justice information system to determine if such person's sample is currently on file with the Kansas bureau of investigation. In the event that it cannot reasonably be established that a DNA sample for such person is on file at the Kansas bureau of investigation, the arresting, charging or custodial law enforcement or juvenile justice agency shall cause a sample to be collected. If such person's sample is on file with the Kansas bureau of investigation, the law enforcement or juvenile justice agency is shall not be required to take the sample.~~

~~(4) (f) (1) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.~~

~~(5) (2) If a conviction against a person; who is required to submit such specimen or sample; is overturned, expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation shall, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.~~

~~(f) All persons required to register as offenders pursuant to K.S.A. 22-4901 et seq., and amendments thereto, shall be required to submit specimens of blood or an oral or other biological sample authorized by the Kansas bureau of investigation to the Kansas bureau of investigation in accordance with the provisions of this act.~~

~~(g) The Kansas bureau of investigation shall provide all specimen vials, mailing tubes, labels kits, supplies and instructions necessary for the collection of blood, oral or other biological samples. The collection of samples shall be performed in a medically approved manner. No person authorized by this section to withdraw blood, and no person assisting in the collection of these samples pursuant to the provisions of this section shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. The withdrawal of blood for purposes of this act may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician including, but not limited to, an emergency medical technician-~~

intermediate, mobile intensive care technician, advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. ~~The~~ Such samples shall ~~thereafter~~ be forwarded to the Kansas bureau of investigation; and the bureau shall analyze ~~the such~~ samples to the extent allowed by funding available for this purpose.

(h) ~~(1)~~ The DNA (deoxyribonucleic acid) records and DNA Samples and profile records shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a statewide automated DNA databank and DNA database capable of, but not limited to, searching, matching and storing DNA profile records. The DNA database ~~as established by this act section~~ shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system ~~(CODIS)~~. The Kansas bureau of investigation shall participate in the CODIS federal bureau of investigation's combined DNA index system program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

~~(i)~~ (2) The DNA Profile records obtained pursuant to this act section shall be confidential and shall be released only to authorized criminal justice agencies. ~~The~~ DNA Such records shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains from disasters or for other humanitarian identification purposes, including, but not limited to, identification of missing persons.

~~(j)~~ (3) The Kansas bureau of investigation shall be the state central repository for all DNA profile records and DNA samples obtained pursuant to this act section. No profile records shall be accepted for admission or comparison unless obtained in substantial compliance with the provisions of this section by an accredited forensic laboratory meeting the national DNA index system guidelines established by the federal bureau of investigation.

(i) (1) The Kansas bureau of investigation shall promulgate rules and regulations for:

- (A) The form and manner of the collection and maintenance of DNA samples;
- (B) a procedure which allows ~~the defendant~~ defendants to petition to expunge and destroy the DNA samples and profile record in the event of a dismissal of charges, expungement or acquittal at trial, expungement or overturned conviction; and

(C) any other procedures for the operation of this act section.

(2) ~~These~~ Such rules and regulations also shall require compliance with national quality assurance standards to ensure that ~~the~~ DNA profile records satisfy standards of acceptance of such records into the national DNA identification index system.

(3) The provisions of the Kansas administrative procedure act shall apply to all actions taken ~~under the~~ pursuant to such rules and regulations ~~so promulgated~~.

~~(k)~~ (j) The Kansas bureau of investigation is authorized to contract with third parties for the purposes of implementing this section. Any other party contracting to carry out the functions of this section shall be subject to the same restrictions and requirements of this section, insofar as applicable, as the bureau, as well as any additional restrictions or requirements imposed by the bureau.

(k) In the event that a person's DNA sample is lost, was not properly obtained pursuant to the provisions of this section or is not adequate for any reason, the person shall provide another sample for analysis.

(l) A sample, or any evidence based upon or derived from such sample, collected by a law enforcement agency or a juvenile justice agency in substantial compliance with the provisions of this section, shall not be excluded as evidence in any criminal proceeding on the basis that such sample was not validly obtained.

(m) Any person who is subject to the requirements of this section, and who, after receiving notification of the requirement to provide a DNA specimen sample, knowingly refuses to provide such DNA specimen sample, shall be guilty of a class A nonperson misdemeanor.

(n) (1) Any person who, by virtue of employment or official position, has possession of, or access to, samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall not disseminate such samples or records except in strict accordance with applicable laws.

(2) A criminal justice agency shall not request profile records from the Kansas bureau of investigation or another criminal justice agency unless such agency has a legitimate need for such records in accordance with subsection (h)(2).

(3) In addition to any other remedy or penalty authorized by law, any person who knowingly violates or causes a violation of this subsection shall be guilty of a class A nonperson misdemeanor. If such person is employed or licensed by a state or local government agency, a conviction for violation of this subsection shall constitute good cause to terminate such person's employment or to revoke or suspend such person's license.

(o) Any person who, without authorization, knowingly obtains samples maintained by the Kansas bureau of investigation or profile records maintained by the Kansas bureau of investigation shall be guilty of a class A nonperson misdemeanor.

(p) As used in this section:

(1) "DNA" means deoxyribonucleic acid;

(2) "profile record" means the identifying information of the laboratory and laboratory personnel performing the DNA analysis, the sample identification number and data related to the reliability and maintainability of a DNA profile;

(3) "DNA profile" means a set of DNA identification characteristics that permit the DNA of one person to be distinguishable from the DNA of another person; and

(4) "biological sample" means a body tissue, fluid or other bodily sample, usually a blood or buccal sample, of an individual on which DNA analysis can be carried out.

Sec. 2. K.S.A. 2013 Supp. 21-5107 is hereby amended to read as follows: 21-5107. (a) A prosecution for rape, aggravated criminal sodomy, murder, terrorism or illegal use of weapons of mass destruction may be commenced at any time.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in subsection (e), a prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:

(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or

(2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.



(d) Except as provided by subsection (e), a prosecution for any crime, as defined in K.S.A. 2013 Supp. 21-5102, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;  
 (2) the accused is concealed within the state so that process cannot be served upon the accused;

(3) the fact of the crime is concealed;  
 (4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;  
 (B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.";

On page 3, by striking all in lines 21 through 43;

By striking all on pages 4 through 7;

On page 8, by striking all in lines 1 through 39;

On page 20, following line 16, by inserting the following:

"Sec. 6. K.S.A. 2013 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, nondrug crimes ranked in severity levels 6 through 10, 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. 2013 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 nondrug crime ranked in severity levels 1 through 5, 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. 2013 Supp. 21-5406, and amendments thereto, or as prohibited by any law of another state which 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 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 is in substantial conformity with that statute;

(4) violating the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which 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. 8-1602, 8-1603, prior to its repeal, or 8-1604, and amendments thereto, or required by a law of another state which 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) No person may petition for expungement until ~~10~~ seven 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 violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, including any diversion for such violation.

(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. 2013 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. 2013 Supp. 21-5506, and amendments thereto;

(3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2013 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. 2013 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. 2013 Supp. 21-5510, and amendments thereto;

(7) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(8) 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. 2013 Supp. 21-5601, and amendments thereto;

(9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and amendments thereto;

(10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A.

2013 Supp. 21-5401, and amendments thereto;

(11) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto;

(12) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments thereto;

(13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto;

(14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2013 Supp. 21-5405, and amendments thereto;

(15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto, when the victim was less than 18 years of age at the time the crime was committed;

(16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto;

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

(18) 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 \$100. On and after ~~April 12, 2012, through June 30, 2013~~ July 1, 2013, through July 1, 2015, 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.

(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 shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. 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. 2013 Supp. 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 ~~department for children and families~~ 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) for applications received on and after July 1, 2006, 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. 2013 Supp. 75-7c01 et seq., 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 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 subsection (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, 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.

(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 of the ~~department for children and families~~ department 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 ~~department for children and families~~ 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) 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 carry a concealed weapon pursuant to the personal and family protection act; or

(17) the Kansas bureau of investigation for the purposes of:

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

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

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

Sec. 7. K.S.A. 22-3420 is hereby amended to read as follows: 22-3420. ~~(4)-(a)~~ When the case is finally submitted to the jury, they shall retire for deliberation. They must be kept together in some convenient place under charge of a ~~duly-sworn officer~~ bailiff until they agree upon a verdict, or be discharged by the court, subject to the discretion of the court to permit them to separate temporarily at night, and at their meals. The ~~officer-bailiff~~ having them under his-such bailiff's charge shall not allow any communications to be made to them, or ~~make any himself communicate with them,~~ unless by order of the court; ~~and before their.~~ Before the jury's verdict is rendered he-the bailiff shall not communicate to any person the state of their deliberations, or the verdict agreed upon. No person other than members of the jury shall be present in the jury room during deliberations.

