

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, April 4, 2013, 10:00 a.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with forty senators present.
Invocation by Father Don Davidson:

Dear Lord, on this date in 1887 Susanna Medora Salter was elected 1st US woman mayor of Argonia, Kansas. Also on this date in 1818 the Congress decided the form and shape of the American Flag. We do not know what amazing thing might happen today that will be reported hundreds of years from now, but let us never lose sight that what we do here may well have an effect on the days and years to come. It is much too easy to live in the “now” without a sense of the “tomorrow.” Help us O Lord to keep one eye focused on our current situation, and one eye always looking forward. In your holy name, Amen

The Pledge of Allegiance was led by Vice President Jeff King.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Love, Hensley, Kelly and V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1753—

A RESOLUTION congratulating and commending Washburn alumni
Michael Wilhoite and Cary Williams for competing in the 2013 Super Bowl,
and the leadership of Washburn Head Football Coach Craig Schurig.

WHEREAS, Michael Wilhoite, of Topeka, Kansas, where he attended Highland Park High School, earned All-MIAA honors as a senior linebacker at Washburn University after recording 81 tackles in one season. He finished his Washburn career with over 200 total tackles, which ranked him high in the Washburn record book. He finished his career at Washburn with 109 solo stops. Following his Washburn career, Michael signed with the Omaha Nighthawks, a professional team in the UFL (United Football League). Through his talent, character and work ethic, he was then signed by the San Francisco

49ers and was eventually selected to be a team captain; and

WHEREAS, Cary Williams came to Washburn University (WU) in 2006. He was named to the AP Little All-American Team as well as the Daktronics All-American team his senior season. Williams was named unanimous first team All-MIAA at defensive back after recording seven INTs. He also ranked fifth in NCAA Division II in interceptions per game as a senior. His seven INTs are the second most in WU single-season history. He returned two kickoffs for TDs which tied a WU single-season record and is a WU career record as well. His 100-yard kickoff return is tied for the longest return in school history. He finished his career with 94 tackles including 67 solo stops with 11 interceptions. He was then drafted by the Tennessee Titans, before he was eventually signed by the Baltimore Ravens where he has recorded close to 200 tackles and 4 interceptions; and

WHEREAS, It is very rare for two individuals who were teammates at a Kansas Division II school to be signed to an NFL team. Both of these young men had the goal of playing in the NFL, and both of them achieved this goal. Further, it is even more unheard of for two Division II teammates to play against each other in a Super Bowl. This occurred on February 3, 2013, when the San Francisco 49ers played against the Baltimore Ravens in the Super Bowl; and

WHEREAS, Much of the success of the Washburn University football program can be attributed to the leadership of Head Coach Craig Schurig. In ten seasons as the Ichabods' head coach, Craig Schurig has built one of the most respected programs in the MIAA with three NCAA playoff appearances and the 2005 MIAA title coming on the heels of 2007, 2009 and 2011 runner-up finishes in the conference race. He has completed a 72-44 record at Washburn. He is the all-time winningest coach at Washburn, with 9 consecutive winning seasons (after Washburn had only one winning season in the 15 seasons before he arrived). He has coached 171 MIAA Academic Honor Roll members, 133 All-MIAA players, 18 All-Americans, 5 NFL players, 3 Academic All-Americans and 2 NFL draft picks: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Washburn Alum and Baltimore Ravens cornerback Cary Williams, Washburn Alum and San Francisco 49ers linebacker Michael Wilhoite and Washburn Head Coach Craig Schurig for their success and representation of Washburn and our state on a national level, and wish them much more success in future endeavors. We also thank them for serving as role models to our Kansas youth; and

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

The Senators honored those present with a standing ovation.

On emergency motion of Senator Love **SR 1753** was adopted unanimously.

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

SENATE RESOLUTION No. 1752—

A RESOLUTION congratulating the Ottawa High School men's basketball team on its class 4A state championship.

WHEREAS, The Ottawa High School men's basketball team won the class 4A state basketball championship against Highland Park High School; and

WHEREAS, The game took place at the Bicentennial Center in Salina. Ottawa won the game 54-45; and

WHEREAS, The Ottawa High School men's basketball team went undefeated this season with a record of 25-0. This is the first state championship for the high school in 41 years; and

WHEREAS, The seniors on the team began their playing careers with undefeated seasons as both 7th and 8th graders at Ottawa Middle School; and

WHEREAS, The Ottawa High School men's basketball team is also academically successful. They have an overall GPA of 3.62 and an average ACT score of 22; and

WHEREAS, Head Coach, Jon McKowen, and Assistant Coaches, Evan Shaffer and Blake Lasley, worked diligently with the team throughout the season to improve their skills and lead them to the state championship game; and

WHEREAS, The members of the 2013 Ottawa High School men's basketball team were Semi Ojeleye, Kaden Shaffer, Wyatt Peters, Dillon Boeh, Jordan Markley, Austin Blau, Alex Hasty, Dallas Natt, Taylor Graf, Tyler Smith, Rob Hedrick, Ian Mathews and Quentin Blau. Semi Ojeleye currently holds the Kansas state scoring record at 2,763 points. The team managers were Alexis Dunnivan, Steph Brands, Erika Doty and Nate Rodriguez: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the 2013 Ottawa High School men's basketball team on its class 4A state championship. These young men have worked very hard throughout the season, and this state championship is a testament to that hard work; and

Be it further resolved: That the Secretary of the Senate be directed to provide five enrolled copies of this resolution to Senator Tyson.

Team members were introduced and the Senators honored them with a standing ovation.

On emergency motion of Senator Tyson **SR 1752** was adopted unanimously.

ORIGINAL MOTION

On motion of Senator Lynn, the Senate acceded to the request of the House for a conference on **HB 2069**.

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

On motion of Senator Ostmeyer, the Senate acceded to the request of the House for a conference on **S Sub for HB 2199**.

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

CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 199** submits the following report:

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

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

On motion of Senator Pilcher-Cook the Senate adopted the conference committee report on **SB 199**, and requested a new conference be appointed. The Vice President appointed Senators Pilcher-Cook, Bowers and Kelly as a second Conference Committee on the part of the Senate on **SB 199**.

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2253** submits the following report:

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

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

On motion of Senator Pilcher-Cook the Senate adopted the conference committee report on **HB 2253**, and requested a new conference be appointed. The Vice President appointed Senators Pilcher-Cook, Bowers and Francisco as a second Conference Committee on the part of the Senate on **HB 2253**.

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2249** submits the following report:

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

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

On motion of Senator Pyle the Senate adopted the conference committee report on **HB 2249**, and requested a new conference be appointed. The Vice President appointed Senators Pyle, Holmes and Faust-Goudeau as a second Conference Committee on the part of the Senate on **HB 2249**.

REPORT ON ENGROSSED BILLS

SB 231 reported correctly engrossed April 03, 2013.

REPORT ON ENROLLED BILLS

SCR 1606; SR 1746, SR 1747, SR 1748, SR 1749, SR 1750, SR 1751 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on April 4, 2013.

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

AFTERNOON SESSION

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

POINT OF PERSONAL PRIVILEGE

Two score and five years this very evening, a single rifle shot emanated from a depraved and racist would-be assassin. Now the bullet struck and took the mortal life of Martin Luther King, Jr. as he stood with several of his associates on a balcony at the Lorraine Hotel in Memphis, Tennessee. My dad was a member of the Kansas Senate that fateful day. He had been a class mate of Dr. King's just twenty years before at Morehouse College in Atlanta, Georgia and had just hosted an event with him in Kansas City a few months before. As a boy of nine or so, it frightened me to see the shock and to hear the quavering fear in my mother's voice as she stood at the kitchen phone talking to dad there in that house in Kansas City. What of it...momma...why are you upset...what does it mean...he isn't a relative...or even a friend...why...tell me, please,

why are you so sad? My mother couldn't explain the incredible loss that she and countless millions of people were feeling at that moment. Even today, at this hour forty-five years later, living in America that has made great strides to move ever closer to the realism of his dream...I still, now as a grown man, can feel the echo...the sting...the immeasurable loss of that day. But thank God, Madam President, Thank God. The dream didn't die with the dreamer. The movement for civil rights and for personal dignity to be heir every American regardless of social or economic station...regardless of race, or of religion or of class or of gender...the dream has made great strides in forty-five years, and a martyr at only 39, Dr. King's legacy has lived longer than he did and it holds significant truths...evident at so many levels. In this forty-fifth anniversary year, for example, America has grown tolerant enough, big enough, mature enough to elect to high office persons on the basis of the content of their character and on their ability and not on their gender or on their age or on their race. Every year that I've been in this Legislature, I have commemorated the greatness of Dr. King and of his message; now enshrined in a great monument bearing his likeness and much of his insightful eloquence by the Reflecting Pool on the Mall in Washington, D.C. A message that human rights and equality are the birthright of every human being...a message which he, and so many others have lived, fought, died and continue to work towards...around the world. In closing, Madam President, Dr. King's remembrance from the moment that we heard that the fatal shot had been fired until this very moment should be an inspiration to us all to participate in the equality that comes of justice and the commitment to uplift all humanity through understanding and that our differences are not as diverse as our similarities. Senator Faust-Goudeau requests the record to show she joins with Senator Haley on his point of personal privilege.

MESSAGES FROM THE GOVERNOR

SB 28, SB 51, SB 52, SB 59, SB 85, SB 216 approved on April 4, 2013.

SB 28, SB 51, SB 52, SB 59, SB 85, SB 216 have been signed into law.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

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

SENATE RESOLUTION No. 1754—

A RESOLUTION congratulating the McPherson High School women's volleyball team on its class 4A state championship.

WHEREAS, The McPherson High School women's volleyball team won the class 4A state championship; and

WHEREAS, The Lady Bulldogs beat the Topeka Hayden High School women's volleyball team for McPherson High School's first ever state volleyball championship; and

WHEREAS, This year's McPherson High School women's volleyball team had a record of 42-5, which is the second best volleyball record in school history. The state title was won with game scores of 22-25, 25-22 and 25-23 in a very eventful and close match against Topeka Hayden High School on October 27, 2012; and

WHEREAS, The team's coach, Christy Doile, along with assistant coaches Diane Marshall, Molly Pannbacker and Cheryl Malm, worked with the team all year

improving the skills of the team and preparing them for the state championship game. Coach Christy Doile was named 2012 4A Coach of the Year; and

WHEREAS, The members of the championship team were Katelyn Loecker, Briana Pontious, Tashley Snyder, Janae Barnes, Alisa Becker, Abby Pedersen, Paige Regnier, Moira Pyle, Taylor Metz, Rhianna Smith, Hannah Marshall, Katlyn Reifschneider, Magan Alexander and Megan Pederesen. The team managers were Doralynn Mellinger, Hayden Wash, Ryon Shaw, Katelyn Pennington and Taylor Radke, and the student trainer was Jacob Brossard; and

WHEREAS, The Class 4A State All Tournament team includes seniors Katelyn Loecker and Briana Pontious and junior Paige Regnier. Katelyn Loecker and Paige Regnier were also named to the Class 4A All-State First Team, and Briana Pontious was selected to the Class 4A All-State Second Team: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate the McPherson High School women's volleyball team on its class 4A state championship. These young women have exhibited dedication and a great work ethic, and we wish them further success in the future; and

Be it further resolved: That the Secretary of the Senate be directed to provide 27 enrolled copies of this resolution to Senator Emler.

On emergency motion of Senator Emler **SR 1754** was adopted unanimously.

CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 122** submits the following report:

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

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

On motion of Senator King the Senate adopted the conference committee report on **SB 122**, and requested a new conference be appointed.

The President appointed Senators King, Smith and Haley as a second Conference Committee on the part of the Senate on **SB 122**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 187** submits the following report:

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

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

On motion of Senator Lynn the Senate adopted the conference committee report on **SB 187**, and requested a new conference be appointed.

The President appointed Senators Lynn, Wagle and Holland as a second Conference Committee on the part of the Senate on **SB 187**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2234** submits the following report:

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

conference committee be appointed;

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

On motion of Senator Masterson the Senate adopted the conference committee report on **HB 2234**, and requested a new conference be appointed.

The President appointed Senators Masterson, Denning and Kelly as a second Conference Committee on the part of the Senate on **HB 2234**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 23** submits the following report:

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

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

On motion of Senator Abrams the Senate adopted the conference committee report on **SB 23**, and requested a new conference be appointed.

The President appointed Senators Abrams, Arpke and Hensley as a second Conference Committee on the part of the Senate on **SB 23**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 102** submits the following report:

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

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

On motion of Senator Ostmeyer the Senate adopted the conference committee report on **SB 102**, and requested a new conference be appointed.

The President appointed Senators Ostmeyer, Emler and Emler as a second Conference Committee on the part of the Senate on **SB 102**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **SB 124** submits the following report:

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

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

On motion of Senator King the Senate adopted the conference committee report on **SB 124**, and requested a new conference be appointed.

The President appointed Senators King, Smith and Haley as a second Conference Committee on the part of the Senate on **SB 124**.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **S Sub for HB 2167**.

The House adopts the Conference Committee report to agree to disagree on **Sub HB 2183**, and has appointed Representatives Crum, Weber and Ward as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **HB 2201**, and has appointed Representatives Seiwert, Garber and Kuether as Second

conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 122**, and has appointed Representatives Kinzer, Bruchman and Pauls as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 187**, and has appointed Representatives Kleebe, Suellentrop and Frownfelter as Second conferees on the part of the House.

The House adopts the Conference Committee report on **Sub SB 57**.

The House adopts the Conference Committee report on **SB 96**.

The House adopts the Conference Committee report on **SB 168**.

The House adopts the Conference Committee report on **Sub HB 2024**.

The House concurs in Senate amendments to **HB 2139**, and requests return of the bill.

The House concurs in Senate amendments to **S Sub for HB 2150**, and requests return of the bill.

The House adopts the Conference Committee report to agree to disagree on **HB 2249**, and has appointed Representatives Huebert, Phillips and Alcalá as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **HB 2253**, and has appointed Representatives Siegfried, Brunk and Ruiz as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 23**, and has appointed Representatives Cassidy, Grosserode and Winn as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 102**, and has appointed Representatives Siegfried, Brunk and Ruiz as Second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 124**, and has appointed Representatives Kinzer, Bruchman and Pauls as Second conferees on the part of the House.

The House adopts the Conference Committee report on **HB 2009**.

The House adopts the Conference Committee report on **HB 2033**.

The House adopts the Conference Committee report on **Sub Bill for HB 2043**.

The House adopts the Conference Committee report on **SB 164**.

The House announced the appointment of Rep. Menghini as a conferee on **HB 2059**, to replace **Rep. Sawyer**.

The House announced the appointment of Rep. Menghini as a conferee on **HB 2060**, to replace Rep. Sawyer.

The House announced the appointment of Rep. Menghini as a conferee on **H Sub for SB 84**, to replace Representative Sawyer.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2249** submits the following report:

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

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

On motion of Senator Pyle the Senate adopted the conference committee report on **HB 2249**, and requested a new conference be appointed. The Vice President appointed Senators Pyle, Holmes and Faust-Goudeau as a second Conference Committee on the part of the Senate on **HB 2249**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2078** 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, in line 11, after "thereto" by inserting ", except for licensing boards under K.S.A. 65-1116 and 65-6129, and amendments thereto"; in line 16, by striking "complete" and inserting "a completed"; in line 31, by striking "a"; also in line 31, by striking "person";

On page 2, in line 26, by striking "complete" and inserting "completed";

On page 3, in line 22, after the period by creating a paragraph;

On page 5, in line 13, by striking "under honorable conditions"; in line 14, by striking "(general) discharge" and inserting "with a general discharge under honorable conditions";

On page 7, in line 7, by striking "under honorable"; in line 8, by striking "conditions (general) discharge"; in line 9, after the stricken material, by inserting "with a general discharge under honorable conditions";

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

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

Conferees on part of Senate

MARIO GOICO

JOE SEIWERT

MELANIE MEIER

Conferees on part of House

Senator Pilcher-Cook moved the Senate adopt the Conference Committee Report on **HB 2078**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2109** 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 5 through 31;

On page 2, by striking all in lines 1 through 7; and inserting the following:

"Section 1. (a) Any school district that provides public access to a computer shall implement and enforce technology protection measures to ensure that no minor has access to visual depictions that are child pornography, harmful to minors or obscene. Each board of education shall adopt policies for the enforcement of this subsection. Such policies and any standards or rules promulgated pursuant to such policies shall be made available to the public.

(b) (1) Any public library that provides public access to a computer shall implement and enforce technology protection measures to:

(A) Ensure that no minor has access to visual depictions that are child pornography, harmful to minors or obscene; and

(B) ensure that no person has access to visual depictions that are child pornography or obscene.

(2) An employee of a public library may disable a technology protection measure if:

(A) Requested to do so by a library patron who is not a minor; and

(B) the technology protection measure is disabled only to enable access for legitimate research or other lawful purpose.

(c) The state librarian shall establish standards and promulgate rules and regulations for the enforcement of the provisions of subsection (b). Such standards and rules and regulations shall be distributed to the public libraries in this state, posted in a conspicuous place in such public libraries and made available to the public.

(d) The governing body of each public library shall adopt a policy to implement and enforce the provisions of subsection (b) in accordance with the standards and rules and regulations described in subsection (c). Such policy shall be reviewed at least once every three years by such governing body and shall:

(1) State that the purpose of the policy is to restrict access to those materials that are child pornography, harmful to minors or obscene;

(2) provide how such public library will meet the requirements of this section;

(3) require such public library to inform its patrons of the standards and rules and regulations that library employees follow to enforce the provisions of this section; and

(4) require such public library to inform its patrons that procedures for the submission of complaints about the standards and rules and regulations, the enforcement thereof, or observed patron behavior, have been adopted and are available for review.