~~(2)-(b)~~ If the jury is permitted to separate, either during the trial or after the case is submitted to them, they shall be admonished by the court that: (1) It is their duty not to converse with, or allow themselves to be addressed by any other person on any subject of the trial, and that any attempt to do so should be immediately reported by them to the court; (2) it is their duty not to form or express an opinion thereon-make any final determinations or express any opinion on any subject of the trial until the case is finally submitted to them; and that; and (3) such admonition shall apply to every subsequent separation of the jury.

~~(3)~~ After the jury has retired for deliberation, if they desire to be informed as to any part of the law or evidence arising in the case, they may request the officer to conduct them to the court, where the information on the point of the law shall be given, or the evidence shall be read or exhibited to them in the presence of the defendant, unless he voluntarily absents himself, and his counsel and after notice to the prosecuting attorney.

(c) In the court's discretion, upon the jury's retiring for deliberation, the jury may take any admitted exhibits into the jury room, where they may review them without further permission from the court. If necessary, the court may provide equipment to facilitate review.

(d) The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to discuss an appropriate response. The defendant must be present during the discussion of such written questions, unless such presence is waived. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear testimony. The defendant must



be present during any response if given in open court, unless such presence is waived. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record.

~~(4)~~(e) The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity, or other necessity to be found by the court requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

(f) The amendments to this section by this act establish a procedural rule, and as such shall be construed and applied retroactively.;

On page 26, in line 1, before "K.S.A." by inserting "K.S.A. 22-3420 and"; also in line 1, after "Supp." by inserting "21-2511, 21-5107, "; in line 2, after "6608" by inserting ", 21-6614, 21-6614d";

And by renumbering remaining sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting " DNA evidence; statute of limitations; "; also in line 2, by striking all after the semicolon; in line 3, by striking all before "sentencing"; in line 4, after "supervision" by inserting "; expungement; trials; conduct of jury after case is submitted"; also in line 4, after "amending" by inserting " K.S.A. 22-3420 and"; also in line 4, after "Supp." by inserting "21-2511, 21-5107, "; in line 5, after "21-6608" by inserting ", 21-6614"; also in line 5, after "sections" by inserting "; also repealing K.S.A. 2013 Supp. 21-6614d";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Kinzer, the conference committee report on **S Sub for HB 2448** was adopted.

On roll call, the vote was: Yeas 116; Nays 7; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel,

Whipple, Wilson, Winn, Wolfe Moore.

Nays: Corbet, Edmonds, Kahrs, Kelley, Peck, Rothlisberg, Sutton.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2490** submits the following report:

The Senate recedes from all of its amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 6 through 36;

On page 2, by striking all in lines 1 through 24 and inserting:

"Section 1. K.S.A. 2013 Supp. 21-5301 is hereby amended to read as follows: 21-5301. (a) An attempt is any overt act toward the perpetration of a crime done by a person who intends to commit such crime but fails in the perpetration thereof or is prevented or intercepted in executing such crime.

(b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed or the means employed or the act itself were such that the commission of the crime was not possible.

(c) (1) An attempt to commit an off-grid felony shall be ranked at nondrug severity level 1. An attempt to commit any other nondrug felony shall be ranked on the nondrug scale at two severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for an attempt to commit a nondrug felony shall be a severity level 10.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit the crime of:

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5426, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;

(B) terrorism, as defined in K.S.A. 2013 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2013 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2013 Supp. 21-5503, and amendments thereto, if the offender is 18 years of age or older;

(E) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, if the offender is 18 years of age or older;

(F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age; ~~or~~

(H) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2013 Supp. 21-5510, and amendments thereto, if the offender is 18 years of age or older and the child is less than 14 years of age; or

(l) capital murder, as defined in K.S.A. 2013 Supp. 21-5401, and amendments thereto.

(d) (1) An attempt to commit a felony which prescribes a sentence on the drug grid shall reduce the prison term prescribed in the drug grid block for an underlying or completed crime by six months.

(2) The provisions of this subsection shall not apply to a violation of attempting to commit a violation of K.S.A. 2013 Supp. 21-5703, and amendments thereto.

(e) An attempt to commit a class A person misdemeanor is a class B person misdemeanor. An attempt to commit a class A nonperson misdemeanor is a class B nonperson misdemeanor.

(f) An attempt to commit a class B or C misdemeanor is a class C misdemeanor.

Sec. 2. K.S.A. 2013 Supp. 21-5401 is hereby amended to read as follows: 21-5401.

(a) Capital murder is the:

(1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in subsection (a) of K.S.A. 2013 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;

(2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;

(3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail or while in the custody of an officer or employee of a state correctional institution, community correctional institution or jail;

(4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, as defined in K.S.A. 2013 Supp. 21-5503, and amendments thereto, criminal sodomy, as defined in subsections (a) (3) or (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, or any attempt thereof, as defined in K.S.A. 2013 Supp. 21-5301, and amendments thereto;

(5) intentional and premeditated killing of a law enforcement officer;

(6) intentional and premeditated killing of more than one person as a part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or

(7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping, as defined in subsection (a) of K.S.A. 2013 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5408, and amendments thereto, when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or with the child or with intent that the child commit or submit to a sex offense.

(b) For purposes of this section, "sex offense" means rape, as defined in K.S.A. 2013 Supp. 21-5503, and amendments thereto, aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, selling sexual relations, as defined in K.S.A. 2013

Supp. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2013 Supp. 21-6420, and amendments thereto, commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto, or sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-5510, and amendments thereto.

(c) Capital murder or attempt to commit capital murder is an off-grid person felony.

(d) The provisions of subsection (c) of K.S.A. 2013 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of capital murder pursuant to this section.

Sec. 3. K.S.A. 2013 Supp. 21-6617 is hereby amended to read as follows: 21-6617.

(a) If a defendant is charged with capital murder, the county or district attorney shall file written notice if such attorney intends, upon conviction of the defendant, to request a separate sentencing proceeding to determine whether the defendant should be sentenced to death. In cases where the county or district attorney or a court determines that a conflict exists, such notice may be filed by the attorney general. Such notice shall be filed with the court and served on the defendant or the defendant's attorney not later than seven days after the time of arraignment. If such notice is not filed and served as required by this subsection, the prosecuting attorney may not request such a sentencing proceeding and the defendant, if convicted of capital murder, shall be sentenced to life without the possibility of parole, and no sentence of death shall be imposed hereunder.

(b) Except as provided in K.S.A. 2013 Supp. 21-6618 and 21-6622, and amendments thereto, upon conviction of a defendant of capital murder, the court, upon motion of the prosecuting attorney, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the sentencing proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the sentencing proceeding, the trial judge may summon a special jury of 12 persons which shall determine the question of whether a sentence of death shall be imposed. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such special jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived or the trial jury has been waived, the sentencing proceeding shall be conducted by the court.

(c) In the sentencing proceeding, evidence may be presented concerning any matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the state has made known to the defendant prior to the sentencing proceeding shall be admissible, and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the sentencing proceeding shall be admissible against the defendant at any

subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(d) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations.

(e) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced to death; otherwise, the defendant shall be sentenced to life without the possibility of parole. The jury, if its verdict is a unanimous recommendation of a sentence of death, shall designate in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found beyond a reasonable doubt. If, after a reasonable time for deliberation, the jury is unable to reach a verdict, the judge shall dismiss the jury and impose a sentence of life without the possibility of parole and shall commit the defendant to the custody of the secretary of corrections. In nonjury cases, the court shall follow the requirements of this subsection in determining the sentence to be imposed.

(f) Notwithstanding the verdict of the jury, the trial court shall review any jury verdict imposing a sentence of death hereunder to ascertain whether the imposition of such sentence is supported by the evidence. If the court determines that the imposition of such a sentence is not supported by the evidence, the court shall modify the sentence and sentence the defendant to life without the possibility of parole, and no sentence of death shall be imposed hereunder. Whenever the court enters a judgment modifying the sentencing verdict of the jury, the court shall set forth its reasons for so doing in a written memorandum which shall become part of the record.

(g) A defendant who is sentenced to imprisonment for life without the possibility of parole shall spend the remainder of the defendant's natural life incarcerated and in the custody of the secretary of corrections. A defendant who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, functional incapacitation release pursuant to K.S.A. 22-3728, and amendments thereto, or suspension, modification or reduction of sentence. Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

Sec. 4. K.S.A. 2013 Supp. 21-6620 is hereby amended to read as follows: 21-6620.

(a) (1) Except as provided in subsection (a)(2) and K.S.A. 2013 Supp. 21-6618 and 21-6622, and amendments thereto, if a defendant is convicted of the crime of capital murder and a sentence of death is not imposed pursuant to subsection (e) of K.S.A. 2013 Supp. 21-6617, and amendments thereto, or requested pursuant to subsection (a) or (b) of K.S.A. 2013 Supp. 21-6617, and amendments thereto, the defendant shall be sentenced to life without the possibility of parole.

(2) (A) Except as provided in subsection (a)(2)(B), a defendant convicted of

attempt to commit the crime of capital murder shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (a)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(b) The provisions of this subsection shall apply only to the crime of murder in the first degree as described in subsection (a)(2) of K.S.A. 2013 Supp. 21-5402, and amendments thereto, committed on or after July 1, 2014.

(1) Except as provided in subsection (b)(2), a defendant convicted of murder in the first degree as described in subsection (a)(2) of K.S.A. 2013 Supp. 21-5402, and amendments thereto, shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(2) The provisions of subsection (b)(1) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(c) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after July 1, 2014.

(1) (A) Except as provided in subsection (c)(1)(B), a defendant convicted of murder in the first degree based upon the finding of premeditated murder shall be sentenced pursuant to K.S.A. 2013 Supp. 21-6623, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in subsection (c)(2).

(B) The provisions of subsection (c)(1)(A) requiring the court to impose the mandatory minimum term of imprisonment required by K.S.A. 2013 Supp. 21-6623, and amendments thereto, shall not apply if the court finds the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 600 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

(2) (A) If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A. 2013 Supp. 21-6623, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling

reasons therefor, and, except as provided in subsection (c)(2)(B), the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

(B) The provisions of subsection (c)(2)(A) requiring the court to impose a mandatory minimum term of imprisonment of 25 years shall not apply if the court finds the defendant, because of the defendant's criminal history classification, is subject to presumptive imprisonment pursuant to the sentencing guidelines grid for nondrug crimes and the sentencing range exceeds 300 months. In such case, the defendant is required to serve a mandatory minimum term equal to the sentence established pursuant to the sentencing range.

~~(b)~~ (d) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed on or after the effective date of this act September 6, 2013.

(1) If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall determine, in accordance with this subsection, whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.

(2) The court shall conduct a separate proceeding following the determination of the defendant's guilt for the jury to determine whether one or more aggravating circumstances exist. Such proceeding shall be conducted by the court before a jury as soon as practicable. If any person who served on the trial jury is unable to serve on the jury for the proceeding, the court shall substitute an alternate juror who has been impaneled for the trial jury. If there are insufficient alternate jurors to replace trial jurors who are unable to serve at the proceeding, the court may conduct such proceeding before a jury which may have 12 or less jurors, but at no time less than six jurors. If the jury has been discharged prior to the proceeding, a new jury shall be impaneled. Any decision of the jury regarding the existence of an aggravating circumstance shall be beyond a reasonable doubt. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the proceeding has been waived, such proceeding shall be conducted by the court.

(3) In the proceeding, evidence may be presented concerning any matter relating to any of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. No testimony by the defendant at the time of the proceeding shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the proceeding, the court shall

provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on subsection (a) of K.S.A. 2013 Supp. 21-6624, and amendments thereto, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, exist, the jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate, in writing, the specific circumstance or circumstances which the court found beyond a reasonable doubt.

(6) If one or more of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, are found to exist beyond a reasonable doubt pursuant to this subsection, the defendant shall be sentenced pursuant to K.S.A. 2013 Supp. 21-6623, and amendments thereto, unless the sentencing judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose the sentence specified in this paragraph. If the sentencing judge does not impose the mandatory minimum term of imprisonment required by K.S.A. 2013 Supp. 21-6623, and amendments thereto, the judge shall state on the record at the time of sentencing the substantial and compelling reasons therefor, and the defendant shall be sentenced to imprisonment for life and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, the defendant shall not be eligible for parole prior to serving 25 years' imprisonment, and such 25 years' imprisonment shall not be reduced by the application of good time credits. No other sentence shall be permitted.

~~(e)~~(e) The provisions of this subsection shall apply only to the crime of murder in the first degree based upon the finding of premeditated murder committed prior to ~~the effective date of this act~~ September 6, 2013.

(1) If a defendant is convicted of murder in the first degree based upon the finding of premeditated murder, upon reasonable notice by the prosecuting attorney, the court shall conduct a separate sentencing proceeding in accordance with this subsection to determine whether the defendant shall be required to serve a mandatory minimum term of imprisonment of 40 years or for crimes committed on and after July 1, 1999, a mandatory minimum term of imprisonment of 50 years or sentenced as otherwise provided by law.

(2) The sentencing proceeding shall be conducted by the court before a jury as soon as practicable. If the trial jury has been discharged prior to sentencing, a new jury shall be impaneled. Any decision to impose a mandatory minimum term of imprisonment of 40 or 50 years shall be by a unanimous jury. Jury selection procedures, qualifications of jurors and grounds for exemption or challenge of prospective jurors in criminal trials shall be applicable to the selection of such jury. The jury at the sentencing proceeding may be waived in the manner provided by K.S.A. 22-3403, and amendments thereto, for waiver of a trial jury. If the jury at the sentencing proceeding has been waived, such proceeding shall be conducted by the court.

(3) In the sentencing proceeding, evidence may be presented concerning any



matter that the court deems relevant to the question of sentence and shall include matters relating to any of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, and any mitigating circumstances. Any such evidence which the court deems to have probative value may be received regardless of its admissibility under the rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. Only such evidence of aggravating circumstances as the prosecuting attorney has made known to the defendant prior to the sentencing proceeding shall be admissible and no evidence secured in violation of the constitution of the United States or of the state of Kansas shall be admissible. Only such evidence of mitigating circumstances subject to discovery pursuant to K.S.A. 22-3212, and amendments thereto, that the defendant has made known to the prosecuting attorney prior to the sentencing proceeding shall be admissible. No testimony by the defendant at the time of sentencing shall be admissible against the defendant at any subsequent criminal proceeding. At the conclusion of the evidentiary presentation, the court shall allow the parties a reasonable period of time in which to present oral argument.

(4) At the conclusion of the evidentiary portion of the sentencing proceeding, the court shall provide oral and written instructions to the jury to guide its deliberations. If the prosecuting attorney relies on subsection (a) of K.S.A. 2013 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, subsection (a) of K.S.A. 21-4636, prior to its repeal, as an aggravating circumstance, and the court finds that one or more of the defendant's prior convictions satisfy such subsection, the jury shall be instructed that a certified journal entry of a prior conviction is presumed to prove the existence of such prior conviction or convictions beyond a reasonable doubt.

(5) If, by unanimous vote, the jury finds beyond a reasonable doubt that one or more of the aggravating circumstances enumerated in K.S.A. 2013 Supp. 21-6624, and amendments thereto, or for crimes committed prior to July 1, 2011, K.S.A. 21-4636, prior to its repeal, exist and, further, that the existence of such aggravating circumstances is not outweighed by any mitigating circumstances which are found to exist, the defendant shall be sentenced pursuant to K.S.A. 2013 Supp. 21-6623, and amendments thereto; otherwise, the defendant shall be sentenced as provided by law. The sentencing jury shall designate, in writing, signed by the foreman of the jury, the statutory aggravating circumstances which it found. The trier of fact may make the findings required by this subsection for the purpose of determining whether to sentence a defendant pursuant to K.S.A. 2013 Supp. 21-6623, and amendments thereto, notwithstanding contrary findings made by the jury or court pursuant to subsection (e) of K.S.A. 2013 Supp. 21-6617, and amendments thereto, for the purpose of determining whether to sentence such defendant to death. If, after a reasonable time for deliberation, the jury is unable to reach a unanimous sentencing decision, the court shall dismiss the jury and the defendant shall be sentenced as provided by law. In nonjury cases, the court shall designate in writing the specific circumstance or circumstances which the court found beyond a reasonable doubt.

~~(d)~~ (f) The amendments to subsection ~~(e)~~ by this act ~~(e)~~ by chapter 1 of the 2013 Session Laws of Kansas (Special Session):

(1) Establish a procedural rule for sentencing proceedings, and as such shall be construed and applied retroactively to all crimes committed prior to the effective date of this act, except as provided further in this subsection; (2) shall not apply to cases in

which the defendant's conviction and sentence were final prior to June 17, 2013, unless the conviction or sentence has been vacated in a collateral proceeding, including, but not limited to, K.S.A. 22-3504 or 60-1507, and amendments thereto; and (3) shall apply only in sentencing proceedings otherwise authorized by law.