(e) Any school district or public library that is in compliance with the provisions of this section shall not be liable for any damages arising out of or related to a minor gaining access to visual depictions that are child pornography, harmful to minors or obscene through the use of a computer that is owned or controlled by such school district or public library.

(f) As used in this section:

(1) "Board of education" means the board of education of any school district;

(2) "child pornography" means a visual depiction of a minor shown or heard

engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person;

(3) "harmful to minors" shall have the same meaning as that term is defined in K.S.A. 2012 Supp. 21-6402, and amendments thereto;

(4) "minor" means any person under 18 years of age;

(5) "obscene" shall have the same meaning as that term is defined in K.S.A. 2012 Supp. 21-6401, and amendments thereto;

(6) "public library" means any library established pursuant to article 12 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and any other library which serves the general public and is funded in whole or in part from moneys derived from tax levies;

(7) "school district" means any public school district organized under the laws of this state;

(8) "technology protection measure" means any computer technology or other process that blocks or filters online access to visual depictions; and

(9) "visual depiction" shall have the same meaning as that term is defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

(g) This act shall be known and may be cited as the Kansas children's internet protection act.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all following "ACT"; in line 2, by striking all before the period and inserting "creating the Kansas children's internet protection act";

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

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

WARD CASSIDY

AMANDA GROSSERODE

VALDENIA WINN

Conferees on part of House

Senator Abrams moved the Senate adopt the Conference Committee Report on **HB 2109**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2261** 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 6, by inserting:

"New Section 1. (a) In order to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week of September containing the 17th day of such month in each year thereafter is hereby designated as "celebrate freedom week" in each public school offering any of the grades kindergarten through eight.

(b) The state board of education, in cooperation with such other state agencies or private entities who voluntarily participate, shall promote "celebrate freedom week" through a coordinated program.

(c) For purposes of this section, Sunday is deemed to be the first day of the week.

New Sec. 2. On or before December 31, 2013, the state board of education shall adopt rules and regulations requiring appropriate instruction be provided as part of the curriculum for grades kindergarten through eight on history and government concerning the original intent, meaning and importance of the declaration of independence and the United States constitution, including the bill of rights of the United States constitution, in their historical contexts. The religious references in the writings of the founding fathers shall not be censored when presented as part of such instruction. Such rules and regulations shall provide that the study of the declaration of independence include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of such ideas to the rich diversity of our people as a nation of immigrants, the American revolution, the formulation of the United States constitution and the abolitionist movement, which led to the emancipation proclamation and the women's suffrage movement. Such instruction shall be taught during "celebrate freedom week," established under section 1, and amendments thereto, or during such other full school week as determined by the board of education of the school district.";

On page 9, in line 32, by striking "June" and inserting "July"; in line 34, by striking "June 30" and inserting "July 15";

On page 11, following line 9, by inserting:

"Sec. 15. K.S.A. 2012 Supp. 72-8256 is hereby amended to read as follows: 72-8256. (a) As used in this section:

(1) "Bullying" means: (A) Any intentional gesture or any intentional written, verbal, electronic or physical act or threat either by any student, staff member or parent towards a student or by any student, staff member or parent towards a staff member that is sufficiently severe, persistent or pervasive that it such gesture, act or threat creates an intimidating, threatening or abusive educational environment ~~for a student or staff member~~ that a reasonable person, under the circumstances, knows or should know will have the effect of:

- (i) Harming a student or staff member, whether physically or mentally;
- (ii) damaging a student's or staff member's property;
- (iii) placing a student or staff member in reasonable fear of harm to the student or staff member; or
- (iv) placing a student or staff member in reasonable fear of damage to the student's or staff member's property;

(B) cyberbullying; or

(C) any other form of intimidation or harassment prohibited by the board of education of the school district in policies concerning bullying adopted pursuant to this section or subsection (e) of K.S.A. 72-8205, and amendments thereto.

(2) "Cyberbullying" means bullying by use of any electronic communication device through means including, but not limited to, e-mail, instant messaging, text messages, blogs, mobile phones, pagers, online games and websites.

(3) "Parent" includes a guardian, custodian or other person with authority to act on behalf of the child.

(4) "School district" or "district" means any unified school district organized and operating under the laws of this state.

~~(5)~~ (5) "School vehicle" means any school bus, school van, other school vehicle and private vehicle used to transport students or staff members to and from school or any school-sponsored activity or event.

(6) "Staff member" means any person employed by a school district.

(b) The board of education of each school district shall adopt a policy to prohibit bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(c) The board of education of each school district shall adopt and implement a plan to address bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto.

(e) Nothing in this section shall be construed to limit or supersede or in any manner affect or diminish the requirements of compliance by a staff member with the provisions of K.S.A. 2012 Supp. 38-2223 or 38-2226, and amendments thereto.;

And by renumbering sections accordingly;

On page 12, in line 10, after "72-8250," by inserting "72-8256,";

On page 1, in the title, in line 1, by striking "school finance" and inserting "the financing thereof; relating to the policies thereof; establishing celebrate freedom week and related curriculum"; in line 3, after "72-8250," by inserting "72-8256,";

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

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

KASHA KELLEY

WARD CASSIDY

ED TRIMMER

Conferees on part of House

Senator Abrams moved the Senate adopt the Conference Committee Report on **HB 2261**.

On roll call, the vote was: Yeas 36; Nays 3; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle.

Nays: Knox, Tyson, Wolf.

Present and Passing: Francisco.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2303** 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 5, in line 35, after the period by inserting:

"(1) ";

Also on page 5, in line 39, after the period by inserting:

"(2) On and after July 1, 2013, through June 30, 2017,";

Also on page 5, in line 43, by striking "25.5%" and inserting "26%";

On page 6, in line 2, by striking "10.2%" and inserting "12%"; in line 4, by striking "10.2%" and inserting "12%"; in line 5, by striking "17.3%" and inserting "17%"; in line 7, by striking "36.7%" and inserting "33%"; following line 12, by inserting:

"(3) On and after July 1, 2017, all reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 35% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund created by K.S.A. 28-176, and amendments thereto, and 25% to the driving under the influence fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.";

On page 10, in line 2, by striking "department of social and"; in line 3, by striking "rehabilitation" and inserting "Kansas department for aging and disability"; in line 4, by striking "department of social and rehabilitation" and inserting "Kansas department for aging and disability"; in line 5, by striking "of social and rehabilitation" and inserting "for aging and disability"; in line 18, by striking "Topeka state hospital,"; in line 34, by striking "of social and rehabilitation" and inserting "for aging and disability";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, after "fees;" by inserting "relating to"; in line 5, after the second "fund;" by inserting "interest thereon;";

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

JEFF KING
GREG SMITH
DAVID HALEY

Conferees on part of Senate

VIRGIL PECK, JR.
BRET HILDABRAND
ROBERT GRANT

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **HB 2303**.

On roll call, the vote was: Yeas 34; Nays 6; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, V. Schmidt, Tyson, Wagle, Wolf.

Nays: Arpke, Faust-Goudeau, Haley, Lynn, Pyle, Smith.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2319** 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 3, in line 5, after "education" by inserting ", the open meetings act as provided in K.S.A. 75-4317 et seq., and amendments thereto, and the open records act as provided in K.S.A. 45-215 et seq., and amendments thereto";

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

STEVE ABRAMS
TOM ARPKE
ANTHONY HENSLEY

Conferees on part of Senate

KASHA KELLEY
WARD CASSIDY
ED TRIMMER

Conferees on part of House

Senator Abrams moved the Senate adopt the Conference Committee Report on **HB 2319**.

On roll call, the vote was: Yeas 29; Nays 11; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Pettey, V. Schmidt, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2107** 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 5, in line 28, after "applicant" by inserting ", policy holder"; in line 33, by striking "shall" and inserting "may";

On page 6, in line 23, by striking "shall" and inserting "may"; by striking all in lines 28 through 30 and inserting the following:

"Sec. 6. K.S.A. 2012 Supp. 40-2124 is hereby amended to read as follows: 40-2124. (a) Coverage under the plan shall be subject to both deductible and coinsurance provisions set by the board. The plan shall offer to current participants and new enrollees no fewer than four choices of deductible and copayment options. Coverage shall contain a coinsurance provision for each service covered by the plan, and such copayment requirement shall not be subject to a stop-loss provision. Such coverage may provide for a percentage or dollar amount of coinsurance reduction at specific thresholds of copayment expenditures by the insured.

(b) Coverage under the plan shall be subject to a maximum lifetime benefit of ~~\$3,000,000~~ \$4,000,000 per covered individual.

(c) Coverage under the plan shall exclude charges or expenses incurred during the first 90 days following the effective date of coverage as to any condition:

(1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment; or

(2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions may be excluded as determined by the board, except that no such exclusion shall exceed 180 calendar days, and no exclusion shall be applied to either a federally defined eligible individual provided that application for coverage is made not later than 63 days following the applicant's most recent prior creditable coverage or an individual under the age of 19 years who is eligible for enrollment in the plan under paragraph (3) of subsection (b) of K.S.A. 40-2122, and amendments thereto. For any individual who is eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986, the preexisting conditions limitation will not apply whenever such individual has maintained creditable health insurance coverage for an aggregate period of three months, not counting any period prior to a 63-day break in coverage, as of the date on which such individual seeks to enroll in coverage provided by this act.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether

provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 7. K.S.A. 40-12a08 is hereby amended to read as follows: 40-12a08. No insured shall be liable for any amounts other than the annual premium. The business of the company shall be conducted so as to preclude any distribution of income, profit or property of the company to the individual members thereof except in payment of dividends, debts, claims or indemnities or upon the final dissolution of the company. Dividends may be credited to a member's account and distributed in accordance with a plan adopted by the board of directors.

Sec. 8. K.S.A. 39-719e is hereby amended to read as follows: 39-719e. (a) Upon the request of the secretary ~~of social and rehabilitation services for aging and disability services or the Kansas department of health and environment, or both,~~ each medical benefit plan provider that provides or maintains a medical benefit plan, that provides any hospital or medical services or any other health care or other medical benefits or services, or both, in Kansas, shall provide the secretary with information, to the extent known by the medical benefit plan provider, identifying each person who is covered by such medical benefit plan or who is otherwise provided any such hospital or medical services or any other such health care or other medical benefits or services, or both, in Kansas under such medical benefit plan. The information shall be provided in such form as is prescribed by the secretary for the purpose of comparing such information with medicaid beneficiary information maintained by the secretary to assist in identifying other health care or medical benefit coverage available to medicaid beneficiaries. The secretary shall reimburse each medical benefit plan provider that provides information under this section for the reasonable cost of providing such information.

(b) All information provided by medical benefit plan providers under this section shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under the provisions of any other law. Such information may be used solely for the purpose of determining whether medical assistance has been paid or is eligible to be paid by the secretary for which a recovery from a medical benefit plan provider is due under K.S.A. 39-719a, and amendments thereto.

(c) Failure to provide information pursuant to a request by the secretary ~~of social and rehabilitation services for aging and disability services or the Kansas department of health and environment, or both,~~ under this section shall constitute a failure to reply to an inquiry of the commissioner of insurance and shall be subject to the penalties applicable thereto under K.S.A. ~~40-226~~ 40-2,125, and amendments thereto. If a medical plan provider fails to provide information to the secretary ~~of social and rehabilitation services for aging and disability services or the Kansas department of health and environment, or both,~~ pursuant to a request under this section, the secretary shall notify the commissioner of such failure. The commissioner of insurance may pursue each such failure to provide such information in accordance with K.S.A. ~~40-226~~ 40-2,125, and amendments thereto.

(d) As used in this section:

(1) "Medical benefit plan" means any accident and health insurance or any other policy, contract, plan or agreement that provides benefits or services, or both, for any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas, whether or not such benefits or services, or both, are provided pursuant to individual, group, blanket or certificates of accident and sickness insurance, any other insurance providing any accident and health insurance, or any other policy, contract, plan or agreement providing any such benefits or services, or both, in Kansas, and includes any policy, plan, contract or agreement offered in Kansas pursuant to the federal employee retirement income security act of 1974 (ERISA) that provides any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas; and

(2) "medical benefit plan provider" means any insurance company, nonprofit medical and hospital service corporation, health maintenance organization, fraternal benefit society, municipal group-funded pool, group-funded workers compensation pool or any other entity providing or maintaining a medical benefit plan.

(e) No medicaid provider who rendered professional services to a medicaid beneficiary and was paid by the secretary for such services shall be liable to the medical benefit plan provider for any amounts recovered pursuant to this act or pursuant to the provisions of K.S.A. 39-719a, and amendments thereto.

Sec. 9. K.S.A. 40-1612 is hereby amended to read as follows: 40-1612. In addition to the provisions of this article, the provisions set forth in the following sections of the Kansas Statutes Annotated, and amendments thereto, which govern other types of insurance companies shall apply to reciprocals to the extent that such provisions do not conflict with the provisions of this article: Sections 40-208, 40-209, 40-214, 40-215, 40-216, 40-218, 40-220, 40-221a, 40-222, 40-223, 40-224, 40-225, 40-229, 40-229a, 40-231, 40-233, 40-234, 40-234a, 40-235, 40-236, 40-237, 40-238, 40-239, 40-240, 40-241, 40-242, 40-244, 40-245, 40-246, except as to contracts written through traveling salaried representatives to whom no commissions are paid, 40-246a, 40-247, 40-248, 40-249, 40-250, 40-251, 40-253, ~~40-254~~, 40-256, 40-281, 40-2,125, 40-2,126, 40-2,127, 40-2,128, 40-2,156, 40-2,156a, 40-2,157, 40-2,159, 40-952, 40-2001, 40-2002, 40-2003, 40-2004, 40-2005, 40-2006 and 40-2404 and article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any other provision of law pertaining to insurance which specifically refers to reciprocals.

Sec. 10. K.S.A. 40-19a10 is hereby amended to read as follows: 40-19a10. (a) Such corporations shall be subject to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-224, 40-225, ~~40-226~~, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254~~, 40-2,102, 40-2a01 et seq., 40-2215 to 40-2220, inclusive, 40-2253, 40-2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, K.S.A. ~~40-2,125~~, 40-2,154 and 40-2,161, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Sec. 11. K.S.A. 2012 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, ~~40-226~~, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254~~, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, ~~40-2,125~~, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2012 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

New Sec. 12. (a) This section shall apply to all insurers transacting business in the state offering individual or group sickness and accident insurance. Such insurers also may offer a mandate lite health benefit plan. A group or individual carrier may also offer a mandate lite health benefit plan.

(b) A mandate lite health benefit plan means an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(c) The mandate lite health benefit plan shall contain the definitions of group or individual sickness and accident insurance with respect to major medical benefits and standard provisions or rights of coverage.

(d) The mandate lite health benefit plan may be issued on a group or individual basis.

(e) The insured shall be provided with a written notice that one or more of the state-mandated benefits are not included in the mandate lite health benefit plan.

(1) The mandate lite health benefit plan shall specify the health services that are included and shall specifically list the health services that will be limited or not covered from the list of state-mandated coverage other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(2) The insurer is required to retain a signed copy of this notice on file as a part of the original application as evidence that the insured has acknowledged such notice.

(3) Such signed copy may be in original form, electronic file form or in any other reproducible file form as may be consistent with the insurer's method of retaining application copies.

(f) The definition of preexisting conditions may not be more restrictive than the definition of preexisting conditions normally used for the corresponding regular individual or group insurance contracts.

(g) The mandate lite health benefit plan may offer:

(1) Various optional combinations of coverage for generic, formulary and non-formulary drugs.

(2) The mandate lite health benefit plan may offer drug discount plans.

(h) A mandate lite health benefit plan may charge additional premiums for each optional benefit offered. Optional benefits may include mandated benefits that are not included in the mandate lite health benefit plan.

(i) This section shall be known and may be cited as the mandate lite health benefit plan act.

New Sec. 13. (a) Any portion of the health insurance premiums paid by consumers that are in fact passed through as commissions shall not be considered a part of administrative expenses and shall be excluded from all determinations of the medical loss ratio calculations when totaling the ratio of premiums paid by a consumer used for claims versus administrative expenses for a policy. Any portion of premiums identified as commissions must be paid to a nonemployee in order to be excluded. Any portion of the premiums retained by the insurance company or its employees must be considered as a part of the calculation of the medical loss ratio as administrative related income.

(b) For the purposes of this section, "commission" means commissions to agents, consultation fees, counseling fees, consultant fees, and similar advising or sales compensation to a nonemployee licensed agent.

New Sec. 14. (a) For the purposes of this section:

(1) "Specially designed policy" means an insurance policy that by design may not meet all or part of the definitions of a group or individual sickness and accident insurance policy and includes temporary sickness and accident insurance on a short-term basis.

(2) "Short-term" means an insurance policy period of six months or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification.

(A) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy is not subject to continuation provisions of the health insurance portability and accountability act of 1996 (public law 104-191).

(B) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy shall be exempt from medical loss ratio calculations associated with individual sickness and accident insurance issued within the state unless such calculation excludes any monthly administration fee associated with the sale of such policy.

(b) Specially designed policies shall include policies designed to provide sickness and accident insurance for specific coverage of benefits or services that may be excluded as benefits or services cited under section 12, and amendments thereto. Specially designed policies may include the following stand-alone policies and coverages:

- (1) Chiropractic plans;
- (2) acupuncture coverage plans;
- (3) holistic medical treatment plans;
- (4) podiatrist plans;
- (5) pharmacy plans;
- (6) psychiatric plans;

(7) allergy plans; and

(8) such other stand-alone plans or combinations of plans of accepted traditional and nontraditional medical practice as shall be allowable for exclusion from group or individual plans under section 12, and amendments thereto.

(c) No specially designed policy shall be deemed to be included under the definition of group sickness and accident insurance, including short-term, limited-duration health insurance, issued or renewed inside or outside of this state and covering persons residing in this state.