~~(e)~~ (g) Notwithstanding the provisions of subsection ~~(f)~~ (h), for all cases on appeal on or after ~~the effective date of this act September 6, 2013~~, if a sentence imposed under this section, prior to amendment by ~~this act chapter 1 of the 2013 Session Laws of Kansas (Special Session)~~, or under K.S.A. 21-4635, prior to its repeal, is vacated for any reason other than sufficiency of the evidence as to all aggravating circumstances, resentencing shall be required under this section, as amended by ~~this act chapter 1 of the 2013 Session Laws of Kansas (Special Session)~~, unless the prosecuting attorney chooses not to pursue such a sentence.

~~(f)~~ (h) In the event any sentence imposed under this section is held to be unconstitutional, the court having jurisdiction over a person previously sentenced shall cause such person to be brought before the court and shall sentence such person to the maximum term of imprisonment otherwise provided by law.

~~(g)~~ (i) If any provision or provisions of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or provisions or application, and to this end the provisions of this section are severable.

Sec. 5. K.S.A. 2013 Supp. 21-6626 is hereby amended to read as follows: 21-6626. (a) An aggravated habitual sex offender shall be sentenced to imprisonment for life without the possibility of parole. Such offender shall spend the remainder of the offender's natural life incarcerated and in the custody of the secretary of corrections. An offender who is sentenced to imprisonment for life without the possibility of parole shall not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, functional incapacitation release pursuant to K.S.A. 22-3728, and amendments thereto, or suspension, modification or reduction of sentence.

(b) Upon sentencing a defendant to imprisonment for life without the possibility of parole, the court shall commit the defendant to the custody of the secretary of corrections and the court shall state in the sentencing order of the judgment form or journal entry, whichever is delivered with the defendant to the correctional institution, that the defendant has been sentenced to imprisonment for life without the possibility of parole.

(c) As used in this section:

(1) "Aggravated habitual sex offender" means a person who, on and after July 1, 2006: (A) Has been convicted in this state of a sexually violent crime, as described in subsection (c)(2)(A) through (c)(2)(J) or (c)(2)(L); and (B) prior to the conviction of the felony under subparagraph (A), has been convicted of two or more sexually violent crimes;

(2) "Sexually violent crime" means:

(A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto;

(B) 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. 2013 Supp. 21-5506, and amendments thereto;

(C) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(D) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(E) 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. 2013 Supp. 21-5508, and amendments thereto;

(F) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

(G) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2013 Supp. 21-5505, and amendments thereto;

(H) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5426, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(J) commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto;

(K) any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(L) 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. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section; or

(M) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

Sec. 6. K.S.A. 22-3405 is hereby amended to read as follows: 22-3405. ~~(1)-(a)~~ The defendant in a felony case shall be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by law. In prosecutions for crimes not punishable by death or life without the possibility of parole, the defendant's voluntary absence after the trial has been commenced in such person's presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes.

~~(2)-(b)~~ The defendant must be present, either personally or by counsel, at every stage of the trial of traffic infraction, cigarette or tobacco infraction and misdemeanor cases.

Sec. 7. K.S.A. 22-3705 is hereby amended to read as follows: 22-3705. ~~(a)~~ The governor may, when ~~he~~ the governor deems it proper or advisable, commute a sentence in any criminal case by reducing the penalty as follows:

~~(1)~~ If the sentence is death, to imprisonment for life ~~or for any term not less than ten years~~ without the possibility of parole and not to any lesser sentence;

~~(b)~~(2) except as provided in subsection (b), if the sentence is to imprisonment, by reducing the duration of such imprisonment;

~~(c)~~(3) if the sentence is a fine, by reducing the amount thereof; or

~~(d)~~(4) if the sentence is both imprisonment and fine, by reducing either or both.

(b) The governor shall not commute a sentence of life without possibility of parole.

Sec. 8. K.S.A. 2013 Supp. 22-3717 is hereby amended to read as follows: 22-3717.

(a) Except as otherwise provided by this section: K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4624, 21-4635 through 21-4638, and 21-4642, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A. 21-4642, prior to its repeal; K.S.A. 2013 Supp. 21-6617, 21-6620, 21-6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2013 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) An inmate sentenced to imprisonment for life without the possibility of parole pursuant to K.S.A. 2013 Supp. 21-6617, and amendments thereto, shall not be eligible for parole.

(2) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2013 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of: (A) Capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; (B) murder in the first degree based upon a finding of premeditated murder committed on or after July 1, 1994, but prior to July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits; and (C) murder in the first degree as described in subsection (a)(2) of K.S.A. 2013 Supp. 21-5402, and amendments thereto, committed on or after July 1, 2014, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

~~(2)~~(3) Except as provided by subsections (b)(1) or (b)(4), (b)(2) and (b)(5), K.S.A. 1993 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2013 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

~~(3)~~(4) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2013 Supp. 21-6707, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

~~(4)~~(5) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

~~(5)~~ (6) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608, prior to its repeal, or K.S.A. 2013 Supp. 21-6606, and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 1 through 4 crimes, drug severity levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after July 1, 2012, must serve 36 months on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 4 crimes committed on or after July 1, 2012, must serve 24 months on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 7 through 10 crimes, drug severity level 4 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and drug severity level 5 crimes committed on or after July 1, 2012, must serve 12 months on postrelease supervision.

(D) Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-3717, and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2013 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2013 Supp. 21-5512, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2013 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(i) If the sentencing judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated, departure may be imposed to extend the postrelease supervision to a period

of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, prior to its repeal, or K.S.A. 2013 Supp. 21-6820, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

- (a) Written briefs or oral arguments submitted by either the defendant or the state;
- (b) any evidence received during the proceeding;
- (c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2013 Supp. 21-6813, and amendments thereto; and
- (d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the prisoner review board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subsection (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2013 Supp. 21-6817, and amendments thereto.

(vi) Upon petition and payment of any restitution ordered pursuant to K.S.A. 2013 Supp. 21-6604, and amendments thereto, the prisoner review board may provide for early discharge from the postrelease supervision period imposed pursuant to subsection (d)(1)(D)(i) upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 2013 Supp. 21-5508, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be

released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) Persons serving a period of postrelease supervision pursuant to subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner review board for early discharge. Upon payment of restitution, the prisoner review board may provide for early discharge.

(3) Persons serving a period of incarceration for a supervision violation shall not have the period of postrelease supervision modified until such person is released and returned to postrelease supervision.

(4) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation, assignment to a community correctional services program, suspension of sentence or nonprison sanction is revoked pursuant to subsection (c) of K.S.A. 22-3716, and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A. 22-3716, and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(5) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5426, and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(L) commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto; or

(M) 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. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(6) As used in this subsection, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the prisoner review board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, prior to its repeal, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the prisoner review board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the prisoner review board.

(g) Subject to the provisions of this section, the prisoner review board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall



not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the prisoner review board will review the inmate's proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the

inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

(2) Inmates sentenced for a class A or class B felony who have not had a board hearing in the five years prior to July 1, 2010, shall have such inmates' cases reviewed by the board on or before July 1, 2012. Such review shall begin with the inmates with the oldest deferral date and progress to the most recent. Such review shall be done utilizing existing resources unless the board determines that such resources are insufficient. If the board determines that such resources are insufficient, then the provisions of this paragraph are subject to appropriations therefor.

(k) (1) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(2) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment.

(3) Parolees and persons on postrelease supervision are, and shall agree in writing to be, subject to search or seizure by any law enforcement officer based on reasonable suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity. Any law enforcement officer who conducts such a search shall submit a written report to the appropriate parole officer no later than the close of the next business day after such search. The written report shall include the facts leading to such search, the scope of such search and any findings resulting from such search.

(l) The prisoner review board shall promulgate rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

(m) Whenever the prisoner review board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

(2) to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so;

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable;

(5) unless it finds compelling circumstances which would render a plan of payment unworkable, shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the prisoner review board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services;

(6) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by a parole officer or a department of corrections enforcement, apprehension and investigation officer, at any time of the day or night, with or without a search warrant and with or without cause. Nothing in this subsection shall be construed to authorize such officers to conduct arbitrary or capricious searches or searches for the sole purpose of harassment; and

(7) shall order that the parolee or person on postrelease supervision agree in writing to be subject to search or seizure by any law enforcement officer based on reasonable

suspicion of the person violating conditions of parole or postrelease supervision or reasonable suspicion of criminal activity.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the prisoner review board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the prisoner review board grants the parole of an inmate, the board, within 14 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to July 1, 2013, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

(1) On or before September 1, 2013, for offenders convicted of:

(A) Severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity level 4 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes committed on and after July 1, 2012;

(2) on or before November 1, 2013, for offenders convicted of:

(A) Severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes;

(B) level 3 crimes on the sentencing guidelines grid for drug crimes committed prior to July 1, 2012; and

(C) level 4 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012; and

(3) on or before January 1, 2014, for offenders convicted of:

(A) Severity levels 1, 2, 3, 4 and 5 crimes on the sentencing guidelines grid for nondrug crimes;

(B) severity levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes committed on or after July 1, 2012.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2013 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the prisoner review board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the prisoner review board orders a person to be electronically monitored pursuant to this section, or the court orders a person to be electronically monitored pursuant to subsection (r) of K.S.A. 2013 Supp. 21-6604, and amendments thereto, the board shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

(w) (1) On and after July 1, 2012, for any inmate who is a sex offender, as defined in K.S.A. 22-4902, and amendments thereto, whenever the prisoner review board orders the parole of such inmate or establishes conditions for such inmate placed on postrelease supervision, such inmate shall agree in writing to not possess pornographic materials.

(A) As used in this subsection, "pornographic materials" means: Any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance; and any visual depiction of sexually explicit conduct.

(B) As used in this subsection, all other terms have the meanings provided by K.S.A. 2013 Supp. 21-5510, and amendments thereto.

(2) The provisions of this subsection shall be applied retroactively to every sex offender, as defined in K.S.A. 22-4902, and amendments thereto, who is on parole or postrelease supervision on July 1, 2012. The prisoner review board shall obtain the written agreement required by this subsection from such offenders as soon as practicable.

Sec. 9. K.S.A. 2013 Supp. 22-3728 is hereby amended to read as follows: 22-3728.

(a) (1) Upon application of the secretary of corrections, the prisoner review board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.

(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to be functionally incapacitated. Such rules and regulations shall include criteria and guidelines for determining whether the functional incapacitation precludes the person from posing a threat to the public.

(3) Subject to the provisions of subsections (a)(4) and (a)(5), a functional incapacitation release shall not be granted until at least 30 days after written notice of the application has been given to: (A) The prosecuting attorney and the judge of the court in which the person was convicted; and (B) any victim of the person's crime or the victim's family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary, or if the victim is deceased, to the victim's family if the family's address is known to the secretary.

Subject to the provisions of subsection (a)(4), if there is no known address for the victim, if alive, or the victim's family, if deceased, the board shall not grant or deny such application until at least 30 days after notification is given by publication in the county of conviction. Publication costs shall be paid by the department of corrections.

(4) All applications for functional incapacitation release shall be referred to the board. The board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall determine whether a hearing is necessary on the application. The board may request additional information or evidence it deems necessary from a medical or mental health practitioner.

(5) The board shall establish any conditions related to the release of the person. The release shall be conditional, and be subject to revocation pursuant to K.S.A. 75-5217, and amendments thereto, if the person's functional incapacity significantly diminishes, if the person fails to comply with any condition of release, or if the board otherwise concludes that the person presents a threat or risk to public safety. The person shall remain on release supervision until the release is revoked, expiration of the maximum sentence, or discharged by the board. Subject to the provisions of subsection (f) of K.S.A. 75-5217, and amendments thereto, the person shall receive credit for the time during which the person is on functional incapacitation release supervision towards service of the prison and postrelease supervision obligations of determinate sentences or indeterminate sentences.

(6) The secretary of corrections shall cause the person to be supervised upon release, and shall have the authority to initiate revocation of the person at any time for the reasons indicated in subsection (a)(5).

(7) The decision of the board on the application or any revocation shall be final and not subject to review by any administrative agency or court.

(8) In determining whether a person is functionally incapacitated, the board shall consider the following: (A) The person's current condition as confirmed by medical or mental health care providers, including whether the condition is terminal;

(B) the person's age and personal history;

(C) the person's criminal history;

(D) the person's length of sentence and time the person has served;

(E) the nature and circumstances of the current offense;

(F) the risk or threat to the community if released;

(G) whether an appropriate release plan has been established; and

(H) any other factors deemed relevant by the board.

(b) Nothing in this section shall be construed to limit or preclude submission of an application for pardon or commutation of sentence pursuant to K.S.A. 22-3701, and amendments thereto.

(c) Nothing in this section shall apply to the release of people with terminal medical conditions as described in K.S.A. 2013 Supp. 22-3729, and amendments thereto.

(d) This section does not apply to any person sentenced to imprisonment for an off-grid offense.

(e) This section does not apply to any person under sentence of death or life without the possibility of parole.

Sec. 10. K.S.A. 22-4210 is hereby amended to read as follows: 22-4210. If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation, or action, and (3) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

This act does not apply to any person in this state confined as mentally ill, in need of mental treatment, or under sentence of death or life without the possibility of parole.

Sec. 11. K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A. 2013 Supp. 21-5301, 21-5401, 21-6617, 21-6620, 21-6626, 22-3717 and 22-3728 are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 and 3 and inserting "crimes, punishment and criminal procedure; relating to capital murder; attempt; sentencing; murder in the first degree; sentencing of certain persons to mandatory minimum term of imprisonment; amending K.S.A. 22-3405, 22-3705 and 22-4210 and K.S.A. 2013 Supp. 21-5301, 21-5401, 21-6617, 21-6620, 21-6626, 22-3717 and 22-3728 and repealing the existing sections.";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Kinzer, the conference committee report on **HB 2490** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcala, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan,

Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2568** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 7, by striking all in lines 2 through 5;

On page 8, following line 8, by inserting:

"(d) If both parents are parties to the action, the court shall enter such orders regarding custody, residency and parenting time as the court considers to be in the best interest of the child.

If the parties have an agreed parenting plan, it shall be presumed the agreed parenting plan is in the best interest of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interest of the child. If the parties are not in agreement on a parenting plan, each party shall submit a proposed parenting plan to the court for consideration at such time before the final hearing as may be directed by the court.

(e) If during the proceedings the court determines that there is probable cause to believe that the child is a child in need of care, as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of K.S.A. 2013 Supp. 38-2202, and amendments thereto, or that neither parent is fit to have residency, the court may award temporary residency of the child to a grandparent, aunt, uncle or adult sibling, or another person or agency if the court finds by written order that: (1) (A) The child is likely to sustain harm if not immediately removed from the home; (B) allowing the child to remain in the home is contrary to the welfare of the child; or (C) immediate placement of the child is in the best interest of the child; and (2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety of the child. In making such a residency order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such residency to a relative of the child by blood, marriage or adoption and second to awarding such residency to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary residency orders are to be entered in lieu of temporary orders provided for in K.S.A. 2013 Supp. 38-2243 and 38-2244, and amendments thereto, and shall remain in effect until there is a final determination under the revised Kansas code for care of children. An award of temporary residency under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary residency of the child to an agency or a person other than the parent, the court shall refer a transcript of the proceedings to the county



or district attorney. The county or district attorney shall file a petition as provided in K.S.A. 2013 Supp. 38-2234, and amendments thereto, and may request termination of parental rights pursuant to K.S.A. 2013 Supp. 38-2266, and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. If a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this section. If the same judge presides over both proceedings, the notice is not required. Any order pursuant to the revised Kansas code for care of children shall take precedence over any similar order under this section.";

And by redesignating the remaining subsection accordingly;

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

LANCE KINZER

ROB BRUCHMAN

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Kinzer to not adopt the conference committee report on **HB 2568** and that a new conference committee be appointed, the motion prevailed.

Speaker Merrick thereupon appointed Reps. Kinzer, Bruchman and Pauls as second conferees on the part of the House.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 329** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee of the Whole amendments, as follows:

On page 1, following line 5, by inserting:

"Section 1. K.S.A. 2013 Supp. 38-2303 is hereby amended to read as follows: 38-2303. (a) Proceedings under this code involving acts committed by a juvenile which, if committed by an adult, would constitute a violation of ~~K.S.A. 21-3401 or 21-3402, prior to their repeal, or K.S.A. 2013 Supp. 21-5402 or 21-5403, and amendments thereto, any of the following statutes may be commenced at any time: (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto; (2) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto; (3) murder as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2013 Supp. 21-5401, 21-5402 or 21-5403, and amendments thereto; (4) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or K.S.A. 2013 Supp. 21-5421, and amendments thereto; or (5) illegal use of weapons of mass destruction as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2013 Supp. 21-5422, and amendments thereto.~~

(b) Except as provided by subsections ~~(d)~~(c) and ~~(f)~~(e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute a violation of any of the following statutes shall be commenced within five years after its commission if the victim is less than 16 years of age: (1) ~~indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;~~ (2) ~~aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;~~ (3) Lewd and lascivious behavior as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2013 Supp. 21-5513, and amendments thereto; (4) ~~indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;~~ (5) ~~aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 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. 2013 Supp. 21-5510, and amendments thereto;~~ (7)(2) unlawful voluntary sexual relations as defined in K.S.A. 21-3522, prior to its repeal, or K.S.A. 2013 Supp. 21-5507, and amendments thereto; or (8)(3) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto.