Sec. 15. K.S.A. 39-719e, 40-254, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.":

On page 1, in the title, in line 1, by striking all after the semicolon; in line 2, by striking all before "enacting"; in line 3, by striking "allowing"; by striking all in line 4; in line 5, by striking all before the period and inserting "relating to the Kansas uninsurable health plan act; relating to updating certain statutory references; relating to mandate lite health benefit plans; amending K.S.A. 39-719e, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 and repealing the existing sections; also repealing K.S.A. 40-254";

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

ROB OLSON

JEFF LONGBINE

TOM HAWK

Conferees on part of Senate

CLARK SHULTZ

PHIL HERMANSON

GAIL FINNEY

Conferees on part of House

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2107**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2140** 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, in line 8, by striking "Alternative standardized"; in line 16, by striking all

after "(d)"; by striking all in lines 17 and 18, in line 19, by striking "(e)";

And by redesignating remaining subsections accordingly;

Also on page 1, in line 31, by striking "at the lowest achievement standard" and inserting "below the "meets standards" achievement level"; in line 32, by striking "reading state assessment or an alternative standardized"; in line 33, after "assessment" by inserting "selected by the board of education of such school district to be administered to pupils enrolled in grade one"; in line 34, by striking "alternative standardized"; in line 35, by striking all after "scores"; in line 36, by striking all before "on" and inserting "below the "meets standards" achievement level"; also in line 36, by striking all after "recent";

On page 2, in line 1, by striking "alternative standardized"; in line 7, by striking "two years" and inserting "one year"; in line 17, by striking "or"; in line 20, by striking the period and inserting "; or"; in line 27, by inserting quotation marks around "meets standards"; in line 28, by striking all after "recent"; in line 29, by striking "standardized";

On page 3, in line 11, by striking "alternative standardized"; in line 12, before "meets" by inserting a quotation mark; in line 13, after "standards" by inserting a quotation mark; also in line 13, by striking "alternative standardized"; in line 14, after the period by inserting "The board of education of each school district shall select a reading assessment in accordance with any rules and regulations adopted by the state board and shall administer such assessment to pupils enrolled in grade one in such school district."; in line 38, by striking "grade one" and inserting "grades one through three"; in line 40, by striking "in rural"; in line 41, by striking "communities";

On page 4, in line 10, by striking "are not"; in line 11, by striking "state or federal moneys" and inserting "shall come solely from private funding sources";

On page 5, in line 14, by striking "grade one" and inserting "grades one, two or three"; in line 40, by striking "grade one" and inserting "grades one through three";

On page 6, in line 26, by striking "two" and inserting "four";

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

STEVE ABRAMS

TOM ARPKE

ANTHONY HENSLEY

Conferees on part of Senate

WARD CASSIDY

AMANDA GROSSERODE

VALDENIA WINN

Conferees on part of House

Senator Abrams moved the Senate adopt the Conference Committee Report on **Sub Bill for HB 2140**.

On roll call, the vote was: Yeas 29; Nays 11; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kelly, Kerschen, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, King, Knox,

LaTurner, McGinn, Pettey.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2363** 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 7, by inserting:

"New Section 1. (a) Subject to existing water rights and the principle of beneficial use, the chief engineer may grant, upon application made therefor, limited transfer permits to authorize the use of up to 4,000,000 gallons from an existing water right. The term of such limited transfer permit will be limited to a single calendar year. Each application submitted for a limited transfer permit shall be on a form prescribed by the chief engineer and accompanied by an application fee of \$200.

(b) (1) If the base water right is groundwater, the use of water can be transferred to another well within the same source of supply within two miles.

(2) If the base water right is surface water, the use can be transferred to another surface water use within the same surface water system.

(c) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section. Such rules and regulations shall require that there is no increase in consumptive use enabled by the transfer permit, prescribe necessary recordkeeping and reporting requirements, prevent impairment of existing rights and address any other matter deemed necessary by the chief engineer to protect the public interest.

(d) Nothing in this section shall be deemed to vest in the holder of any permit granted pursuant to provisions of this section any permanent right to appropriate water except as is provided by such permit.

(e) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

(f) This section shall be part of and supplemental to the Kansas water appropriation act.";

On page 9, in line 1, by striking "obstructions" and inserting "debris"; in line 4, by striking "scalp or extract"; in line 5, by striking "streambeds" and inserting "change or diminish the course, current or cross section of any stream"; following line 33, by inserting:

"Sec. 9. K.S.A. 2012 Supp. 82a-1901 is hereby amended to read as follows: 82a-1901. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 42-703, 42-722, 42-722a, 82a-708b, 82a-711, 82a-718 and 82a-1038 and K.S.A. 2012 Supp. 82a-1041, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject to review in accordance with the provisions of the Kansas administrative procedure act.

Such review shall be conducted by the secretary of agriculture or a presiding officer from the office of administrative hearings within the department of administration. The secretary of agriculture shall not have the authority otherwise to designate a presiding

officer to conduct such review unless at the party's request pursuant to K.S.A. 75-37,121, and amendments thereto.

(b) The order of the secretary of agriculture or the administrative law judge or presiding officer upon review pursuant to subsection (a) shall be a final order under the Kansas administrative procedure act. Such order shall not be subject to reconsideration pursuant to K.S.A. 77-529, and amendments thereto, and shall be subject to review in accordance with the Kansas judicial review act.

(c) This act shall not affect any administrative proceeding pending before the chief engineer of the division of water resources of the department of agriculture, the secretary of agriculture or any administrative hearing officer on July 1, 1999, and such matter shall proceed as though no change in the law had been made with regard to such proceeding. ";

And by redesignating sections accordingly;

Also on page 9, in line 34, by striking all after "K.S.A."; in line 35, by striking all before "are" and inserting "24-105, 24-107, 82a-307, 82a-312, 82a-313 and 82a-314 and K.S.A. 2012 Supp. 24-106, 74-509, 82a-301, 82a-302, 82a-303b, 82a-307a, 82a-326, 82a-326a, 82-734, 82a-735 and 82a-1901";

On page 1, in the title, in line 4, by striking the first "and" and inserting a comma; also in line 4, after "82a-734" by inserting "and 82a-1901"; in line 5, after "sections" by inserting ";"; also repealing K.S.A. 24-105, 24-107, 82a-312, 82a-313 and 82a-314 and K.S.A. 2012 Supp. 24-106, 74-509, 82a-307a, 82a-326a and 82a-735";

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

LARRY POWELL

DAN KERSCHEN

MARCI FRANCISCO

Conferees on part of Senate

SHARON SCHWARTZ

KYLE HOFFMAN

PONKA-WE VICTORS

Conferees on part of House

Senator Powell moved the Senate adopt the Conference Committee Report on **HB 2363**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kersch, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2017** 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 5, following line 40, by inserting:

"New Sec. 7. (a) As used in this section:

(1) "Nudity" means the showing, unclothed or with less than a fully opaque covering, of the human male or female genitals, pubic area, buttocks or female breast below a point immediately above the top of the areola.

(2) "Pornographic materials" means sexual devices or books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video presentations, computer-generated images or pictures, slides or other visual representations, whether made or produced by electronic, mechanical or other means, which depict, describe or simulate sexually explicit conduct or nudity.

(3) "Sexually explicit conduct" means acts of masturbation, sexual intercourse, sodomy, sadomasochistic abuse or physical contact with a person's clothed or unclothed genitals, pubic area or buttocks or with a human female's breast.

(4) "Sexually violent crime" means the same as in K.S.A. 22-4902, and amendments thereto.

(b) The Kansas bureau of investigation will work with the office of the attorney general and with state and local law enforcement to identify a process to uniformly report data to the central repository enabling the production of a report generated at least annually to identify the total number of sexually violent crimes reported and the number of such crimes where pornographic materials are seized or documented as evidence. This process shall be in place within one year of the implementation of a capable central repository system.

(c) Reports of materials found pursuant to the provisions of subsection (b) shall be used for statistical purposes only.

(d) Upon implementation of a central repository system, the Kansas bureau of investigation shall:

(1) Make the necessary changes to the Kansas standard offense report and the Kansas incident based reporting system handbook; and

(2) promulgate rules and regulations concerning the training for law enforcement agencies to implement the provisions of this section.

(e) Nothing in this section shall be construed to expand the scope of the officer's search.

(f) The provisions of this section are subject to appropriations. ";

And by redesignating sections accordingly;

On page 1, in the title, in line 3, after "warrants;" by inserting "sexually violent crimes; law enforcement reports on the presence of pornographic materials;";

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

JEFF KING

GREGORY SMITH

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **Sub HB 2017**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2025** 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 3, in line 12, after "once" by inserting "in January and once in April"; in line 13, by striking "second,"; in line 14, after "chairperson" by inserting ", but not to exceed six meetings in a calendar year, except additional meetings may be held on call of the chairperson when urgent circumstances exist which require such meetings";

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

MARY PILCHER-COOK

ELAINE BOWERS

LAURA KELLY

Conferees on part of Senate

DAVID CRUM

BRIAN WEBER

JIM WARD

Conferees on part of House

Senator Pilcher-Cook moved the Senate adopt the Conference Committee Report on **HB 2025**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MADAM PRESIDENT: We concur with the unanimous passage of the conference committee report on **HB 2025**, the Robert G. "Bob" Bethell joint committee on home and community based services. Few here in the Kansas Legislature, approach the

combination of intellect, tenacity and perseverance that Representative Bob Bethell brought to the legislative process. His unique and untiring advocacy on behalf of quality senior living; his mixture of wit, sometimes self-effacing humor; his appreciation for Mickey Mouse and so many fond and respected memories punctuate his very being throughout our Rotunda and this building to this very day. A minister of sorts, Bob would no doubt have some philosophical irony attributed to his final day of service to his family, his community and the causes he championed ... all which he loved dearly. His life lost in a car accident heading home after a marathon day at the Legislature ... what would HE say? All we can say now, Madame President, is that we should all be so fortunate to have an identifiable legacy as enviable as Bob's. This bill is an important part of his advocacy which will now be long remembered, appropriately, in statute. Truly ... his very living was not in vain.—DAVID HALEY

Senators Bruce, Hawk, Holland, Kelly, Love, McGinn, Petersen and Schmidt request the record to show they concur with the "explanation of Vote" offered by Senator Haley on **HB 2025**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2034** 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 HB 2034, as follows:

On page 1, by striking all in lines 6 and 7 and inserting:

"New Section 1. The attorney general, in consultation with other appropriate state agencies, is authorized to coordinate training regarding human trafficking for law enforcement agencies throughout Kansas.

New Sec. 2. (a) The human trafficking advisory board established by the attorney general is hereby designated the official human trafficking advisory board for the state of Kansas.

(b) The board shall include representatives from:

- (1) The office of the governor;
- (2) the attorney general's office;
- (3) the department of labor;
- (4) the department for children and families;
- (5) the department of health and environment;
- (6) the juvenile justice authority;
- (7) the Kansas association of chiefs of police;
- (8) the Kansas sheriffs' association;
- (9) the highway patrol;
- (10) the Kansas bureau of investigation;
- (11) local law enforcement agencies;
- (12) the legislature;
- (13) nongovernmental organizations focused on human trafficking issues, organizations representing diverse communities disproportionately affected by human trafficking and organizations focused on child services and runaway services;
- (14) academic researchers who are dedicated to the subject of human trafficking;
- (15) any other federal, state, or local government entity deemed necessary by the

attorney general; and

(16) any other private sector or nongovernmental organization deemed necessary by the attorney general.

New Sec. 3. There is hereby established in the state treasury the human trafficking victim assistance fund. All moneys credited to such fund shall be used to pay for the training authorized by section 1, and amendments thereto, and to support care, treatment and other services for victims of human trafficking and commercial sexual exploitation of a child. All expenditures from such fund shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee.

New Sec. 4. (a) Commercial sexual exploitation of a child is knowingly:

(1) Giving, receiving, offering or agreeing to give, or offering or agreeing to receive anything of value to perform any of the following acts:

(A) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another; or

(B) Procuring, recruiting, inducing, soliciting, hiring or otherwise obtaining a patron where there is an exchange of value, for any person younger than 18 years of age to engage in sexual intercourse, sodomy or manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the patron, the offender or another;

(2) establishing, owning, maintaining or managing any property, whether real or personal, where sexual relations are being sold or offered for sale by a person younger than 18 years of age, or participating in the establishment, ownership, maintenance or management thereof;

(3) permitting any property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a place where sexual relations are being sold or offered for sale by a person who is younger than 18 years of age; or

(4) procuring transportation for, paying for the transportation of or transporting any person younger than 18 years of age within this state with the intent of causing, assisting or promoting that person's engaging in selling sexual relations.

(b) (1) Commercial sexual exploitation of a child is a:

(A) Severity level 5, person felony, except as provided in subsections (b)(1)(B) and (b)(2); and

(B) severity level 2, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, except as provided in subsection (b)(2).

(2) Commercial sexual exploitation of a child or attempt, conspiracy or criminal solicitation to commit commercial sexual exploitation of a child is an off-grid person felony when the offender is 18 years of age or older and the victim is less than 14 years of age.

(3) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) or subsection (b)(2) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and

amendments thereto.

(4) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational and treatment program regarding commercial sexual exploitation of a child.

(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:

(1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of commercial sexual exploitation of a child pursuant to this section;

(2) subsection (c) of K.S.A. 2012 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of commercial sexual exploitation of a child pursuant to this section; and

(3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of commercial sexual exploitation of a child pursuant to this section.

(d) This section shall be part of and supplemental to the Kansas criminal code.

New Sec. 5. (a) Whenever a child is in custody, as defined in K.S.A. 2012 Supp. 38-2202, and amendments thereto, and such child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the court shall refer the child to the secretary of the department for children and families for an assessment to determine safety, placement and treatment needs for the child. The secretary shall use a research-based assessment tool to assess such needs and shall make appropriate recommendations to the court.

(b) When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. The secretary of the department for children and families shall use a rapid response team to begin such assessment for appropriate and timely placement.

(c) This section shall be part of and supplemental to the revised Kansas code for care of children.

(d) This section shall take effect on and after January 1, 2014.

New Sec. 6. (a) A staff secure facility shall:

(1) Not include construction features designed to physically restrict the movements and activities of residents, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for the residents;

(2) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations;

(3) rely on locked entrances and delayed-exit mechanisms to secure the facility, and implement reasonable rules restricting entrance to and egress from the facility;

(4) implement written policies and procedures for 24-hour-a-day staff observation of all facility entrances and exits;

(5) implement written policies and procedures for the screening and searching of

both residents and visitors;

(6) implement written policies and procedures for knowing the whereabouts of all residents at all times and for handling runaways and unauthorized absences; and

(7) implement written policies and procedures for determining when the movements and activities of individual residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(b) A staff secure facility shall provide the following services to children placed in such facility:

- (1) Case management;
- (2) life skills training;
- (3) health care;
- (4) mental health counseling;
- (5) substance abuse screening and treatment; and
- (6) any other appropriate services.

(c) Service providers in a staff secure facility shall be trained to counsel and assist victims of human trafficking and sexual exploitation.

(d) The person responsible for 24-hour-a-day staff observation of all facility entrances and exits shall be a retired or off-duty law enforcement officer.

(1) As used in this subsection, "retired law enforcement officer" means any former member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment was vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extended to all crimes or was limited to specific crimes.

(2) As used in this subsection, "off-duty law enforcement officer" means any off-duty member of any duly organized federal, state, county or municipal law enforcement organization who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) If the staff secure facility is on the same premises as that of another licensed facility, the living unit of the staff secure facility shall be maintained in a separate, self-contained unit. No staff secure facility shall be in a city or county jail.

(f) The secretary of health and environment, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2014.

(g) This section shall be part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 7. (a) A notice offering help to victims of human trafficking shall be accessible on the official website of the attorney general, the official website of the department for children and families and the official website of the department of labor, and may be posted in a prominent and accessible location in workplaces.

(b) The notice shall provide such information as the attorney general determines appropriate to help and support victims of human trafficking, including, but not limited to, information regarding the national human trafficking resource center (NHTRC) hotline as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave — whether it is commercial sex, housework, farm work or any other activity — call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-

7888 to access help and services. The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information."

(c) The notice described in this section shall be made available in English, Spanish, and, if requested by an employer, another language.

(d) The secretary of labor, in consultation with the attorney general, shall develop and implement an education plan to raise awareness among Kansas employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before February 1, 2014, the secretary shall report to the standing committees on judiciary in the senate and the house of representatives, respectively, on the progress achieved in developing and implementing the notice requirement and education plan required by this section.

Sec. 8. K.S.A. 2012 Supp. 12-4106 is hereby amended to read as follows: 12-4106.

(a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge, and may fine or imprison for contempt in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge to: Grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the supreme court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas criminal statutes is forwarded to the Kansas bureau of investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within 30 days of final disposition.

(f) In all cases alleging a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, the municipal court judge shall ensure that the municipal court reports the filing and disposition of such case to the Kansas bureau of investigation central repository, and, on and after July 1, 2013, reports the filing and disposition of such case electronically to the Kansas bureau of investigation central repository.

(g) In all cases in which a fine is imposed for a violation of a city ordinance

prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025 or 21-6421, and amendments thereto, the municipal court judge shall ensure that the municipal court remits the appropriate amount of such fine to the state treasurer as provided in K.S.A. 2012 Supp. 12-4120, and amendments thereto.

Sec. 9. K.S.A. 2012 Supp. 12-4120 is hereby amended to read as follows: 12-4120. (a) On and after July 1, 2012, the amount of \$250 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 8-1567 or 8-2,144 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2012 Supp. 75-52,113, and amendments thereto.

(b) On and after July 1, 2013, the amount of \$2,500 from each fine imposed for a violation of a city ordinance prohibiting the acts prohibited by K.S.A. 2012 Supp. 21-6421, and amendments thereto, shall be remitted by the judge or clerk of the municipal court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the human trafficking victim assistance fund established by section 3, and amendments thereto.