(c) ~~Except as provided by subsections (d) and (f), a prosecution for rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, shall be commenced within five years after its commission.~~

~~(d)(1) Except as provided in subsection (f), a prosecution for any offense provided in subsection (b) or a sexually violent offense as defined in K.S.A. 22-3717, and amendments thereto, shall be commenced within the limitation of time provided by the law pertaining to such offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later. Except as provided in subsection (e), a proceeding under this code for any act committed by a juvenile which, if committed by an adult, would constitute a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:~~

~~(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or~~

~~(2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.~~

~~(2)(3) For the purposes of this subsection, "DNA" means deoxyribonucleic acid.~~

~~(e)(d) Except as provided by subsection (f)(e), proceedings under this code not governed by subsections (a), (b), or (c) or (d) shall be commenced within two years after the act giving rise to the proceedings is committed.~~

~~(f)(e) The period within which the proceedings must be commenced shall not include any period in which:~~

- ~~(1) The accused is absent from the state;~~
- ~~(2) the accused is so concealed within the state that process cannot be served upon the accused;~~

(3) the fact of the offense is concealed; or  
 (4) whether or not the fact of the offense is concealed by the active act or conduct of the accused, there is substantial competent evidence to believe two or more of the following factors are present: (A) The victim was a child under 15 years of age at the time of the offense; (B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted an offense; (C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the offense whether or not the parent or other legal authority is the accused; and (D) there is substantial competent expert testimony indicating the victim psychologically repressed such victim's memory of the fact of the offense, and in the expert's professional opinion the recall of such memory is accurate, free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information; but in no event may a proceeding be commenced as provided in subsection ~~(f)~~(e)(4) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence of the alleged juvenile offender committed similar acts against other persons or evidence of contemporaneous physical manifestations of the offense. Parent or other legal authority shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the alleged juvenile offender's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(g) A proceeding under this code is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such proceeding shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay."

And by redesignating sections accordingly;

On page 2, in line 25, after "Supp." by inserting "38-2303 and"; also in line 25, by striking "is" and inserting "are";

On page 1, in the title, in line 1, after "code;" by inserting "relating to time limitations;"; also in line 2, after "Supp." by inserting "38-2303 and"; in line 3 by striking "section" and inserting "sections";

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

JOHN J. RUBIN  
 RAMON C. GONZALEZ, JR.  
 JANICE L. PAULS  
*Conferees on part of House*

JEFF KING  
 GREG SMITH  
 DAVID HALEY  
*Conferees on part of Senate*

On motion of Rep. Rubin, the conference committee report on **SB 329** was adopted.

On roll call, the vote was: Yeas 122; Nays 1; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Rothlisberg.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2433** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 2, in line 21, by striking "individual"; in line 22, by striking "convicted" and inserting "defendant";

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

JEFF KING

GREG SMITH

DAVID HALEY

*Conferees on part of Senate*

JOHN J. RUBIN

RAMON C. GONZALEZ, JR.

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Rubin, the conference committee report on **HB 2433** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley,

Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2588** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2588, as follows:

On page 9, following line 9, by inserting:

"Sec. 6. K.S.A. 2013 Supp. 38-2347 is hereby amended to read as follows: 38-2347. (a) (1) Except as otherwise provided in this section, at any time after commencement of proceedings under this code against a juvenile and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court authorize prosecution of the juvenile as an adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile unless good cause is shown to prosecute the juvenile as an adult. No juvenile less than 12 years of age shall be prosecuted as an adult.

(2) The alleged juvenile offender shall be presumed to be an adult if the alleged juvenile offender was: (A) 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint, if any such offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an offense which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new act charged and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and amendments thereto. If the juvenile is presumed to be an adult, the burden is on the juvenile to rebut the presumption by a preponderance of the evidence.

(3) At any time after commencement of proceedings under this code against a juvenile offender and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2013 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may

file a motion requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution.

(4) If the county or district attorney or the county or district attorney's designee files a motion to designate the proceedings as an extended jurisdiction juvenile prosecution and the juvenile was 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint and: (A) Charged with an offense: (i) If committed by an adult, would constitute an off-grid crime, a person felony or a nondrug severity level 1 through 6 felony; (ii) committed prior to July 1, 2012, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony; (iii) committed on or after July 1, 2012, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2, 3 or 4 felony; or (iv) was committed while in possession of a firearm; or (B) charged with a felony or with more than, one offense, one or more of which constitutes a felony, after having been adjudicated or convicted in a separate juvenile proceeding as having committed an act which would constitute a felony if committed by an adult and the adjudications or convictions occurred prior to the date of the commission of the new offense charged, the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution by a preponderance of the evidence. In all other motions requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution, the juvenile is presumed to be a juvenile. The burden of proof is on the prosecutor to prove the juvenile should be designated as an extended jurisdiction juvenile.

(b) The motion also may contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult or designating the proceedings as an extended jurisdiction juvenile prosecution under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.

(c) (1) Upon receiving the motion, the court shall set a time and place for hearing. The court shall give notice of the hearing to the juvenile, each parent, if service is possible, and the attorney representing the juvenile. The motion shall be heard and determined prior to any further proceedings on the complaint.

(2) At the hearing, the court shall inform the juvenile of the following:

- (A) The nature of the charges in the complaint;
- (B) the right of the juvenile to be presumed innocent of each charge;
- (C) the right to trial without unnecessary delay and to confront and cross-examine witnesses appearing in support of the allegations of the complaint;
- (D) the right to subpoena witnesses;
- (E) the right of the juvenile to testify or to decline to testify; and
- (F) the sentencing alternatives the court may select as the result of the juvenile being prosecuted under an extended jurisdiction juvenile prosecution.

(d) If the juvenile fails to appear for hearing on the motion after having been served with notice of the hearing, the court may hear and determine the motion in the absence of the juvenile. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the alleged juvenile offender after having given notice of the hearing at least once a week for two consecutive weeks in the official county newspaper of the county where the hearing will

be held.

(e) In determining whether or not prosecution as an adult should be authorized or designating the proceeding as an extended jurisdiction juvenile prosecution, the court shall consider each of the following factors:

(1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult or designating the proceeding as an extended jurisdiction juvenile prosecution;

(2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

(3) whether the offense was against a person or against property. Greater weight shall be given to offenses against persons, especially if personal injury resulted;

(4) the number of alleged offenses unadjudicated and pending against the juvenile;

(5) the previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;

(6) the sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living or desire to be treated as an adult;

(7) whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this code; and

(8) whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection, in and of itself, shall not be determinative of the issue. Subject to the provisions of K.S.A. 2013 Supp. 38-2354, and amendments thereto, written reports and other materials relating to the juvenile's mental, physical, educational and social history may be considered by the court.

(f) (1) The court may authorize prosecution as an adult upon completion of the hearing if the court finds from a preponderance of the evidence that the alleged juvenile offender should be prosecuted as an adult for the offense charged. In that case, the court shall direct the alleged juvenile offender be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(2) The court may designate the proceeding as an extended jurisdiction juvenile prosecution upon completion of the hearing if the juvenile has failed to rebut the presumption or the court finds from a preponderance of the evidence that the juvenile should be prosecuted under an extended jurisdiction juvenile prosecution.

(3) After a proceeding in which prosecution as an adult is requested pursuant to subsection (a)(2), and prosecution as an adult is not authorized, the court may designate the proceedings to be an extended jurisdiction juvenile prosecution.

(4) A juvenile who is the subject of an extended jurisdiction juvenile prosecution shall have the right to a trial by jury, to the effective assistance of counsel and to all other rights of a defendant pursuant to the Kansas code of criminal procedure. Each court shall adopt local rules to establish the basic procedures for extended jurisdiction juvenile prosecution in such court's jurisdiction.

(g) If the juvenile is present in court and the court also finds from the evidence that

it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the juvenile, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the juvenile bound over to the district judge having jurisdiction to try the case.

(h) If the juvenile is convicted, the authorization for prosecution as an adult shall attach and apply to any future prosecutions of the juvenile which are or would be cognizable under this code. If the juvenile is not convicted, the authorization for prosecution as an adult shall not attach and shall not apply to future prosecutions of the juvenile which are or would be cognizable under this code.

(i) If the juvenile is prosecuted as an adult under subsection (a)(2) and is not convicted in adult court of an offense listed in subsection (a)(2) but is convicted or adjudicated of a lesser included offense, the juvenile shall be a juvenile offender and receive a sentence pursuant to K.S.A. 2013 Supp. 38-2361, and amendments thereto.";

On page 15, in line 29, after "38-2268," by inserting "38-2347,";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, after "services;" by inserting "prosecution as an adult;"; in line 6, after "38-2268," by inserting "38-2347,";

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

JEFF KING

GREG SMITH

*Conferees on part of Senate*

JOHN J. RUBIN

RAMON C. GONZALEZ, JR.

JANICE L. PAULS

*Conferees on part of House*

On motion of Rep. Rubin, the conference committee report on **S Sub for HB 2588** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.



Absent or not voting: Carmichael, Schwab.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 367** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee of the Whole amendments, as follows:

On page 1, in line 8, after "level" by inserting "and which contains no personally identifiable student data";

On page 2, following line 19, by inserting:

"(i) "Personally identifiable student data" means student data that, alone or in combination, is linked or linkable to a specific student and would allow a reasonable person to identify the student with reasonable certainty.";

Also on page 2, in line 22, after "section." by inserting "An educational agency shall provide annual written notice to each student's parent or legal guardian that student data may be disclosed in accordance with this section. Such notice shall be signed by the student's parent or legal guardian and maintained on file with the district."; in line 24, by striking "the department or a school district" and inserting "an educational agency"; in line 32, after "agency" by inserting ", educational agency or school"; in line 43, after "first." by inserting "Except that a service provider engaged to perform a function of instruction may retain student transcripts as required by applicable laws and rules and regulations.";

On page 3, in line 1, by striking "NISTPS800-88" and inserting "NISTSP800-88"; in line 6, by striking the colon and inserting "that only"; in line 7, by striking "(A) Only"; in line 8, by striking "; and"; by striking all in lines 9 and 10; in line 30, by striking "and"; in line 32, after "disclosure" by inserting "; and

(5) student data to a public or private postsecondary educational institution which is required by such postsecondary educational institution for the purposes of application or admission of a student to such postsecondary educational institution, provided that such disclosure is consented to in writing by such student";

Also on page 3, in line 39, by striking "and" and inserting "or"; also in line 39, after "religion" by inserting a comma; in line 41, by striking "and" and inserting "or";

On page 4, in line 4, after "examination." by inserting "This section shall not prohibit school counselors from providing counseling services to a student, including the administration of tests and forms which are part of a counselor's student counseling services. Any information obtained through such tests or counseling services shall not be stored on any personal mobile electronic device which is not owned by the school district, including but not limited to, laptops, tablets, phones, flash drives, external hard drives or virtual servers."; in line 39, by striking "or de-identified data"; following line 41, by inserting:

"Sec. 10. K.S.A. 2013 Supp. 72-6214 is hereby amended to read as follows: 72-6214. (a) As used in this section, the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(1) "Board" means the state board of regents, the state board of education, the board of trustees of any public community college, the board of regents of any municipal university, the governing board of any technical college and the board of

education of any school district.

(2) "Student" means a person who has attained 18 years of age, or is attending an institution of postsecondary education.

(3) "Pupil" means a person who has not attained 18 years of age and is attending an educational institution below the postsecondary level.

(b) Every board shall adopt a policy in accordance with the student data privacy act and applicable federal laws and regulations to protect the right of privacy of any student, or pupil and such pupil's family regarding personally identifiable records, files and data directly related to such student or pupil. The board shall adopt and implement procedures to effectuate such policy by January 1, 1977. Such procedures shall provide for: (1) Means by which any student or parent of a pupil, as the case may be, may inspect and review any records or files directly related to the student or pupil; and (2) restricting the accessibility and availability of any personally identifiable records or files of any student or pupil and preventing disclosure thereof unless made upon written consent of such student or parent of such pupil, as the case may be. ~~To the extent that any other provision of law conflicts with this section, this section shall control.~~

Sec. 11. K.S.A. 2013 Supp. 72-6214 is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "act" by inserting "; amending K.S.A. 2013 Supp. 72-6214 and repealing the existing section";

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

KASHA KELLEY

WARD CASSIDY

ED TRIMMER

*Conferees on part of House*

STEVE E. ABRAMS

TOM ARPKE

ANTHONY HENSLEY

*Conferees on part of Senate*

On motion of Rep. Kelley, the conference committee report on **SB 367** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2596** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 9 through 34;

By striking all on page 2;

On page 3, by striking all in line 1; in line 36, by striking "and K.S.A. 2013 Supp. 74-4932 and"; in line 37, by striking "are" and inserting "is";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking all following "thereunder,"; in line 4 by striking "employees,"; also in line 4, by striking "and"; in line 5, by striking "K.S.A. 2013 Supp. 74-4932"; in line 6, by striking "sections" and inserting "section";

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

JEFF KING

JEFF LONGBINE

ANTHONY HENSLEY

*Conferees on part of Senate*

STEVEN C. JOHNSON

JIM HOWELL

ED TRIMMER

*Conferees on part of House*

On motion of Rep. Johnson, the conference committee report on **HB 2596** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2130** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, following line 5, by inserting:

"New Section 1. (a) A county election officer may request the preparation of a ballot language statement for the purposes of explaining the language of a ballot question of any municipality as defined by K.S.A. 75-6102, and amendments thereto.

(1) If a request is submitted pursuant to this subsection and if the ballot question language was derived from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall, within 10 days of certification, request the office of the county attorney, district attorney or county counselor, as applicable, to prepare the ballot language statement in compliance with the requirements of paragraph (3).

(2) If a request is submitted pursuant to this subsection and if the ballot question language did not derive from a petition submitted to the office of the county attorney, district attorney or county counselor pursuant to K.S.A. 25-3601, and amendments thereto, such county election officer shall, within 10 days of publication, request the office of secretary of state to prepare the ballot language statement in compliance with the requirements of paragraph (3).

(3) A ballot language statement shall fairly and accurately explain what a vote for and what a vote against the measure represents. Such ballot language statements shall be true and impartial statements of the effect of a vote for and against the measure in language neither intentionally argumentative nor likely to create prejudice for or against the proposed measure. A ballot language statement shall be prepared and transmitted in good faith and without malice.

(b) (1) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(1), the office of the county attorney, district attorney or county counselor, as applicable, shall prepare and forward such ballot language statement to the office of secretary of state for approval by the secretary of state or the secretary of state's designee that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following the receipt of the ballot language statement, the office of secretary of state shall furnish the county election officer with the ballot language statement as approved by the office of secretary of state as in compliance with the requirements of subsection (a)(3).

(2) Within 15 days of a request by a county election officer to prepare a ballot language statement pursuant to subsection (a)(2), the secretary of state or the secretary's designee shall prepare and forward such ballot language statement to the office of the attorney general for approval by the attorney general, or any assistant attorney general, that such ballot language statement complies with the requirements of subsection (a)(3). Within five days following the receipt of the ballot language statement, the office of the

attorney general shall furnish the county election officer with the ballot language statement as approved by the office of the attorney general as in compliance with the requirements of subsection (a)(3).

(c) A ballot language statement prepared under this section shall be:

(1) Posted in each polling place, but shall not be placed on the ballot;  
 (2) provided to registered voters voting by advance ballot. Such ballot language statement shall not be placed on the ballot when provided to a registered voter voting by advance ballot; and

(3) made available for public inspection in the office of the county election officer. A ballot language statement prepared under this section may be posted on the official website of the county.

(d) There shall be no cause of action at law or in equity challenging the validity of the form of a ballot language statement prepared under this section. There shall be no liability on the part of and no cause of action of any nature shall arise against the attorney general, any assistant attorney general, the secretary of state, the secretary of state's employees, the county election officer, the county attorney, the district attorney or the county counselor as a result of the preparation of a ballot language statement under this section. The preparation of a ballot language statement shall not form any basis for an election contest or result in the waiver of any immunity by the state or any of its subdivisions.

(e) If the ballot language statement is not available to insert with the advance ballots, no ballot language statement shall be prepared or made available at the polling place, office of the county election officer, on the official website of the county or the news media.

(f) The secretary of state may promulgate by rules and regulations the rights and responsibilities of election officials which shall be taught to all election officials to aid such officials in understanding their jobs.";

And by renumbering remaining sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "relating to ballot language statements;"

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

MITCH HOLMES  
 MICHAEL O'DONNELL  
 OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

SCOTT SCHWAB  
 STEVE HUEBERT  
 TOM SAWYER  
*Conferees on part of House*

On motion of Rep. Huebert, the conference committee report on **HB 2130** was adopted.

On roll call, the vote was: Yeas 123; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson,

Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2296** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 1, following line 5, by inserting:

"Section 1. K.S.A. 25-904 is hereby amended to read as follows: 25-904. (a) Every candidate for election to any city of the second and third class, unified school district, community college or township office subject to this act who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each the primary and the general election shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the county election officer of the county of residence of the candidate. No report required by subsection (b) shall be required to be filed by or for such candidate.