Sec. 10. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in ~~subsection (b), (c) and (d)~~ subsections (b), (c), (d) and (e), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

- (A) Satisfied the sentence imposed; or
- (B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in ~~subsection (b), (c) and (d)~~ subsections (b), (c), (d) and (e), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the 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 the violation of a city ordinance which would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a violation of K.S.A. 2012 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, parole, 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.

~~(b) (c)~~ 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, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

(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;

(3) perjury resulting from a violation of K.S.A. 8-261a, and amendments thereto;

(4) a violation of the provisions of the fifth clause of K.S.A. 8-142, and amendments thereto, relating to fraudulent applications;

(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;

(7) a violation of 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.

~~(e)~~ (d) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute a violation of K.S.A. 8-1567, and amendments thereto.

~~(d)~~ (e) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of K.S.A. 8-2,144, and amendments thereto.

~~(e)~~ (f) (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 prosecuting attorney and the arresting law enforcement agency. The petition shall state the:

~~(1)~~ (A) ~~The~~ Defendant's full name;

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

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

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

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

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

(2) A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section.

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

~~(f)~~ (g) 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.

~~(g)~~ (h) 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 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 of social and rehabilitation services for children and families;

(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. 2012 Supp. 75-7c01 et seq., and amendments thereto;

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

(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.

~~(H)~~ (i) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, 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.

~~(I)~~ (j) Subject to the disclosures required pursuant to subsection (g), 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 an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.

~~(J)~~ (k) 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 ~~social and rehabilitation services~~ the department for children and families, 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 of ~~social and rehabilitation services~~ for children and families 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 prosecuting attorney, 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 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-state gaming compact;

(12) 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;

(13) 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;

(14) the Kansas sentencing commission;

(15) 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; or

(16) 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.

Sec. 11. K.S.A. 2012 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. 2012 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. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 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. 2012 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. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, 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. 2012 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.

(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. 2012 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. 12. K.S.A. 2012 Supp. 21-5302 is hereby amended to read as follows: 21-5302. (a) A conspiracy is an agreement with another person to commit a crime or to assist in committing a crime. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

(b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.

(c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.

(d) (1) Conspiracy to commit an off-grid felony shall be ranked at nondrug severity level 2. Conspiracy 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 conspiracy to commit a nondrug felony shall be a severity level 10.

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

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 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. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 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. 2012 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. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, 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. 2012 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.

(e) Conspiracy 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.

(f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

Sec. 13. K.S.A. 2012 Supp. 21-5303 is hereby amended to read as follows: 21-5303. (a) Criminal solicitation is commanding, encouraging or requesting another person to commit a felony, attempt to commit a felony or aid and abet in the commission or attempted commission of a felony for the purpose of promoting or facilitating the felony.

(b) It is immaterial under subsection (a) that the actor fails to communicate with the person solicited to commit a felony if the person's conduct was designed to effect a communication.

(c) It is an affirmative defense that the actor, after soliciting another person to commit a felony, persuaded that person not to do so or otherwise prevented the commission of the felony, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purposes.

(d) (1) Criminal solicitation to commit an off-grid felony shall be ranked at nondrug severity level 3. Criminal solicitation to commit any other nondrug felony shall

be ranked on the nondrug scale at three severity levels below the appropriate level for the underlying or completed crime. The lowest severity level for criminal solicitation to commit a nondrug felony shall be a severity level 10.

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

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 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. 2012 Supp. 21-5421, and amendments thereto;

(C) illegal use of weapons of mass destruction, as defined in K.S.A. 2012 Supp. 21-5422, and amendments thereto;

(D) rape, as defined in subsection (a)(3) of K.S.A. 2012 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. 2012 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. 2012 Supp. 21-5504, and amendments thereto, if the offender is 18 years of age or older;

(G) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the offender is 18 years of age or older and the prostitute is less than 14 years of age~~ commercial sexual exploitation of a child, as defined in section 4, 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. 2012 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.

(e) Criminal solicitation 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.

Sec. 14. K.S.A. 2012 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. 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 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. 2012 Supp. 21-5503, and amendments thereto, criminal sodomy, as defined in subsections (a)

(3) or (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, or aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, or any attempt thereof, as defined in K.S.A. 2012 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. 2012 Supp. 21-5408, and amendments thereto, or aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 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. 2012 Supp. 21-5503, and amendments thereto, aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, ~~prostitution~~ selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419, and amendments thereto, ~~promoting prostitution~~ the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, or sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto.

(c) Capital murder is an off-grid person felony.

Sec. 15. K.S.A. 2012 Supp. 21-5502 is hereby amended to read as follows: 21-5502. (a) The provisions of this section shall apply only in a prosecution for:

(1) Rape, as defined by in K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsections (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) aggravated indecent solicitation of a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(8) aggravated sexual battery, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(9) incest, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(10) aggravated incest, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(11) indecent solicitation of a child, as defined in subsection (a) of K.S.A. 2012

Supp. 21-5508, and amendments thereto;

(12) aggravated assault, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto, with intent to commit any crime specified above;

(13) sexual battery, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(14) unlawful voluntary sexual relations, as defined in K.S.A. 2012 Supp. 21-5507, and amendments thereto;

(15) aggravated human trafficking, as defined in subsections ~~(b)(1)(B) and (b)(2) and (b)(4)~~ of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(16) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto;

~~(16) (17)~~ electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509, and amendments thereto; or

~~(17) (18)~~ attempt, as defined in K.S.A. 2012 Supp. 21-5301, and amendments thereto, or conspiracy, as defined in K.S.A. 2012 Supp. 21-5302, and amendments thereto, to commit any crime specified above.

(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The motion shall state the nature of such evidence or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.

(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.

(d) As used in this section, "complaining witness" means the alleged victim of any

crime designated in subsection (a), the prosecution of which is subject to this section.

Sec. 16. K.S.A. 2012 Supp. 21-6419 is hereby amended to read as follows: 21-6419. (a) Prostitution Selling sexual relations is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:

- (1) Sexual intercourse;
- (2) sodomy; or
- (3) manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.

(b) Prostitution Selling sexual relations is a class B nonperson misdemeanor.

(c) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto.

Sec. 17. K.S.A. 2012 Supp. 21-6420 is hereby amended to read as follows: 21-6420. (a) Promoting prostitution the sale of sexual relations is knowingly:

(1) Establishing, owning, maintaining or managing a house of prostitution any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older, or participating in the establishment, ownership, maintenance or management thereof;

(2) permitting any place property, whether real or personal, partially or wholly owned or controlled by the defendant to be used as a house of prostitution place where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(3) procuring a prostitute for a house of prostitution person selling sexual relations who is 18 years of age or older for a place where sexual relations are being sold or offered for sale;

(4) inducing another to become a prostitute who is 18 years of age or older to become a person who sells sexual relations;

(5) soliciting a patron for a prostitute or for a house of prostitution a person 18 years of age or older who is selling sexual relations or for a place where sexual relations are being sold or offered for sale;

(6) procuring a prostitute person 18 years of age or older who is selling sexual relations for a patron;

(7) procuring transportation for, paying for the transportation of, or transporting a person 18 years of age or older within this state with the intention of assisting or promoting that person's engaging in prostitution the sale of sexual relations; or

(8) being employed to perform any act which is prohibited by this section.

(b) (1) Promoting prostitution the sale of sexual relations is a:

(A) Class A person misdemeanor when the prostitute is 16 or more years of age Severity level 9, person felony, except as provided in subsection (b)(1)(B); and

(B) severity level 7, person felony when the prostitute is 16 or more years of age and committed by a person who has, prior to the commission of the crime, been convicted of promoting prostitution a violation of this section, or any prior version of this section; and

(C) severity level 6, person felony when the prostitute is under 16 years of age,

except as provided in subsection (b)(2).

~~(b) (2) Promoting prostitution or attempt, conspiracy or criminal solicitation to commit promoting prostitution is an off-grid person felony when the offender is 18 years of age or older and the prostitute is less than 14 years of age.~~

~~(c) If the offender is 18 years of age or older and the victim is less than 14 years of age, the provisions of:~~

~~(1) Subsection (c) of K.S.A. 2012 Supp. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of promoting prostitution as described in subsection (b)(2);~~

~~(2) subsection (c) of K.S.A. 2012 Supp. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of promoting prostitution as described in subsection (b)(2); and~~

~~(3) subsection (d) of K.S.A. 2012 Supp. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of promoting prostitution as described in subsection (b)(2).~~

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined not less than \$2,500 nor more than \$5,000. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and amendments thereto.

Sec. 18. K.S.A. 2012 Supp. 21-6421 is hereby amended to read as follows: 21-6421. (a) Patronizing a prostitute Buying sexual relations is knowingly:

(1) Entering or remaining in a house of prostitution place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a prostitute person selling sexual relations who is 18 years of age or older; or

(2) hiring a prostitute person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act.

~~(b) Patronizing a prostitute is a class C misdemeanor~~

(b) (1) Buying sexual relations is a:

(A) Class A person misdemeanor, except as provided in subsection (b)(1)(B); and

(B) severity level 9, person felony when committed by a person who has, prior to the commission of the crime, been convicted of a violation of this section, or any prior version of this section.

(2) In addition to any other sentence imposed, a person convicted under subsection (b)(1)(A) shall be fined \$2,500. In addition to any other sentence imposed, a person convicted under subsection (b)(1)(B) shall be fined not less than \$5,000. All fines collected pursuant to this section shall be remitted to the human trafficking victim assistance fund created by section 3, and amendments thereto.

(3) In addition to any other sentence imposed, for any conviction under this section, the court may order the person convicted to enter into and complete a suitable educational and treatment program regarding commercial sexual exploitation.

(c) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts

prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

Sec. 19. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) ~~and~~, (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) ~~and~~, (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. 2012 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.

~~(b) (c)~~ Except as provided in subsections ~~(e), (d) and~~ (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.

2012 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)~~ (d) No person may petition for expungement until 10 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, and amendments thereto, including any diversion for such violation.

~~(e)~~ (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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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.

~~(e)~~ (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.

~~(f)~~ (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, 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.

~~(g)~~ (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.

~~(h)~~ (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. 2012 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 of social and rehabilitation services for children and families;

(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. 2012 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)~~ (i) 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)~~ (i) Subject to the disclosures required pursuant to subsection ~~(h)~~ (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, but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

~~(l)~~ (i) 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 ~~social and rehabilitation services~~ the department for children and families, 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 of ~~social and rehabilitation services for children and families~~ 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.

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

Sec. 20. K.S.A. 2012 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 parole, probation, assignment to a community correctional services program, conditional release, postrelease supervision, 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 ~~(e)(2)(H)~~ or (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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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 section 4, 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. 2012 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. 21. K.S.A. 2012 Supp. 21-6627 is hereby amended to read as follows: 21-6627. (a) (1) Except as provided in subsection (b) or (d), a defendant who is 18 years of age or older and is convicted of the following crimes committed on or after July 1, 2006, shall be sentenced to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 25 years unless the court determines that the defendant should be sentenced as determined in subsection (a)(2):

(A) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(C) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(D) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

~~(E) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute is less than 14 years of age, commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age;~~

(F) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the child is less than 14 years of age; and

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in subsections (a)(1)(A) through (a)(1)(F).

(2) The provision of subsection (a)(1) requiring a mandatory minimum term of

imprisonment of not less than 25 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments thereto; or

(B) 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) (1) On and after July 1, 2006, if a defendant who is 18 years of age or older is convicted of a crime listed in subsection (a)(1) and such defendant has previously been convicted of a crime listed in subsection (a)(1), a crime in effect at any time prior to July 1, 2011, which is substantially the same as a crime listed in subsection (a)(1) or a crime under a law of another jurisdiction which is substantially the same as a crime listed in subsection (a)(1), the court shall sentence the defendant to a term of imprisonment for life with a mandatory minimum term of imprisonment of not less than 40 years. The provisions of this paragraph shall not apply to a crime committed under K.S.A. 2012 Supp. 21-5507, and amendments thereto, or a crime under a law of another jurisdiction which is substantially the same as K.S.A. 2012 Supp. 21-5507, and amendments thereto.

(2) The provision of subsection (b)(1) requiring a mandatory minimum term of imprisonment of not less than 40 years shall not apply if the court finds:

(A) The defendant is an aggravated habitual sex offender and sentenced pursuant to K.S.A. 2012 Supp. 21-6626, and amendments thereto; or

(B) 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 480 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) When a person is sentenced pursuant to subsection (a) or (b), such person shall be sentenced to a mandatory minimum term of imprisonment of not less than 25 years, 40 years or be sentenced as determined in subsection (a)(2) or subsection (b)(2), whichever is applicable, and shall not be eligible for probation or suspension, modification or reduction of sentence. In addition, a person sentenced pursuant to this section shall not be eligible for parole prior to serving such mandatory term of imprisonment, and such imprisonment shall not be reduced by the application of good time credits.

(d) (1) On or after July 1, 2006, for a first time conviction of an offense listed in subsection (a)(1), the sentencing judge shall impose the mandatory minimum term of imprisonment provided by subsection (a), unless the judge finds substantial and compelling reasons, following a review of mitigating circumstances, to impose a departure. If the sentencing judge departs from such mandatory minimum term of imprisonment, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. The departure sentence shall be the sentence pursuant to the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and, subject to the provisions of K.S.A. 2012 Supp. 21-6818, and amendments thereto, no sentence of a mandatory minimum term of imprisonment shall be imposed hereunder.

(2) As used in this subsection, "mitigating circumstances" shall include, but are not limited to, the following:

- (A) The defendant has no significant history of prior criminal activity;
- (B) the crime was committed while the defendant was under the influence of extreme mental or emotional disturbances;
- (C) the victim was an accomplice in the crime committed by another person, and the defendant's participation was relatively minor;
- (D) the defendant acted under extreme distress or under the substantial domination of another person;
- (E) the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired; and
- (F) the age of the defendant at the time of the crime.

(e) The provisions of K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, shall not apply to any defendant sentenced pursuant to this section.

Sec. 22. K.S.A. 2012 Supp. 21-6806 is hereby amended to read as follows: 21-6806. (a) Sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of the primary sentence for good time as authorized by K.S.A. 2012 Supp. 21-6821, and amendments thereto.

(b) The sentencing court shall pronounce sentence in all felony cases.

(c) Violations of K.S.A. 2012 Supp. 21-5401, 21-5402, 21-5421, 21-5422 and 21-5901, and amendments thereto, are off-grid crimes for the purpose of sentencing. Except as otherwise provided by K.S.A. 2012 Supp. 21-6617, 21-6618, 21-6619, 21-6622, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments thereto, the sentence shall be imprisonment for life and shall not be subject to statutory provisions for suspended sentence, community service or probation.

(d) As identified in K.S.A. 2012 Supp. 21-5426, 21-5503, 21-5504, 21-5506, 21-5510 and ~~21-6420~~ section 4, and amendments thereto, if the offender is 18 years of age or older and the victim is under 14 years of age, such violations are off-grid crimes for the purposes of sentencing. Except as provided in K.S.A. 2012 Supp. 21-6626, and amendments thereto, the sentence shall be imprisonment for life pursuant to K.S.A. 2012 Supp. 21-6627, and amendments thereto.

Sec. 23. K.S.A. 2012 Supp. 21-6815 is hereby amended to read as follows: 21-6815. (a) Except as provided in subsection (b), the sentencing judge shall impose the presumptive sentence provided by the sentencing guidelines unless the judge finds substantial and compelling reasons to impose a departure sentence. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

(b) Subject to the provisions of subsection (b) of K.S.A. 2012 Supp. 21-6817, and amendments thereto, any fact that would increase the penalty for a crime beyond the statutory maximum, other than a prior conviction, shall be submitted to a jury and proved beyond a reasonable doubt.

(c) (1) Subject to the provisions of subsections (c)(3) and (e), the following nonexclusive list of mitigating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

- (A) The victim was an aggressor or participant in the criminal conduct associated

with the crime of conviction.

(B) The offender played a minor or passive role in the crime or participated under circumstances of duress or compulsion. This factor may be considered when it is not sufficient as a complete defense.

(C) The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants, drugs or alcohol does not fall within the purview of this factor.

(D) The defendant, or the defendant's children, suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(E) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(2) Subject to the provisions of subsection (c)(3), the following nonexclusive list of aggravating factors may be considered in determining whether substantial and compelling reasons for departure exist:

(A) The victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity which was known or should have been known to the offender.

(B) The defendant's conduct during the commission of the current offense manifested excessive brutality to the victim in a manner not normally present in that offense.

(C) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim or the offense was motivated by the defendant's belief or perception, entirely or in part, of the race, color, religion, ethnicity, national origin or sexual orientation of the victim whether or not the defendant's belief or perception was correct.

(D) The offense involved a fiduciary relationship which existed between the defendant and the victim.

(E) The defendant, 18 or more years of age, employed, hired, used, persuaded, induced, enticed or coerced any individual under 16 years of age to:

- (i) Commit any person felony;
- (ii) assist in avoiding detection or apprehension for commission of any person felony; or
- (iii) attempt, conspire or solicit, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, to commit any person felony.

That the defendant did not know the age of the individual under 16 years of age shall not be a consideration.

(F) The defendant's current crime of conviction is a crime of extreme sexual violence and the defendant is a predatory sex offender. As used in this subsection:

- (i) "Crime of extreme sexual violence" is a felony limited to the following:
 - (a) A crime involving a nonconsensual act of sexual intercourse or sodomy with any person;
 - (b) a crime involving an act of sexual intercourse, sodomy or lewd fondling and touching with any child who is 14 or more years of age but less than 16 years of age and with whom a relationship has been established or promoted for the primary purpose of victimization; ~~or~~
 - (c) a crime involving an act of sexual intercourse, sodomy or lewd fondling and

touching with any child who is less than 14 years of age-;

(d) aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age; or

(e) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age.

(ii) "Predatory sex offender" is an offender who has been convicted of a crime of extreme sexual violence as the current crime of conviction and who:

(a) Has one or more prior convictions of any crimes of extreme sexual violence. Any prior conviction used to establish the defendant as a predatory sex offender pursuant to this subsection shall also be counted in determining the criminal history category; or

(b) suffers from a mental condition or personality disorder which makes the offender likely to engage in additional acts constituting crimes of extreme sexual violence.

(iii) "Mental condition or personality disorder" means an emotional, mental or physical illness, disease, abnormality, disorder, pathology or condition which motivates the person, affects the predisposition or desires of the person, or interferes with the capacity of the person to control impulses to commit crimes of extreme sexual violence.

(G) The defendant was incarcerated during the commission of the offense.

(H) The crime involved two or more participants in the criminal conduct, and the defendant played a major role in the crime as the organizer, leader, recruiter, manager or supervisor.

In determining whether aggravating factors exist as provided in this section, the court shall review the victim impact statement.

(3) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the crime severity scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(d) In determining aggravating or mitigating circumstances, the court shall consider:

(1) Any evidence received during the proceeding;

(2) the presentence report;

(3) written briefs and oral arguments of either the state or counsel for the defendant; and

(4) any other evidence relevant to such aggravating or mitigating circumstances that the court finds trustworthy and reliable.

(e) Upon motion of the prosecutor stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense, the court may consider such mitigation in determining whether substantial and compelling reasons for a departure exist. In considering this mitigating factor, the court may consider the following:

(1) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the prosecutor's evaluation of the assistance rendered;

(2) the truthfulness, completeness and reliability of any information or testimony provided by the defendant;

- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or the defendant's family resulting from such assistance; and
- (5) the timeliness of the defendant's assistance.

Sec. 24. K.S.A. 2012 Supp. 22-2515 is hereby amended to read as follows: 22-2515. (a) An ex parte order authorizing the interception of a wire, oral or electronic communication may be issued by a judge of competent jurisdiction. The attorney general, district attorney or county attorney may make an application to any judge of competent jurisdiction for an order authorizing the interception of a wire, oral or electronic communication by an investigative or law enforcement officer and agency having responsibility for the investigation of the offense regarding which the application is made, when such interception may provide evidence of the commission of any of the following offenses:

- (1) Any crime directly and immediately affecting the safety of a human life which is a felony;
- (2) murder;
- (3) kidnapping;
- (4) treason;
- (5) sedition;
- (6) racketeering;
- (7) commercial bribery;
- (8) robbery;
- (9) theft, if the offense would constitute a felony;
- (10) bribery;
- (11) any felony violation of K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto;
- (12) commercial gambling;
- (13) sports bribery;
- (14) tampering with a sports contest;
- (15) aggravated escape;
- (16) aggravated failure to appear;
- (17) arson;
- (18) terrorism;
- (19) illegal use of weapons of mass destruction; ~~or~~
- (20) human trafficking or aggravated human trafficking;
- (21) sexual exploitation of a child;
- (22) commercial sexual exploitation of a child;
- (23) buying sexual relations, promoting the sale of sexual relations or selling sexual relations; or
- ~~(20)-(24)~~ (24) any conspiracy to commit any of the foregoing offenses.

(b) Any investigative or law enforcement officer who, by any means authorized by this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(c) Any investigative or law enforcement officer who, by any means authorized by

this act or by chapter 119 of title 18 of the United States code, has obtained knowledge of the contents of any wire, oral or electronic communication, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of such officer's official duties.

(d) Any person who has received, by any means authorized by this act or by chapter 119 of title 18 of the United States code or by a like statute of any other state, any information concerning a wire, oral or electronic communication, or evidence derived therefrom, intercepted in accordance with the provisions of this act, may disclose the contents of such communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court, or before any grand jury, of this state or of the United States or of any other state.

(e) No otherwise privileged wire, oral or electronic communication intercepted in accordance with, or in violation of, the provisions of this act or of chapter 119 of title 18 of the United States code shall lose its privileged character.

(f) When an investigative or law enforcement officer, while engaged in intercepting wire, oral or electronic communications in the manner authorized by this act, intercepts wire, oral or electronic communications relating to offenses other than those specified in the order authorizing the interception of the wire, oral or electronic communication, the contents thereof and evidence derived therefrom may be disclosed or used as provided in subsections (b) and (c) of this section. Such contents and evidence derived therefrom may be used under subsection (d) of this section when authorized or approved by a judge of competent jurisdiction, where such judge finds on subsequent application, made as soon as practicable, that the contents were otherwise intercepted in accordance with the provisions of this act, or with chapter 119 of title 18 of the United States code.

Sec. 25. K.S.A. 22-2530 is hereby amended to read as follows: 22-2530. If a search warrant is executed which authorizes a search of real property based upon an alleged offense involving gambling, obscenity, ~~prostitution~~ the sale of sexual relations, controlled substances or liquor, a copy of the warrant shall be delivered to the last known address of the owner of the property within two business days, excluding Saturdays, Sundays and legal holidays, after execution of the warrant if such address is different from the address of the property for which the warrant was issued.

Sec. 26. K.S.A. 2012 Supp. 22-3601 is hereby amended to read as follows: 22-3601. (a) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken to the court of appeals, except in those cases reviewable by law in the district court or in which a direct appeal to the supreme court is required. Whenever an interlocutory appeal is permitted in a criminal case in the district court, such appeal shall be taken to the court of appeals.

(b) Any appeal permitted to be taken from a district court's final judgment in a criminal case shall be taken directly to the supreme court in the following cases:

(1) Any case in which a statute of this state or of the United States has been held unconstitutional;

(2) any case in which the defendant has been convicted of a class A felony;

(3) any case in which a maximum sentence of life imprisonment has been imposed, unless the maximum sentence has been imposed pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments thereto; and

(4) except as provided further, any case in which the crime was committed on or

after July 1, 1993, and the defendant has been convicted of an off-grid crime. The provisions of this paragraph shall not apply to any case in which the off-grid crime was:

(A) Aggravated human trafficking, subsection (c)(2)(B) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(B) rape, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(C) aggravated criminal sodomy, subsection (c)(2)(B)(ii) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(D) aggravated indecent liberties with a child, subsection (c)(2)(C)(ii) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(E) sexual exploitation of a child, subsection (b)(2)(B) of K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(F) ~~promoting prostitution, subsection (b)(4) of K.S.A. 2012 Supp. 21-6420, and amendments thereto~~ commercial sexual exploitation of a child, subsection (b)(2) of section 4, and amendments thereto; or

(G) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-3503, and amendments thereto, of any such felony.

Sec. 27. K.S.A. 2012 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. 21-4635 through 21-4638, 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. 2012 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. 2012 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) Except as provided by K.S.A. 21-4635 through 21-4638, prior to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto, an inmate sentenced to imprisonment for the crime of 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.

(2) Except as provided by subsection (b)(1) or (b)(4), 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. 2012 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) 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. 2012 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) 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) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 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. 2012 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. 2012 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, 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. 2012 Supp. 21-6821, and amendments thereto, 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, 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. 2012 Supp. 21-6821, and amendments thereto, 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, 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. 2012 Supp. 21-6821, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, 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. 2012 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. 2012 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 subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A. 2012 Supp. 21-6817, and amendments thereto.

(vi) Upon petition, the prisoner review board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (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. 2012 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) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 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. 2012 Supp. 21-5604, and amendments thereto; ~~or~~

(K) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 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 section 4, and amendments thereto; or

~~(M)~~ (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. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

(3) 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 May 25, 2000, 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 for offenders convicted of severity levels 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity levels 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity levels 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2012 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. 2012 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. 2012 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. 28. K.S.A. 2012 Supp. 22-3901 is hereby amended to read as follows: 22-3901. The following unlawful activities and the use of real or personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

- (a) Commercial gambling;
- (b) dealing in gambling devices;
- (c) possession of gambling devices;
- (d) promoting obscenity;
- (e) ~~promoting prostitution~~ the sale of sexual relations;
- (f) ~~habitually promoting prostitution~~ commercial sexual exploitation of a child;
- (g) violations of any law regulating controlled substances;
- (h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated, and amendments thereto;
 - (i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto;
 - (j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group, whether formal or informal:
 - (1) Consisting of three or more persons;
 - (2) having as one of its primary activities the commission of one or more person felonies, person misdemeanors, felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors;
 - (3) which has a common name or common identifying sign or symbol; and
 - (4) whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies, person misdemeanors, felony violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or the comparable juvenile offenses, which if committed by an adult would constitute the commission of such felonies or misdemeanors, or any substantially similar offense from another jurisdiction;
- or
- (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of K.S.A. 2012 Supp. 31-170, and amendments thereto.

Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

Sec. 29. K.S.A. 2012 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in the Kansas offender registration act, unless the context otherwise requires:

- (a) "Offender" means:
 - (1) A sex offender;
 - (2) a violent offender;
 - (3) a drug offender;
 - (4) any person who has been required to register under out of state law or is otherwise required to be registered; and
 - (5) any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act.
- (b) "Sex offender" includes any person who:
 - (1) On or after April 14, 1994, is convicted of any sexually violent crime;
 - (2) On or after April 14, 1994, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;
 - (3) has been determined to be a sexually violent predator;
 - (4) on or after May 29, 1997, is convicted of any of the following crimes when one of the parties involved is less than 18 years of age:
 - (A) Adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto;
 - (B) criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;
 - (C) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto prior to its amendment by this act on July 1, 2013;~~
 - (D) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto prior to its amendment by this act on July 1, 2013;~~ or
 - (E) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto;
 - (5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;
 - (6) is convicted of 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. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of an offense defined in this subsection; or
 - (7) has been convicted of an offense that is comparable to any crime defined in this subsection, or any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection.
- (c) "Sexually violent crime" means:
 - (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;
 - (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal,

or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(3) 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. 2012 Supp. 21-5506, and amendments thereto;

(4) 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. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(7) 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. 2012 Supp. 21-5508, and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments thereto;

(11) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, and K.S.A. 2012 Supp. 21-5509, and amendments thereto, committed on or after April 17, 2008;

(12) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

(13) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 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;

(14) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto;

~~(13)~~ (15) any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this subsection;

~~(14)~~ (16) 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. 2012 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this subsection; or

~~(15)~~ (17) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "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.

(d) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(e) "Violent offender" includes any person who:

- (1) On or after May 29, 1997, is convicted of any of the following crimes:
 - (A) Capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
 - (B) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
 - (C) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
 - (D) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
 - (E) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;
 - (F) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;
 - (G) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;
 - (H) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age; or
 - (I) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if not committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
- (2) on or after July 1, 2006, is convicted of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;
- (3) has been convicted of an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or
- (4) is convicted of 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. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.
- (f) "Drug offender" means any person who has been convicted of:
 - (1) Unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;
 - (2) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined in subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;
 - (3) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 2012 Supp. 21-5705, and amendments thereto. The provisions of this paragraph shall not apply to violations of subsections (a)(2) through (a)(6) or (b) of K.S.A. 2010 Supp. 21-36a05 which occurred

on or after July 1, 2009, through April 15, 2010;

(4) an offense that is comparable to any crime defined in this subsection, any out of state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(5) 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. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(g) Convictions or adjudications which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction or adjudication. Any conviction or adjudication set aside pursuant to law is not a conviction or adjudication for purposes of this section. A conviction or adjudication from any out of state court shall constitute a conviction or adjudication for purposes of this section.

(h) "School" means any public or private educational institution, including, but not limited to, postsecondary school, college, university, community college, secondary school, high school, junior high school, middle school, elementary school, trade school, vocational school or professional school providing training or education to an offender for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(i) "Employment" means any full-time, part-time, transient, day-labor employment or volunteer work, with or without compensation, for three or more consecutive days or parts of days, or for 10 or more nonconsecutive days in a period of 30 consecutive days.

(j) "Reside" means to stay, sleep or maintain with regularity or temporarily one's person and property in a particular place other than a location where the offender is incarcerated. It shall be presumed that an offender resides at any and all locations where the offender stays, sleeps or maintains the offender's person for three or more consecutive days or parts of days, or for ten or more non-consecutive days in a period of 30 consecutive days.

(k) "Residence" means a particular and definable place where an individual resides. Nothing in the Kansas offender registration act shall be construed to state that an offender may only have one residence for the purpose of such act.

(l) "Transient" means having no fixed or identifiable residence.

(m) "Law enforcement agency having initial jurisdiction" means the registering law enforcement agency of the county or location of jurisdiction where the offender expects to most often reside upon the offender's discharge, parole or release.

(n) "Registering law enforcement agency" means the sheriff's office or tribal police department responsible for registering an offender.

(o) "Registering entity" means any person, agency or other governmental unit, correctional facility or registering law enforcement agency responsible for obtaining the required information from, and explaining the required registration procedures to, any person required to register pursuant to the Kansas offender registration act. "Registering entity" shall include, but not be limited to, sheriff's offices, tribal police departments and correctional facilities.

(p) "Treatment facility" means any public or private facility or institution providing inpatient mental health, drug or alcohol treatment or counseling, but does not include a hospital, as defined in K.S.A. 65-425, and amendments thereto.

(q) "Correctional facility" means any public or private correctional facility, juvenile

detention facility, prison or jail.

(r) "Out of state" means: the District of Columbia; any federal, military or tribal jurisdiction, including those within this state; any foreign jurisdiction; or any state or territory within the United States, other than this state.

(s) "Duration of registration" means the length of time during which an offender is required to register for a specified offense or violation.

Sec. 30. K.S.A. 2012 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 15 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 15 years from the date of conviction:

(A) Sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(B) adultery, as defined in K.S.A. 21-3507, prior to its repeal, or K.S.A. 2012 Supp. 21-5511, and amendments thereto, when one of the parties involved is less than 18 years of age;

(C) patronizing a prostitute, as defined in K.S.A. 21-3515, prior to its repeal, or K.S.A. 2012 Supp. 21-6421, ~~and amendments thereto~~ prior to its amendment by this act on July 1, 2013, when one of the parties involved is less than 18 years of age;

(D) lewd and lascivious behavior, as defined in K.S.A. 21-3508, prior to its repeal, or K.S.A. 2012 Supp. 21-5513, and amendments thereto, when one of the parties involved is less than 18 years of age;

(E) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto;

(F) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;

(G) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;

(H) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;

(I) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;

(J) criminal restraint, as defined in K.S.A. 21-3424, prior to its repeal, or K.S.A. 2012 Supp. 21-5411, and amendments thereto, except by a parent, and only when the victim is less than 18 years of age;

(K) any act which has been determined beyond a reasonable doubt to have been sexually motivated, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(L) conviction of any person required by court order to register for an offense not otherwise required as provided in the Kansas offender registration act;

(M) conviction of any person felony and the court makes a finding on the record that a deadly weapon was used in the commission of such person felony;

(N) unlawful manufacture or attempting such of any controlled substance or controlled substance analog as defined in K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto;

(O) possession of ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with intent to use the product to manufacture a controlled substance as defined by subsection (a) of K.S.A. 65-7006, prior to its repeal, subsection (a) of K.S.A. 2010 Supp. 21-36a09, prior to its transfer, or subsection (a) of K.S.A. 2012 Supp. 21-5709, and amendments thereto;

(P) K.S.A. 65-4161, prior to its repeal, subsection (a)(1) of K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or subsection (a)(1) of K.S.A. 2012 Supp. 21-5705, and amendments thereto; or

(Q) any 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. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 15 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(b) (1) Except as provided in subsection (c), if convicted of any of the following offenses, an offender's duration of registration shall be, if confined, 25 years after the date of parole, discharge or release, whichever date is most recent, or, if not confined, 25 years from the date of conviction:

(A) Criminal sodomy, as defined in subsection (a)(1) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, when one of the parties involved is less than 18 years of age;

(B) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

(C) electronic solicitation, as defined in K.S.A. 21-3523, prior to its repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto;

(D) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

(E) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

(F) unlawful sexual relations, as defined in K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto;

(G) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is 14 or more years of age but less than 18 years of age;

(H) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

(I) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto prior to its amendment by this act on July 1, 2013,~~ if the prostitute person selling sexual relations is 14 or more years of age but less than 18 years of age; or

(J) any 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. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(2) Except as otherwise provided by the Kansas offender registration act, the duration of registration terminates, if not confined, at the expiration of 25 years from the date of conviction. Any period of time during which any offender is incarcerated in any jail or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration.

(c) Upon a second or subsequent conviction of an offense requiring registration, an offender's duration of registration shall be for such offender's lifetime.

(d) The duration of registration for any offender who has been convicted of any of the following offenses shall be for such offender's lifetime:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(2) 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. 2012 Supp. 21-5508, and amendments thereto;

(3) 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. 2012 Supp. 21-5506, and amendments thereto;

(4) 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. 2012 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(6) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto;

(7) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age;

(8) promoting prostitution, as defined in K.S.A. 21-3513, prior to its repeal, or K.S.A. 2012 Supp. 21-6420, ~~and amendments thereto prior to its amendment by this act on July 1, 2013, if the prostitute person selling sexual relations~~ is less than 14 years of age;

(9) kidnapping, as defined in K.S.A. 21-3420, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(10) aggravated kidnapping, as defined in K.S.A. 21-3421, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto; or

(11) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto; or

~~(H) (12)~~ any 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. 2012 Supp. 21-5301, 21-5302 and 21-5303, and amendments thereto, of an offense defined in this subsection.

(e) Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.

(f) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the

expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(g) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(h) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in subsection (c) of K.S.A. 22-4902, and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2012 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.