(b) Except as provided in subsection (a), it shall be the duty of every candidate for nomination or for election to any city of the second and third class, unified school district, community college or township office subject to this act, within 30 days after each primary, general or special election, to file with the county election officer an itemized statement under oath stating the name and address of each person who has made any contribution in excess of \$50 during the election period together with the amount and date of such contributions and an itemized statement of all expenditures made by such candidate or obligations contracted or incurred by such candidate in connection with each primary, general or special election.

(c) No candidate which is subject to the provisions of the campaign finance act ~~(, K.S.A. 25-4142 et seq., and amendments thereto)~~, shall be required to file any report required by this section.

(d) Any candidate who has signed an affidavit pursuant to subsection (a) and who incurs expenses in excess of or receives contributions in excess of ~~\$500~~ \$1,000, exclusive of such candidate's filing fee for either the primary or the general election,

shall file the report required by subsection (b).

Sec. 2. K.S.A. 2013 Supp. 25-4148a is hereby amended to read as follows: 25-4148a. When a report is made under this act and the amount being contributed by an individual is over \$150, the report shall list the occupation ~~and industry~~ of the individual contributor. If the individual contributor is not employed for compensation then the report shall list the occupation ~~and industry~~ of the contributor's spouse.";

Also on page 1, in line 6, by striking "2012" and inserting "2013";

On page 2, following line 42, by inserting:

"Sec. 5. K.S.A. 25-4173 is hereby amended to read as follows: 25-4173. Every candidate for state or local office who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each of the primary and the general elections shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the secretary of state for state offices. In the case of a candidate for a local office, such affidavit also shall be filed with the county election officer of the county in which the name of the candidate is on the ballot. No report required by K.S.A. 25-4148, and amendments thereto, shall be required to be filed by or for such candidate.

Sec. 6. K.S.A. 46-268 is hereby amended to read as follows: 46-268. (a) Except as otherwise provided in subsection (b), every lobbyist shall file with the secretary of state a report of employment and expenditures on a form and in the manner prescribed and provided by the commission. A report shall be filed on or before the 10<sup>th</sup> day of the months of February, March, April, May, September and January. Reports shall include all expenditures which are required to be reported under K.S.A. 46-269, and amendments thereto, or a statement that no expenditures in excess of \$100 were made for such purposes, during the preceding calendar month or months since the period for which the last report was filed.

(b) For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file an affidavit of such intent with the secretary of state. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed ~~but shall file a report on or before January 10, which shall include all expenditures made in the preceding calendar year which are required to be reported under K.S.A. 46-269, and amendments thereto.~~ If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a).";

Also on page 2, in line 43, after the first "K.S.A." by inserting "25-904,"; also in line 43, after "25-4157" by inserting "25-4173 and 46-268"; also in line 43, by striking "2012" and inserting "2013"; also in line 43, after "25-4157a" and inserting "and 25-4148a";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "campaign finance" and inserting "candidates and lobbyists"; in line 2, after the semicolon by inserting "concerning campaign finance disclosures; relating to certain lobbyist filings;"; also in line 2, after the first "K.S.A." by inserting "25-904,"; also in line 2, after "25-4157" by inserting ", 25-4173 and 46-268"; also in line 2, by striking "2012" and inserting "2013"; also in

line 2, after "25-4157a" by inserting "and 25-4148a";

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

MITCH HOLMES  
MICHAEL O'DONNELL  
OLETHA FAUST-GOUDEAU  
*Conferees on part of Senate*

SCOTT SCHWAB  
STEVE HUEBERT  
TOM SAWYER  
*Conferees on part of House*

On motion of Rep. Huebert, the conference committee report on **HB 2296** was adopted.

On roll call, the vote was: Yeas 119; Nays 4; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Concannon, Corbet, Crum, Curtis, E. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meigs, Menghini, Merrick, Moxley, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: Bridges, Clayton, P. Davis, Meier.

Present but not voting: None.

Absent or not voting: Carmichael, Schwab.

## CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2537** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 8, following line 34, by inserting:

"Sec. 5. K.S.A. 2-224 is hereby amended to read as follows: 2-224. (a) The state fair board is hereby authorized to purchase safe burglary and messenger robbery insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year. Such board is also authorized to purchase insurance coverage for any rented or borrowed motorized vehicles used during the state fair indemnifying the board against loss or damage to such vehicles and against liability for the operation of such vehicles. ~~The insurance shall~~



be acquired through the committee on surety bonds and insurance as provided by law.

(b) The state fair board is hereby authorized to purchase event cancellation and rain insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year.

(c) Any insurance purchased pursuant to this section shall not be required to be acquired through the committee on surety bonds and insurance as required by K.S.A. 75-4101 et seq., and amendments thereto.

Sec. 6. K.S.A. 2013 Supp. 75-4105 is hereby amended to read as follows: 75-4105. Except as provided in K.S.A. 2-224 and K.S.A. 2013 Supp. 75-4125, and amendments thereto, all surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the committee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

Sec. 7. K.S.A. 2013 Supp. 75-4109 is hereby amended to read as follows: 75-4109. (a) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments ~~to these sections thereto~~, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in

subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the committee, except as provided herein or by K.S.A. 2013 Supp. 75-4125, and amendments thereto, or specifically required by other Kansas statutes or appropriations.";

And by renumbering sections accordingly;

Also on page 8, in line 35, before "K.S.A." by inserting "K.S.A. 2-224 and"; also in line 35, by striking "and" and inserting a comma; in line 36, by inserting after "2140", ", 75-4105 and 75-4109";

On page 1, in the title, in line 7, after "corrections;" by inserting " relating to the purchase of certain insurance by the state fair board"; also in line 7, after "amending" by inserting "K.S.A. 2-224 and"; also in line 7, by striking "and" and inserting a comma; in line 8, after "40-2140" by inserting ", 75-4105 and 75-4109";

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

ROB OLSON  
JEFF LONGBINE  
TOM HAWK

*Conferees on part of Senate*

SCOTT SCHWAB  
MARK HUTTON  
RODERICK HOUSTON

*Conferees on part of House*

On motion of Rep. Hutton, the conference committee report on **HB 2537** was adopted.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carlson, Carpenter, Cassidy, Christmann, Claeys, Clayton, Concannon, Corbet, Crum, Curtis, E. Davis, P. Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Edwards, Esau, Estes, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Huebert, Hutton, Jennings, Johnson, Jones, Kahrs, Kelley, Kelly, Kiegerl, Kinzer, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Meier, Meigs, Menghini, Merrick, O'Brien, Osterman, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Rubin, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Schwartz, Seiwert, Sloan, Sloop, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Carmichael, Moxley, Schwab.

#### MESSAGE FROM THE SENATE

The Senate nonconcurrs in House amendments to **H Sub for SB 245**, requests a conference and has appointed Senators Masterson, Denning and Kelly as conferees on

the part of the Senate.

### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **H Sub for SB 245**.

### **INTRODUCTION OF ORIGINAL MOTIONS**

On motion of Rep. Vickrey, the House acceded to the request of the Senate for a conference on **H Sub for SB 245**.

Speaker Merrick thereupon appointed Reps. Suellentrop, Kleeb and Henry as conferees on the part of the House.

### **CHANGE OF CONFEREES**

Speaker Merrick announced the appointment of Reps. Brunk, Couture-Lovelady and Ruiz to replace Reps. Goico, Osterman and Meier as conferees on **HB 2580**.

### **REPORT ON ENGROSSED BILLS**

**S Sub for HB 2338, HB 2506, HB 2578, Sub HB 2681** reported correctly engrossed April 8, 2014.

### **REPORT ON ENROLLED BILLS**

**S Sub for HB 2065, S Sub for HB 2101, S Sub for HB 2182, S Sub for HB 2197, HB 2272, S Sub for HB 2378, HB 2419, HB 2420, Sub HB 2436, HB 2447, HB 2479, S Sub for HB 2482, HB 2516, HB 2577, HB 2636, HB 2724, HB 2728, HB 2744** reported correctly enrolled, properly signed and presented to the Governor on April 8, 2014.

**HB 2057, Sub HB 2223, S Sub for HB 2298, S Sub for HB 2338, Sub HB 2442, Sub Bill for HB 2451, Sub HB 2452** reported correctly enrolled, properly signed and presented to the Governor on April 11, 2014.

**HB 2418, HB 2506, HB 2552, HB 2553, HB 2578, S Sub for HB 2655, H Sub for HB 2681** reported correctly enrolled, properly signed and presented to the Governor on April 14, 2014.

### **REPORT ON ENROLLED RESOLUTIONS**

**HR 6072** reported correctly enrolled and properly signed on April 8, 2014.

On motion of Rep. Vickrey, the House adjourned until 10:00 a.m., Thursday, May 1, 2014.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