(i) Notwithstanding any other provision of law, if a diversionary agreement or

probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act for an offense that would not otherwise require registration as provided in subsection (a)(5) of K.S.A 22-4902, and amendments thereto, then all provisions of the Kansas offender registration act shall apply, except that the duration of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(j) The duration of registration does not terminate if the convicted or adjudicated offender again becomes liable to register as provided by the Kansas offender registration act during the required period of registration.

(k) For any person moving to Kansas who has been convicted or adjudicated in an out of state court, or who was required to register under an out of state law, the duration of registration shall be the length of time required by the out of state jurisdiction or by the Kansas offender registration act, whichever length of time is longer. The provisions of this subsection shall apply to convictions or adjudications prior to June 1, 2006, and to persons who moved to Kansas prior to June 1, 2006, and to convictions or adjudications on or after June 1, 2006, and to persons who moved to Kansas on or after June 1, 2006.

(l) For any person residing, maintaining employment or attending school in this state who has been convicted or adjudicated by an out of state court of an offense that is comparable to any crime requiring registration pursuant to the Kansas offender registration act, but who was not required to register in the jurisdiction of conviction or adjudication, the duration of registration shall be the duration required for the comparable offense pursuant to the Kansas offender registration act. The duration of registration shall begin upon establishing residency, beginning employment or beginning school.

Sec. 31. K.S.A. 2012 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 2012 Supp. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and

amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2012 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in subsection (a) (14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto; or

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve.

(e) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 2012 Supp. 38-2207 and 38-2208, and amendments thereto.

(f) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11, of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(g) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2012 Supp. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(h) "Custody" whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(i) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(j) "Educational institution" means all schools at the elementary and secondary levels.

(k) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and amendments thereto.

(l) "Harm" means physical or psychological injury or damage.

(m) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 2012 Supp. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(n) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(o) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(p) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(q) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(r) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(s) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 2012 Supp. 38-2228, and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(t) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation which requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering,

or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 38-2217, and amendments thereto.

(u) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(v) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(w) "Permanency goal" means the outcome of the permanency planning process which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

(x) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 2012 Supp. 38-2272, and amendments thereto.

(y) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(z) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(aa) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(bb) "Secretary" means the secretary of ~~social and rehabilitation services~~ the department for children and families or the secretary's designee.

(cc) "Secure facility" means a facility, other than a staff secure facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(dd) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include allowing, permitting or encouraging a child to engage in ~~prostitution~~ the sale of sexual relations or commercial sexual exploitation of a child, or to be photographed, filmed or depicted in pornographic material.

(ee) "Shelter facility" means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(ff) "Staff secure facility" means a facility described in section 6, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff

supervision. No staff secure facility shall be in a city or county jail.

~~(ff)~~ (gg) "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(gg)~~ (hh) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 32. On January 1, 2014, K.S.A. 2012 Supp. 38-2231 is hereby amended to read as follows: 38-2231. (a) A law enforcement officer or court services officer shall take a child under 18 years of age into custody when:

(1) The law enforcement officer or court services officer has a court order commanding that the child be taken into custody as a child in need of care; or

(2) the law enforcement officer or court services officer has probable cause to believe that a court order commanding that the child be taken into custody as a child in need of care has been issued in this state or in another jurisdiction.

(b) A law enforcement officer shall take a child under 18 years of age into custody when the officer:

(1) ~~The law enforcement officer~~ Reasonably believes the child will be harmed if not immediately removed from the place or residence where the child has been found; ~~or~~

(2) ~~when the officer~~ has probable cause to believe that the child is a missing person and a verified missing person entry for the child can be found in the national crime information center missing person system; or

(3) reasonably believes the child is a victim of human trafficking, aggravated human trafficking or commercial sexual exploitation of a child.

(c) (1) If a person provides shelter to a child whom the person knows is a runaway, such person shall promptly report the child's location either to a law enforcement agency or to the child's parent or other custodian.

(2) If a person reports a runaway's location to a law enforcement agency pursuant to this section and a law enforcement officer of the agency has reasonable grounds to believe that it is in the child's best interests, the child may be allowed to remain in the place where shelter is being provided, subject to subsection (b), in the absence of a court order to the contrary. If the child is allowed to so remain, the law enforcement agency shall promptly notify the secretary of the child's location and circumstances.

(d) Except as provided in subsections (a) and (b), a law enforcement officer may temporarily detain and assume temporary custody of any child subject to compulsory school attendance, pursuant to K.S.A. 72-1111, and amendments thereto, during the hours school is actually in session and shall deliver the child pursuant to subsection (g) of K.S.A. 2012 Supp. 38-2232, and amendments thereto.

Sec. 33. On January 1, 2014, K.S.A. 2012 Supp. 38-2232 is hereby amended to read as follows: 38-2232. (a) (1) To the extent possible, when any law enforcement officer takes into custody a child under the age of 18 years without a court order, the child shall forthwith be delivered to the custody of the child's parent or other custodian unless there are reasonable grounds to believe that such action would not be in the best

interests of the child.

(2) Except as provided in subsection (b), if the child is not delivered to the custody of the child's parent or other custodian, the child shall forthwith be delivered to a shelter facility designated by the court, court services officer, juvenile intake and assessment worker, licensed attendant care center or other person or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to a facility or person designated by the secretary.

(3) If, after delivery of the child to a shelter facility, the person in charge of the shelter facility at that time and the law enforcement officer determine that the child will not remain in the shelter facility and if the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the law enforcement officer shall deliver the child to a juvenile detention facility or other secure facility, designated by the court, where the child shall be detained for not more than 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(4) No child taken into custody pursuant to this code shall be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(5) It shall be the duty of the law enforcement officer to furnish to the county or district attorney, without unnecessary delay, all the information in the possession of the officer pertaining to the child, the child's parents or other persons interested in or likely to be interested in the child and all other facts and circumstances which caused the child to be taken into custody.

(b)(1) When any law enforcement officer takes into custody any child as provided in subsection (b)(2) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, proceedings shall be initiated in accordance with the provisions of the interstate compact on juveniles, K.S.A. 38-1001 et seq., and amendments thereto, or K.S.A. 2012 Supp. 38-1008, and amendments thereto, when effective. Any child taken into custody pursuant to the interstate compact on juveniles may be detained in a juvenile detention facility or other secure facility.

(2) When any law enforcement officer takes into custody any child as provided in subsection (b)(3) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the law enforcement officer shall place the child in protective custody and may deliver the child to a staff secure facility. The law enforcement officer shall contact the department for children and families to begin an assessment to determine safety, placement and treatment needs for the child. Such child shall not be placed in a juvenile detention facility or other secure facility, except as authorized by this section and by K.S.A. 2012 Supp. 38-2242, 38-2243 and 38-2260, and amendments thereto.

(c) Whenever a child under the age of 18 years is taken into custody by a law enforcement officer without a court order and is thereafter placed as authorized by subsection (a), the facility or person shall, upon written application of the law enforcement officer, have physical custody and provide care and supervision for the child. The application shall state:

- (1) The name and address of the child, if known;
- (2) the names and addresses of the child's parents or nearest relatives and persons

with whom the child has been residing, if known; and

(3) the officer's belief that the child is a child in need of care and that there are reasonable grounds to believe that the circumstances or condition of the child is such that the child would be harmed unless placed in the immediate custody of the shelter facility or other person.

(d) A copy of the application shall be furnished by the facility or person receiving the child to the county or district attorney without unnecessary delay.

(e) The shelter facility or other person designated by the court who has custody of the child pursuant to this section shall discharge the child not later than 72 hours following admission, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless a court has entered an order pertaining to temporary custody or release.

(f) In absence of a court order to the contrary, the county or district attorney or the placing law enforcement agency shall have the authority to direct the release of the child at any time.

(g) When any law enforcement officer takes into custody any child as provided in subsection (d) of K.S.A. 2012 Supp. 38-2231, and amendments thereto, the child shall forthwith be delivered to the school in which the child is enrolled, any location designated by the school in which the child is enrolled or the child's parent or other custodian.

Sec. 34. On January 1, 2014, K.S.A. 2012 Supp. 38-2242 is hereby amended to read as follows: 38-2242. (a) The court, upon verified application, may issue ex parte an order directing that a child be held in protective custody and, if the child has not been taken into custody, an order directing that the child be taken into custody. The application shall state for each child:

- (1) The applicant's belief that the child is a child in need of care;
- (2) that the child is likely to sustain harm if not immediately removed from the home;
- (3) that allowing the child to remain in the home is contrary to the welfare of the child; and
- (4) the facts relied upon to support the application, including efforts known to the applicant to maintain the family unit and prevent the unnecessary removal of the child from the child's home, or the specific facts supporting that an emergency exists which threatens the safety of the child.

(b) (1) The order of protective custody may be issued only after the court has determined there is probable cause to believe the allegations in the application are true. The order shall remain in effect until the temporary custody hearing provided for in K.S.A. 2012 Supp. 38-2243, and amendments thereto, unless earlier rescinded by the court.

(2) No child shall be held in protective custody for more than 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, unless within the 72-hour period a determination is made as to the necessity for temporary custody in a temporary custody hearing. The time spent in custody pursuant to K.S.A. 2012 Supp. 38-2232, and amendments thereto, shall be included in calculating the 72-hour period. Nothing in this subsection shall be construed to mean that the child must remain in protective custody for 72 hours. If a child is in the protective custody of the secretary, the secretary shall allow at least one supervised visit

between the child and the parent or parents within such time period as the child is in protective custody. The court may prohibit such supervised visit if the court determines it is not in the best interest of the child.

(c) (1) Whenever the court determines the necessity for an order of protective custody, the court may place the child in the protective custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (e);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; ~~or~~

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or

~~(E)~~(F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the protective custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the protective custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated, to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility pursuant to an order of protective custody for a period of not to exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible.

(d) The order of protective custody shall be served pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on the child's parents and any other person having legal custody of the child. The order shall prohibit the removal of the child from the court's jurisdiction without the court's permission.

(e) If the court issues an order of protective custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse

of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A)

(i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) 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 to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, the court shall provide the secretary with a written copy of any orders entered upon making the order.

Sec. 35. On January 1, 2014, K.S.A. 2012 Supp. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the: (1) Child is dangerous to self or to others; (2) child is not likely to be available within the jurisdiction of the court for future proceedings; ~~or~~ (3) health or welfare of the child may be endangered without further care; (4) child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto; or (5) child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto.

(g) (1) Whenever the court determines the necessity for an order of temporary

custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility; ~~or~~

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or

~~(E)~~ (F) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to subsection (d)(9) or (d)(10) of K.S.A. 2012 Supp. 38-2202, and amendments thereto, the child may be placed in a juvenile detention facility or other secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 2012 Supp. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home; (ii) allowing the child to remain in home is contrary to the welfare of the child; or (iii) immediate placement of the child is in the best interest of the child; and (B) 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 to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 2012 Supp. 38-2277, and amendments thereto.

Sec. 36. On January 1, 2014, K.S.A. 2012 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a) *Considerations.* Prior to entering an order of disposition, the court shall give consideration to:

- (1) The child's physical, mental and emotional condition;
- (2) the child's need for assistance;
- (3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;
- (4) any relevant information from the intake and assessment process; and
- (5) the evidence received at the dispositional hearing.

(b) *Custody with a parent.* The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

- (1) Supervision of the child and the parent by a court services officer;
- (2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and
- (3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent.* The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The child is likely to sustain harm if not immediately removed from the home;

- (B) allowing the child to remain in 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 to the child.

The court shall not enter an order removing a child from the custody of a parent pursuant to this section based solely on the finding that the parent is homeless.

(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to: A relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, ~~to~~; any other suitable person; ~~to~~; a shelter

facility; ~~to~~ a youth residential facility; a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2012 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by section 4, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto; or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 2012 Supp. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 2012 Supp. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent

custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in extended out of home placement;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an

alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 2012 Supp. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 2012 Supp. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 2012 Supp. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

Sec. 37. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as follows: 38-2312. (a) Except as provided in subsection (b) and (c), any records or files specified in this code concerning a juvenile may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the juvenile, if 18 years of age or older or, if the juvenile is less than 18 years of age, by the juvenile's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402, prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto, indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,

aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto, aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-3609, prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments thereto, abuse of a child; or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

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

(d) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile as reflected in the court record, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the trial; and (6) the identity of the trial court. 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 the effective date of this act through June 30, 2013, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

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

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

(ii) one year has elapsed since the final discharge for an adjudication concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 2012 Supp. 21-6419, and amendments thereto;

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

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

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

(f) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed. The petitioner, the court and all

law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the juvenile. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the subject of the files or records and the person's designees.

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

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

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of ~~social and rehabilitation services~~ the department for children and families, 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 of ~~social and rehabilitation services~~ for children and families of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (7) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure,

renewal of licensure or continued licensure by the commission;

(8) the Kansas sentencing commission; or

(9) the Kansas bureau of investigation, for the purposes of:

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

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

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

Sec. 38. K.S.A. 2012 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2012 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2012 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2012 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2012 Supp. 38-2365, and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2012 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. 2012 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2012 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with

the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection (f).

(12) Commit the juvenile directly to the custody of the commissioner for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2012 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2012 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that 21 days prior to the juvenile's release from a juvenile correctional facility, the commissioner or designee shall notify the court of the juvenile's anticipated release date. The court shall set and hold a permanency hearing pursuant to K.S.A. 2012 Supp. 38-2365, and amendments thereto, within seven days after the juvenile's release. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a) (4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority nor shall the fee be assessed against the secretary of ~~social and rehabilitation services~~ the department for children and families or the department of ~~social and rehabilitation services~~ services for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor

vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays, holidays, and days on which the office of the clerk of the court is not accessible, prior to court review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time

restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(g) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(h) In addition to the requirements of K.S.A. 2012 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-5503, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto; (4) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto; (5) ~~promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute~~ commercial sexual exploitation of a child, as defined in section 4, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the victim is less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in parts (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j) The sentencing hearing shall be open to the public as provided in K.S.A. 2012 Supp. 38-2353, and amendments thereto.

Sec. 39. K.S.A. 2012 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except

that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

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

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

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

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

(14) who does not provide any data or information required by K.S.A. 2012 Supp. 41-311b, and amendments thereto.

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

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

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

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

for another retail establishment;

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

(6) a corporation; or

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

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

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

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

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

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

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

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

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other

requirements necessary to have a distributor's license;

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

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

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

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

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

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

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

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

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

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

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

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2012 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

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

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an

agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

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

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

(5) is less than 21 years of age.

Sec. 40. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. Drinking establishment includes a railway car.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Food service establishment" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(k) "Hotel" has the meaning provided by K.S.A. 36-501, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The

term "individual drink" includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

(m) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(n) "Minor" means a person under 21 years of age.

(o) "Morals charge" means a charge involving ~~prostitution~~ the sale of sexual relations; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

(1) Not less than 4,000 permanent seats; and

(2) not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month period.

(s) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Secretary" means the secretary of revenue.

(v) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Sec. 41. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as follows: 60-4104. Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations involving controlled substances, as described in K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto;
- (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto;
- (d) criminal discharge of a firearm, as defined in subsections (a)(1) and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;
- (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;
- (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and amendments thereto;
- (g) unlawful possession or use of a scanning device or reencoder, as described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;
- (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925 through 21-5934, and amendments thereto;
- (i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (l) furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments thereto;
- (m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6414, and amendments thereto;
- (n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6417, and amendments thereto;
- (o) ~~prostitution~~ selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419, and amendments thereto, promoting ~~prostitution~~ the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, and ~~patronizing a prostitute~~ buying sexual relations, as defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;
- (p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2012 Supp. 21-5426, and amendments thereto;
- (q) violations of the banking code, as described in K.S.A. 9-2012, and amendments thereto;
- (r) mistreatment of a dependent adult, as defined in K.S.A. 2012 Supp. 21-5417, and amendments thereto;
- (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-5821, and amendments thereto;
- (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and amendments thereto;
- (u) making false information, as defined in K.S.A. 2012 Supp. 21-5824, and

amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2012 Supp. 21-5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2012 Supp. 21-5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in subsections (a) and (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509, and amendments thereto; ~~and~~

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8-1568, and amendments thereto; and

(aa) commercial sexual exploitation of a child, as defined in section 4, and amendments thereto.

Sec. 42. K.S.A. 2012 Supp. 68-2255 is hereby amended to read as follows: 68-2255. (a) As used in this section:

(1) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(A) Persons who appear in a state of nudity or semi-nudity;

(B) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(C) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

(2) "nudity" or a "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernible turgid state;

(3) "semi-nudity" means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(4) "sexually-oriented business" means any business which offers its patrons goods of which a substantial portion are sexually-oriented materials. Any business where more than 10% of display space is used for sexually-oriented materials shall be presumed to be a sexually-oriented business;

(5) "sexually-oriented materials" means any textual, pictorial or three dimensional material that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors;

(6) "sign" or "outdoor advertising" means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area, and is visible from the state highway.

(b) No sign or other outdoor advertising, for an adult cabaret or sexually-oriented business shall be located within one mile of any state highway except if such business is located within one mile of a state highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving notice that the premises are off limits to minors. The identification sign shall be no more than 40 square feet in size and shall include no more than the following information: Name, street address, telephone number and operating hours of the business.

(c) Signs existing at the time of the effective date of this act, which did not conform to the requirements of this section, and amendments thereto, may be allowed to continue as a nonconforming use, but should be made to conform within three years from July 1, 2006.

(d) Any owner of such a business who violates the provisions of this section shall be guilty of a class C misdemeanor. Each week a violation of this section continues to exist shall constitute a separate offense.

(e) This section is designed to protect the following public policy interests of this state, including, but not limited to:

(1) To mitigate the adverse secondary effects of sexually-oriented businesses; (2) to improve traffic safety; (3) to limit harm to minors; and (4) to reduce ~~prostitution~~ the sale of sexual relations, crime, juvenile delinquency, deterioration in property values and lethargy in neighborhood improvement efforts.

(f) The attorney general shall represent the state in all actions and proceedings arising from this section, and amendments thereto. All costs incurred by the attorney general to defend or prosecute this section, including payment of all court costs, civil judgments and, if necessary, any attorneys fees, shall be paid from the state general fund.

Sec. 43. K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-2255 are hereby repealed.

Sec. 44. On January 1, 2014, K.S.A. 2012 Supp. 38-2231, 38-2232, 38-2242, 38-2243 and 38-2255 are hereby repealed.";

And by redesignating sections accordingly;

On page 1, in the title, by striking all in lines 1 through 3 and inserting:

"AN ACT concerning crimes, punishment and criminal procedure; relating to human trafficking; human trafficking advisory board; establishing the human trafficking victim assistance fund; creating the crime of commercial sexual exploitation of a child; relating to selling sexual relations, promoting sexual relations, buying sexual relations; children in need of care; staff secure facilities; amending K.S.A. 22-2530 and K.S.A. 2012 Supp. 12-4106, 12-4120, 12-4516, 21-5301, 21-5302, 21-5303, 21-5401, 21-5502, 21-6419, 21-6420, 21-6421, 21-6614, 21-6626, 21-6627, 21-6806, 21-6815, 22-2515, 22-3601, 22-3717, 22-3901, 22-4902, 22-4906, 38-2202, 38-2231, 38-2232, 38-2242, 38-2243, 38-2255, 38-2312, 38-2361, 41-311, 41-2601, 60-4104 and 68-2255 and repealing the existing sections.";

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

JEFF KING

GREGORY SMITH

DAVID HALEY

Conferees on part of Senate

JOHN RUBIN

RAMON GONZALEZ

GAIL FINNEY

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **S Sub for HB 2034**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2081** 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:

"Section 1. K.S.A. 60-903 is hereby amended to read as follows: 60-903. ~~(a) No notice or bond required. A restraining order may issue without notice or bond, except as provided in subsection (b) of K.S.A. 60-904, and amendments thereto, but if it appears to the judge that a restraining order may result in damage to the party restrained, a bond to secure payment of any damages sustained may be required. An application for a restraining order shall also be considered as an application for a temporary injunction and either party may give notice of hearing thereon. The order shall remain in force until the hearing on the application for a temporary injunction.~~

(a) Temporary restraining order; issuing without notice. Except as provided in subsection (b) of K.S.A. 60-904, and amendments thereto, the court may issue a temporary restraining order without notice or bond to the adverse party or its attorney only if:

(1) Specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss or damage will result to the movant before the adverse party can be heard in opposition;

(2) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required; and

(3) notice of the issuance of a temporary restraining order is provided to the attorney general of the state of Kansas if the adverse party is the state of Kansas or an agency, officer or employee thereof, or to the appropriate city clerk or county clerk if the adverse party is a city or county or an agency, officer or employee thereof.

(b) Contents; expiration. Every temporary restraining order issued without notice must state the date and hour it was issued, describe the injury and state why it is irreparable, state why the order was issued without notice and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry, not to exceed 14 days, that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(c) Expediting the temporary injunction hearing. If the temporary restraining order is issued without notice, the motion for a temporary injunction must be set for hearing at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion, and if the party does not, the court must dissolve the order.

(d) Service. Where a temporary restraining order is issued without notice, it shall be served upon each party restrained in the manner prescribed for personal service of a summons.

(e) Motion to Dissolve. On two days' notice to the party who obtained the temporary restraining order without notice, or on shorter notice set by the court, the adverse party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

(f) Security. Unless otherwise provided by statute or this section, the court may issue a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully restrained. The state of Kansas or an agency, officer or employee thereof, is not required to give security. For any city or county or an agency, officer or employee thereof, at the discretion of the judge, the security required by this subsection may be waived.

Sec. 2. K.S.A. 2012 Supp. 60-2001 is hereby amended to read as follows: 60-2001. (a) Docket fee. Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$156 on and after July 1, 2009 through June 30, 2013, and \$154 on and after July 1, 2013, to the clerk of the district court. Except as provided further, the docket fee established in this subsection shall be the only fee collected or moneys in the nature of a fee collected for the docket fee. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after the effective date of this act through June 30, 2013, the supreme court may impose an additional charge, not to exceed \$22 per docket fee, to fund the costs of non-judicial personnel.

(b) Poverty affidavit in lieu of docket fee. (1) Effect. In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in: (A) The six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require

an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

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

State of Kansas, _____ County:

~~In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee set forth a factual basis upon which the plaintiff alleges by reason of poverty an inability to pay a docket fee, including, but not limited to, the source and amount of the plaintiff's weekly income. Such affidavit shall be signed and sworn to by the plaintiff under oath, before one who has authority to administer the oath, under penalty of perjury, K.S.A. 2012 Supp. 21-5903, and amendments thereto. The form of the affidavit shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.~~

~~(3) *Court review; grounds for dismissal; service of process.* The court shall review any petition authorized for filing under this subsection. Upon such review, if the court finds that the plaintiff's allegation of poverty is untrue, the court shall direct the plaintiff to pay the docket fee or dismiss the petition without prejudice. Notwithstanding K.S.A. 60-301, and amendments thereto, service of process shall not issue unless the court grants leave following its review.~~

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

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 3. K.S.A. 2012 Supp. 60-2414 is hereby amended to read as follows: 60-2414.
(a) *Right of redemption by defendant owner.* Except as stated in subsection (m) and as otherwise provided by law, the defendant owner may redeem any real property sold

under execution, special execution or order of sale, at any time within 12 months from the day of sale, for the amount paid by the current holder of the certificate of purchase, including expenses incurred by the holder of the certificate of purchase in accordance with subsection (d), together with interest at the rate provided for in subsection (e)(1) of K.S.A. 16-204, and amendments thereto, costs and taxes to the date of redemption. The defendant owner in the meantime shall be entitled to the possession of the property. If the court finds after hearing, either before or after sale, upon not less than 21 days' notice to all parties, that the property has been abandoned, or is not occupied in good faith, the period of redemption for the defendant owner may be shortened or extinguished by the court. The right of redemption shall not apply to oil and gas leaseholds. Except for mortgages covering agricultural lands or for mortgages covering single or two-family dwellings owned by or held in trust for natural persons owning or holding such dwelling as their residence, the mortgagor may agree in the mortgage instrument to a shorter period of redemption than 12 months or may wholly waive the period of redemption.

(b) *Redemption by lien creditor.* Except as provided in subsection (m), for the first three months of the redemption period, if any, the right of the defendant owner or successors and assigns to redeem is exclusive. If no redemption is made by the defendant owner during the time in which the defendant owner has the exclusive right to redeem, any creditor referred to in subsection (c) may redeem the property during the balance of the redemption period remaining. If the defendant owner has waived the right of redemption, a creditor shall have a right to redeem the property for a period of three months from the date of the judicial sale. If the defendant owner has agreed to a period of redemption of three months or less, a creditor shall have a right to redeem for a period of three months from the date of expiration of the defendant owner's redemption period. If the court shortens or extinguishes the period of redemption because of abandonment or lack of good faith occupation as provided in subsection (a), the court shall specify in the order a time not to exceed three months during which a creditor may redeem. The first creditor redeeming must pay only the amount of the successful sale bid, the expenses incurred by the holder of the certificate in accordance with subsection (d), together with interest at the rate provided for in subsection (e)(1) of K.S.A. 16-204, and amendments thereto, costs and taxes to the date of redemption. After redemption by a creditor, no further redemption shall be allowed except by the defendant owner or such owner's successors and assigns. If a creditor redeems during the period of redemption for the defendant owner, the defendant owner shall have the balance of such period, but in no event less than 14 days from the filing of the affidavit required in subsection (f), to redeem from the creditor. When the defendant owner or such owner's successors and assigns redeem subsequent to redemption by a creditor, the defendant owner or such owner's successors and assigns shall pay an amount equal to the redemption amount paid by such creditor, plus the amount required by subsection (f), and expenses incurred by the creditor in accordance with subsection (d), together with interest at the rate provided for in subsection (e)(1) of K.S.A. 16-204, and amendments thereto, costs and taxes to the date of redemption.

(c) *Creditors who may redeem.* Any creditor whose claim is or becomes a lien prior to the expiration of the time allowed by law for the redemption by creditors may redeem. A mortgagee may redeem upon the terms prescribed by this section before or after the debt secured by the mortgage falls due.

(d) *Terms of redemption; rights of parties.* During the period allowed for redemption, the holder of the certificate of purchase or the creditor who has redeemed may pay the taxes on the lands sold, insurance premiums on the improvements thereon, other sums necessary to prevent waste, and interest or sums due, upon any prior lien or encumbrance on the real property. Upon the redemption of the property, the holder of the certificate or the creditor who has redeemed shall be entitled to repayment of all sums thus paid, together with interest at the rate provided for in subsection (e)(1) of K.S.A. 16-204, and amendments thereto. All expenses incurred by the holder of the certificate or the creditor who has redeemed shall be as shown by receipts or vouchers filed in the office of the clerk of the district court.

(e) *Effect of failure of debtor to redeem; deficiency.* If the defendant owner or such owner's successors or assigns fail to redeem as provided in this section, the holder of the certificate of purchase or the creditor who has redeemed prior to the expiration of the redemption period will hold the property absolutely. If it is held by a redeeming creditor, the lien and the claim out of which it arose will be held to be extinguished, unless the redeeming creditor is unwilling to hold the property and credit the defendant owner with the full amount of the redeeming creditor's lien and, at the time of redemption, files with the clerk of the district court a statement of the amount that the redeeming creditor is willing to credit on the claim. If the redeeming creditor files such a statement and the defendant owner or such owner's successors and assigns fail to redeem, the creditor's claim shall be extinguished by the amount in the statement. The sheriff, at the end of the redemption period, shall execute a deed to the current owner of the certificate of purchase or the creditor who has redeemed prior to the expiration of the redemption period.

(f) *Mode of redemption.* The party redeeming shall pay the money into the office of the clerk of the district court for the use of the persons entitled to it. The clerk shall give a receipt for the money, stating the purpose for which it is paid. The clerk shall also enter the transaction on the appearance docket of the case, showing the amount paid. A redeeming creditor, or agent of the creditor, shall also file an affidavit stating as nearly as practicable the amount still unpaid due on the claim of that creditor and any lesser amount the creditor is willing to credit on the claim in accordance with subsection (e). The creditor's claim, or such lesser amount as the creditor is willing to credit on the claim in accordance with subsection (e), shall be added to the redemption amount to be paid by the defendant owner or such owner's successors and assigns.

(g) *Redemption of property sold in parcels, or undivided portions.* Whenever the property has been sold in parcels, any distinct portion of that property may be redeemed by itself. If a creditor has redeemed, the amount of the creditor's claim or such lesser amount as the creditor is willing to credit on the claim as stated in the affidavit under subsection (f) shall be added to each parcel sold pro rata in proportion to the amount for which it was originally sold. When the interests of several tenants in common have been sold on execution the undivided portion of any or either of them may be redeemed separately.

(h) *Transfer of right of redemption.* The rights of the defendant owner in relation to redemption may be assigned or transferred, and the assignee or transferee shall have the same right of redemption as the defendant owner. The assigned or transferred right of redemption shall not be subject to levy or sale on execution.

(i) *Holder of legal title.* The holder of the legal title at the time of issuance of

execution or order of sale shall have the same right of redemption upon the same terms and conditions as the defendant in execution and shall be entitled to the possession of the property the same as the defendant in execution.

(j) *Injury or waste after sale.* After the sheriff makes the deed to the purchaser or party entitled to a deed under sale as provided in this section, the purchaser or party may assert a claim for damages against any person committing or permitting any injury or waste upon the property purchased after the sale and before possession is delivered under the conveyance.

(k) *Second sale not permitted.* Real estate once sold upon order of sale, special execution or general execution shall not again be liable for sale for any balance due upon the judgment or decree under which it is sold, or any judgment or lien inferior thereto, including unadjudicated junior liens filed after the petition is filed in the district court to foreclose the senior lien against the real estate.

(l) *Injunction or receiver to protect property.* The holder of the certificate of purchase shall be entitled to prevent any waste or destruction of the premises purchased. For that purpose the court, on proper showing, may issue an injunction or, when required to protect the premises against waste, appoint a receiver who shall hold the premises until the purchaser is entitled to a deed. The receiver may rent, control and manage the premises but the income during that time, except the fees and expenses of the receiver and the amount that is necessary to keep up repairs, prevent waste and pay real estate taxes and insurance premiums, shall go to the person who otherwise would be entitled to possession during the period of redemption.

(m) Owners reduced redemption period. In the event a default occurs in the conditions of the mortgage or instrument of the most senior lien foreclosed before $\frac{1}{3}$ of the original indebtedness secured by the mortgage or lien has been paid, the court shall order a redemption period of three months. If, after proper showing, the court finds that the total outstanding amount of all mortgages or liens is less than $\frac{1}{3}$ of the market value of the property, the court shall order a redemption period of 12 months. If the court finds after a hearing with not less than 21 days' notice to all parties, that the defendant owner has involuntarily lost such owner's primary source of income after the date of the foreclosure sale and prior to expiration of a three-month period of redemption, the court may extend the three-month period of redemption an additional three months. If the court orders a redemption period of six months or less, the right of the defendant owner or successors and assigns to redeem is exclusive for the first two months of the redemption period. This subsection shall not apply in the event redemption rights have been shortened, waived or terminated pursuant to subsection (a).";

On page 3, following line 30, by inserting:

"New Sec. 6. (a) The conduct prohibited by K.S.A. 2012 Supp. 21-6107, and amendments thereto, constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in such conduct shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(b) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:

(1) The person committing the conduct prohibited by K.S.A. 2012 Supp. 21-6107, and amendments thereto, shall be deemed the supplier, and the person who is the victim of such conduct shall be deemed the consumer; and

(2) proof of a consumer transaction shall not be required.

(c) This section shall be part of and supplemental to the Kansas consumer protection act and shall be known and may be cited as the Wayne Owen law.";

And by renumbering sections accordingly;

On page 3, in line 31, after "K.S.A." by inserting "60-903 and K.S.A."; also in line 31, after "Supp." by inserting "60-2001, 60-2414,";

On page 1, in the title, in line 1, after "procedure" by inserting "and civil actions"; also in line 1, by striking "the forfeiture of"; in line 2, by striking "instrumentalities of a crime" and inserting "temporary restraining orders; docket fees and costs; poverty affidavits; redemption of real property; asset seizure and forfeiture; unconscionable act or practice under the Kansas consumer protection act"; also in line 2, after "K.S.A." by inserting "60-903 and K.S.A."; also in line 2, after "Supp." by inserting "60-2001, 60-2414,";

JEFF KING

GREG SMITH

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

ROB BRUCHMAN

JANICE PAULS

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2081**.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Haley.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2093** 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 introduced, as follows:

On page 1, following line 6, by inserting:

"Section 1. K.S.A. 21-2512 is hereby amended to read as follows: 21-2512. (a) Notwithstanding any other provision of law, a person in state custody, at any time after conviction for murder in the first degree as defined by K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto, or for rape as defined by K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto, may petition the court that entered the judgment for forensic DNA testing (deoxyribonucleic acid testing) of any biological material that:

(1) Is related to the investigation or prosecution that resulted in the conviction;
 (2) is in the actual or constructive possession of the state; and
 (3) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(b) (1) The court shall notify the prosecuting attorney of a petition made under subsection (a) and shall afford the prosecuting attorney an opportunity to respond.

(2) Upon receiving notice of a petition made under subsection (a), the prosecuting attorney shall take such steps as are necessary to ensure that any remaining biological material that was secured in connection with the case is preserved pending the completion of proceedings under this section.

(c) The court shall order DNA testing pursuant to a petition made under subsection (a) upon a determination that testing may produce noncumulative, exculpatory evidence relevant to the claim of the petitioner that the petitioner was wrongfully convicted or sentenced.

(d) The cost of DNA testing ordered under subsection (c) shall be borne by the state or the petitioner, as the court may order in the interests of justice, if it is shown that the petitioner is not indigent and possesses the means to pay.

(e) The court may at any time appoint counsel for an indigent applicant under this section.

(f) (1) Except as provided in subsection (f)(3), if the results of DNA testing conducted under this section are unfavorable to the petitioner, the court:

(A) Shall dismiss the petition; and

(B) in the case of a petitioner who is not indigent, may assess the petitioner for the cost of such testing.

(2) If the results of DNA testing conducted under this section are favorable to the petitioner and are of such materiality that a reasonable probability exists that the new evidence would result in a different outcome at trial or sentencing, the court shall:

(A) Order a hearing, notwithstanding any provision of law that would bar such a hearing; and

(B) enter any order that serves the interests of justice, including, but not limited to, an order:

(i) Vacating and setting aside the judgment;

(ii) discharging the petitioner if the petitioner is in custody;

(iii) resentencing the petitioner; or

(iv) granting a new trial.

(3) If the results of DNA testing conducted under this section are inconclusive, the court may order a hearing to determine whether there is a substantial question of innocence. If the petitioner proves by a preponderance of the evidence that there is a substantial question of innocence, the court shall proceed as provided in subsection (f) (2).

(g) Nothing in this section shall be construed to limit the circumstances under which a person may obtain DNA testing or other postconviction relief under any other provision of law.

Sec. 2. K.S.A. 2012 Supp. 21-5402 is hereby amended to read as follows: 21-5402.

(a) Murder in the first degree is the killing of a human being committed:

(1) Intentionally, and with premeditation; or

(2) in the commission of, attempt to commit, or flight from any inherently dangerous felony.

(b) Murder in the first degree is an off-grid person felony.

(c) As used in this section, an "inherently dangerous felony" means:

(1) Any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

(A) Kidnapping, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(B) aggravated kidnapping, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5408, and amendments thereto;

(C) robbery, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;

(D) aggravated robbery, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5420, and amendments thereto;

(E) rape, as defined in K.S.A. 2012 Supp. 21-5503, and amendments thereto;

(F) aggravated criminal sodomy, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

(G) abuse of a child, as defined in K.S.A. 2012 Supp. 21-5602, and amendments thereto;

(H) felony theft of property, as defined in subsection (a)(1) or (a)(3) of K.S.A. 2012 Supp. 21-5801, and amendments thereto;

(I) burglary, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;

(J) aggravated burglary, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5807, and amendments thereto;

(K) arson, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;

(L) aggravated arson, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5812, and amendments thereto;

(M) treason, as defined in K.S.A. 2012 Supp. 21-5901, and amendments thereto;

(N) any felony offense as provided in K.S.A. 2012 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto;

(O) any felony offense as provided in subsection (a) or (b) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

(P) endangering the food supply, as defined in subsection (a) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;

(Q) aggravated endangering the food supply, as defined in subsection (b) of K.S.A. 2012 Supp. 21-6317, and amendments thereto;

(R) fleeing or attempting to elude a police officer, as defined in subsection (b) of K.S.A. 8-1568, and amendments thereto;

(S) aggravated endangering a child, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5601, and amendments thereto;

(T) abandonment of a child, as defined in subsection (a) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; or

(U) aggravated abandonment of a child, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5605, and amendments thereto; and

(2) any of the following felonies, only when such felony is so distinct from the homicide alleged to be a violation of subsection (a)(2) as to not be an ingredient of the homicide alleged to be a violation of subsection (a)(2):

- (A) Murder in the first degree, as defined in subsection (a)(1);
- (B) murder in the second degree, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- (C) voluntary manslaughter, as defined in subsection (a)(1) of K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- (D) aggravated assault, as defined in subsection (b) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;
- (E) aggravated assault of a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5412, and amendments thereto;
- (F) aggravated battery, as defined in subsection (b)(1) of K.S.A. 2012 Supp. 21-5413, and amendments thereto; or
- (G) aggravated battery against a law enforcement officer, as defined in subsection (d) of K.S.A. 2012 Supp. 21-5413, and amendments thereto.

(d) Murder in the first degree as defined in subsection (a)(2) is an alternative method of proving murder in the first degree and is not a separate crime from murder in the first degree as defined in subsection (a)(1). The provisions of K.S.A. 21-5109, and amendments thereto, are not applicable to murder in the first degree as defined in subsection (a)(2). Murder in the first degree as defined in subsection (a)(2) is not a lesser included offense of murder in the first degree as defined in subsection (a)(1), and is not a lesser included offense of capital murder as defined in K.S.A. 21-5401, and amendments thereto. As set forth in subsection (b) of K.S.A. 21-5109, and amendments thereto, there are no lesser included offenses of murder in the first degree under subsection (a)(2).

(e) The amendments to this section by this act establish a procedural rule for the conduct of criminal prosecutions and shall be construed and applied retroactively to all cases currently pending.";

And by renumbering sections accordingly;

On page 4, in line 19, before "K.S.A." by inserting "K.S.A. 21-2512 and"; also in line 19, following "Supp." by inserting "21-5402,";

On page 1, in the title, in line 2, by striking "relating to"; also in line 2, following the last semicolon by inserting "DNA evidence; felony murder; capital murder;"; in line 3, following "amending" by inserting "K.S.A. 21-2512 and"; also in line 3, following "Supp." by inserting "21-5402,";

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

JEFF KING

GREGORY

DAVID HALEY

Conferees on part of Senate

JOHN RUBIN

RAMON GONZALEZ

GAIL FINNEY

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **S Sub**

for HB 2093.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2115** 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, following line 27, by inserting:

"Sec. 2. K.S.A. 2012 Supp. 75-6210 is hereby amended to read as follows: 75-6210. (a) Upon completion of a setoff transaction, the director shall transfer the net proceeds collected to the account or fund of the state agency, foreign state agency or municipality to which the debt was owed.

(b)(1) From the gross proceeds collected by the director through setoff, the director shall retain a reasonable collection assistance fee in an amount based on cost, as determined by generally accepted cost allocation techniques, except that in the case of transactions for collection of debts arising from the employment security law such fee shall not exceed \$300 for any transaction.

(2) The director shall retain a reasonable collection assistance fee from the gross proceeds of collections through setoff on behalf of a municipality as specified in an agreement entered into pursuant to K.S.A. 75-6204, and amendments thereto, or foreign state agency in such amount as specified in the reciprocal agreement entered into pursuant to K.S.A. 75-6215, and amendments thereto.

(3) The collection assistance fee shall be paid as an additional cost for all debts owed to the court when the court utilizes debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto. The collection assistance fee shall be retained from the amount collected, but shall not be deducted from the debts owed to the court.

(4) The director may credit a portion of the collection assistance fee to the appropriate account or fund of any other state agency that has incurred expenses in assisting in the collection of the debt.

(5) The amount of the collection assistance fee retained by the director shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the accounting services recovery fund.

(c) Upon receipt by the state agency, foreign state agency or municipality of the net proceeds collected, the state agency, foreign state agency or municipality shall credit the debtor's obligation in the amount of the gross proceeds collected.

(d) Except as otherwise prescribed by the director or the secretary of

administration, any state agency, foreign state agency or municipality which receives any payment from a debtor after notification to the debtor under K.S.A. 75-6206, and amendments thereto, other than payments collected pursuant to K.S.A. 44-718, and amendments thereto, or collected through the federal government or judicial process, shall remit the collection assistance fee imposed under subsection (b) to the director which shall be credited to the accounting services recovery fund. If a state agency fails to remit the collection assistance fee as required by this subsection, the director may transfer an amount equal to such collection assistance fee from the appropriate account or fund of the state agency to the accounting services recovery fund. If a foreign state agency or municipality fails to remit the collection assistance fee as required by this subsection, the director may seek collection of such fee in such manner as may be allowed by law.

(e) In cases involving the collection of debts arising from the employment security law, the entire amount collected shall be credited to the employment security fund and the collection assistance fee shall be transferred from the special employment security fund to the accounting services recovery fund.";

And by renumbering sections accordingly;

Also on page 2, in line 28, by striking "is" and inserting "and K.S.A. 2012 Supp. 75-6210 are";

On page 1, in the title, in line 1, by striking "judges and justices" and inserting "courts"; in line 2, by striking "retirants" and inserting "judges and justices"; also in line 2, after the semicolon, by inserting "court debt setoff procedures;"; also in line 2, after "20-2622" by inserting "and K.S.A. 2012 Supp. 75-6210"; also in line 2, by striking "section" and inserting "sections";

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

JEFF KING

GREGORY SMITH

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

ROB BRUCHMAN

JANIS PAULS

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2115**.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wolf.

Nays: Tyson.

Present and Passing: Francisco.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2120** 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 9, following line 24, by inserting:

"Sec. 3. K.S.A. 2012 Supp. 21-6805 is hereby amended to read as follows: 21-6805. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for drug crimes. The following sentencing guidelines grid for drug crimes shall be applicable to felony crimes under K.S.A. 2012 Supp. 21-5701 through 21-5717, and amendments thereto, except as otherwise provided by law:

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level I	3 + Person Felony	2 Person Felony	1 Person, 1 Nonperson Felony	1 Person Felony	3 + Nonperson Felony	2 Nonperson Felony	1 Nonperson Felony	2+ Misdemeanor	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144	137 130	130 123	124 117	116 111	113 108	110 104	108 100	103 98
III	83 78 74	77 73 68	72 68 65	68 64 60	62 58 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	38 34 32	32 30 28	30 28 26	28 26 24	26 24 22	24 22 20
V	42 40 37	36 34 32	32 30 28	28 26 24	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for drug crimes in subsection (a) represent months of imprisonment.

(c) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure. The sentencing court shall not distinguish between the controlled substances cocaine base (9041L000) and cocaine hydrochloride (9041L005) when sentencing within the sentencing range of the grid block.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;

(B) maximum potential reduction to such sentence as a result of good time; and

(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(d) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H, 4-I, 5-C or 5-D, the court may impose an optional nonprison sentence as provided in subsection (q) of K.S.A. 2012 Supp. 21-6804, and amendments thereto.

(e) The sentence for a second or subsequent conviction of K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or K.S.A. 2012 Supp. 21-5703, and amendments thereto, manufacture of any controlled substance or controlled substance analog, shall be a presumptive term of imprisonment of two times the maximum duration of the presumptive term of imprisonment. The court may impose an optional reduction in such sentence of not to exceed 50% of the mandatory increase provided by this subsection upon making a finding on the record that one or more of the mitigating factors as specified in K.S.A. 2012 Supp. 21-6815, and amendments thereto, justify such a reduction in sentence. Any decision made by the court regarding the reduction in such sentence shall not be considered a departure and shall not be subject to appeal.

(f) (1) The sentence for a third or subsequent felony conviction of K.S.A. 65-4160 or 65-4162, prior to their repeal, K.S.A. 2010 Supp. 21-36a06, prior to its transfer, or K.S.A. 2012 Supp. 21-5706, and amendments thereto, shall be a presumptive term of imprisonment and the defendant shall be sentenced to prison as provided by this section. The defendant's term of imprisonment shall be served in the custody of the secretary of corrections in a facility designated by the secretary. Subject to appropriations therefore, the defendant shall participate in an intensive substance abuse treatment program, of at least four months duration, selected by the secretary of corrections. If the secretary determines that substance abuse treatment resources are otherwise available, such term of imprisonment may be served in a facility designated

by the secretary of corrections in the custody of the secretary of corrections to participate in an intensive substance abuse treatment program. The secretary's determination regarding the availability of treatment resources shall not be subject to review. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

(2) Such defendant's term of imprisonment shall not be subject to modification under paragraph (1) if:

(A) The defendant has previously completed a certified drug abuse treatment program, as provided in K.S.A. 2012 Supp. 75-52,144, and amendments thereto;

(B) has been discharged or refused to participate in a certified drug abuse treatment program, as provided in K.S.A. 2012 Supp. 75-52,144, and amendments thereto;

(C) has completed an intensive substance abuse treatment program under paragraph (1); or

(D) has been discharged or refused to participate in an intensive substance abuse treatment program under paragraph (1).

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(g) (1) Except as provided further, if the trier of fact makes a finding that an offender carried possessed a firearm to commit a drug felony and such firearm was readily accessible during the commission of, or in furtherance of, a drug felony a felony violation of any provision of article 57 of chapter 21, and amendments thereto, possessed a firearm, or any attempt to commit such offense, in addition to the sentence imposed pursuant to K.S.A. 2012 Supp. 21-6801 through 21-6824, and amendments thereto, the offender shall be sentenced to:

(A) Except as provided in subsection (g)(1)(B), an additional 6 months' imprisonment; and

(B) if the trier of fact makes a finding that the firearm was discharged, an additional 18 months' imprisonment.

(2) The sentence imposed pursuant to subsection (g)(1) shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) The provisions of this subsection shall not apply to violations of K.S.A. 2012 Supp. 21-5706 or 21-5713, and amendments thereto.

Sec. 4. K.S.A. 2012 Supp. 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 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. 2012 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.";

And by renumbering sections accordingly;

Also on page 9, in line 25, by striking "and 21-6403" and inserting ", 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 21-6403 and 21-6805";

On page 1, in the title, in line 2, before "amending" by inserting "relating to DNA evidence; relating to statute of limitations; relating to possession of a firearm during a drug felony"; in line 3, by "and 21-6403" and inserting ", 21-5107, as amended by section 1 of 2013 House Bill No. 2252, 21-6403 and 21-6805";

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

JEFF KING

GREG SMITH

DAVID HALEY

Conferees on part of Senate

JOHN RUBIN

RAMON GONZALEZ

GAIL FINNEY

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2120**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2201** 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 3, in line 20, by striking "January"; also in line 20, by striking "16, 2015" and inserting "December 31, 2014";

On page 29, in line 15, by striking ", except that the total KUSF distributions"; by striking all in lines 16 through 20; in line 21, by striking "majeure or natural disaster as determined by the commission"; in line 33, after "carrier" by inserting ", except that such limitation on KUSF support shall not preclude recovery of reductions in intrastate access revenue pursuant to subsection (c) of K.S.A. 66-2005, and amendments thereto"; following line 33, by inserting:

"(3) Notwithstanding any other provision of law, the total KUSF distributions made to all local exchange carriers operating under traditional rate of return regulation pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto, shall not exceed

an annual \$30,000,000 cap. A waiver of the cap shall be granted based on a demonstration by a carrier that such carrier would experience significant hardship due to force majeure or natural disaster as determined by the commission.";

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

PAT APPLE

FORREST KNOX

MARCI FRANCISCO

Conferees on part of Senate

JOE SEIWERT

RANDY GARBER

ANNIE KEUTHER

Conferees on part of House

Senator Apple moved the Senate adopt the Conference Committee Report on **HB 2201**.

On roll call, the vote was: Yeas 37; Nays 3; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Wagle, Wolf.

Nays: Francisco, Holland, Tyson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2218** 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 41, following line 36, by inserting:

"Sec. 9. K.S.A. 2012 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:

SENTENCING RANGE - ~~NONDRUG~~ OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3+ Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3+ Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2+ Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 233 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	18 17 16
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	6 5 4

LEGEND
Presumptive Probation
Presumptive Imprisonment
Not Set
Not Set
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;
(B) maximum potential reduction to such sentence as a result of good time; and
(C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and
(B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of subsection (d) of K.S.A. 2012 Supp. 21-5412, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2012 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2012 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2012 Supp. 21-5823, K.S.A. 2012 Supp. 21-6412 and K.S.A. 2012 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2012 Supp. 21-6807, and amendments

thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2012 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2012 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2012 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2012 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2012 Supp. 21-5823, K.S.A. 2012 Supp. 21-6412 and K.S.A. 2012 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2012 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2012 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may

impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

- (A) The commission of one or more person felonies; or
- (B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and
- (C) its members have a common name or common identifying sign or symbol; and
- (D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a)(1) of K.S.A. 2012 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2012 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2012 Supp. 21-5807, or subsection (b) of K.S.A. 2012 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (a)(2) of K.S.A. 2012 Supp. 21-5913, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2012 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2012 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary or aggravated

burglary as defined in K.S.A. 2012 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2012 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 2012 Supp. 21-6824, and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2012 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in subsection (a) of K.S.A. 2012 Supp. 21-5807, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2012 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2012 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less

severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

- (1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and
- (2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or
- (3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of subsection (c)(2) of K.S.A. 2012 Supp. 21-5413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2012 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2012 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2012 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2012 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

Sec. 10. On and after January 1, 2014, K.S.A. 32-1130 is hereby amended to read as follows: 32-1130. As used in K.S.A. 32-1131 through 32-1136, and amendments thereto:

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) "Other competent evidence" includes: (1) Alcohol concentration tests obtained from samples taken ~~two~~ three hours or more after the operation or attempted operation of a vessel; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(c) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(d) "Vessel" and "operate" have the meanings provided by K.S.A. 32-1102, and amendments thereto.

Sec. 11. On and after January 1, 2014, K.S.A. 32-1131 is hereby amended to read as follows: 32-1131. (a) No person shall operate or attempt to operate any vessel within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more:

~~(1)~~ (2) the alcohol concentration in the person's blood or breath, at the time or within ~~two~~ three hours after the person operated or attempted to operate the vessel, is .08 or more;

~~(2)~~ (3) the alcohol concentration in the person's blood or breath, at the time or within ~~two~~ three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;

~~(3)~~ (4) under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel;

~~(4)~~ (5) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

~~(5)~~ (6) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

~~(b) No person shall operate or attempt to operate any vessel within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.~~

~~(e)~~ (b) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

~~(4)~~ (c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

~~(e)~~ (d) Except as provided by subsection ~~(f)~~ (e), violation of this section is a misdemeanor punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than \$100 nor more than \$500, or both; and

(2) on the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than \$100 nor more than \$500.

~~(f)~~ (e) Subsection ~~(e)~~ (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132, and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.

(g) (f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction approved by the secretary before such person subsequently operates or attempts to operate any vessel.";

And by redesignating sections accordingly;

Also on page 41, in line 38, by striking "and" and inserting a comma; also in line 38, after "21-5413" by inserting "and 21-6804";

Also on page 41, following line 38, by inserting:

"Sec. 13. On and after January 1, 2014, K.S.A. 32-1130 and 32-1131 are hereby repealed.";

On page 1, in the title, in line 1, by striking the first "driving" and inserting "prohibited activities while under the influence of alcohol or drugs"; in line 2, after "drugs;" by inserting "boating under the influence of alcohol or drugs;"; in line 3, after "8-1567a" by inserting ", 32-1130 and 32-1131"; in line 4, by striking the "and" and inserting a comma; in line 5, after "21-5413" by inserting "and 21-6804";

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

JEFF KING

GREGORY SMITH

DAVID HALEY

Conferees on part of Senate

JOHN RUBIN

RAMON GONZALEZ

GAIL FINNEY

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **HB 2218**.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Haley.

The Conference Committee Report was adopted.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Smith moved the Senate concur in House amendments to **SB 88**.

SB 88, AN ACT concerning crimes, punishment and criminal procedure; relating to certain defendants; children's advocacy center assessment fee; amending K.S.A. 20-370 and repealing the existing section.

On roll call, the vote was: Yeas 36; Nays 3; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson,

Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Francisco, Haley, Pettey.

Present and Passing: Hawk.

The Senate concurred.

On motion of Senator Bruce, the Senate adjourned until 9:00 a.m., Friday, April 5, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks.*

DIANE MINEAR, *Secretary of the Senate.*

