

SENATE BILL No. 246

AN ACT reconciling amendments to certain statutes; amending K.S.A. 2012 Supp. 8-1,161, 12-4106, as amended by section 1 of 2013 House Bill No. 2041, 21-5109, 21-5302, as amended by section 6 of 2013 Senate Bill No. 16, 21-5808, 21-5904, 21-5924, 21-6302, as amended by section 4 of 2013 Senate Substitute for House Bill No. 2052, 21-6614, as amended by section 19 of 2013 Senate Substitute for House Bill No. 2034, 22-2802, 22-2908, 22-3212, 22-3717, as amended by section 27 of 2013 Senate Substitute for House Bill No. 2034, 32-1438, 39-709, as amended by section 1 of 2013 Senate Bill No. 149, 44-706, as amended by section 5 of 2013 Substitute for House Bill No. 2105, 44-709, as amended by section 3 of 2013 Senate Bill No. 187, 45-221, as amended by section 2 of 2013 Senate Bill No. 81, 45-229, as amended by section 1 of 2013 House Bill No. 2012, 47-422, 47-1804, 60-3107, 60-4104, as amended by section 41 of 2013 Senate Substitute for House Bill No. 2034, 65-4101, 72-978, 74-7901, 75-7c05, as amended by section 7 of 2013 Senate Substitute for House Bill No. 2052, 75-3740, 75-37,121, 75-4362, as amended by section 5 of 2013 Senate Bill No. 149, 75-5133, 75-6102, 75-6609, 79-3234, 79-32,117, as amended by section 3 of 2013 House Substitute for Senate Bill No. 83 and 79-32,160a and repealing the existing sections; also repealing K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161a, 12-4106, as amended by section 8 of 2013 Senate Substitute for House Bill No. 2034, 21-5109a, 21-5302, as amended by section 12 of 2013 Senate Substitute for House Bill No. 2034, 21-5808a, 21-5904a, 21-5924a, 21-6302, as amended by section 3 of 2013 House Bill No. 2033, 21-6614, as amended by section 3 of 2013 Senate Bill No. 21, 22-2802c, 22-2908a, 22-3212b, 22-3717, as amended by section 6 of 2013 House Bill No. 2170, 32-1438a, 39-709, as amended by section 23 of 2013 Substitute for House Bill No. 2183, 39-923a, 44-706, as amended by section 4 of 2013 Senate Bill No. 149, 44-709, as amended by section 6 of 2013 Substitute for House Bill No. 2105, 45-221, as amended by section 6 of 2013 Senate Substitute for House Bill No. 2052, 45-221, as amended by section 1 of 2013 House Bill No. 2128, 45-229, as amended by section 1 of 2013 House Bill No. 2144, 47-422a, 47-1001g, 47-1008a, 47-1302a, 47-1701a, 47-1709a, 47-1725a, 47-1804a, 47-1809a, 60-3107a, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16, 65-1685a, 65-4101b, 72-978a, 74-7901a, 75-7c05, as amended by section 6 of 2013 Senate Bill No. 21, 75-3740d, 75-37,121a, 75-4362, as amended by section 2 of 2013 House Bill No. 2302, 75-5133b, 75-6102c, 75-6609a, 79-3234c, 79-32,117, as amended by section 17 of 2013 House Bill No. 2253, 79-32,160f, 82a-220a and 82a-903a.

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

Section 1. K.S.A. 2012 Supp. 8-1,161 is hereby amended to read as follows: 8-1,161. (a) Any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one support Kansas arts license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment established by the commission or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Kansas *creative arts industries* commission, created under K.S.A. ~~74-5202~~ 2012 Supp. 74-5207, and amendments thereto, may authorize the use of their logo to be affixed on license plates as provided by this section. Any royalty payment derived from this section shall be credited to the Kansas *creative arts industries* commission special gifts fund and shall be used in accordance with the provisions of K.S.A. ~~74-5204~~ 2012 Supp. 74-5208, and amendments thereto. Any motor vehicle owner or lessee may annually apply to the commission for the use of such logo. Upon annual application and payment to either: (1) The commission in an amount of not less than \$25 nor more than \$100 as a logo use royalty payment for each license plate to be issued, the commission shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(c) Any applicant for a support Kansas arts license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of motor vehicles, and any applicant for the support Kansas arts license plates shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment established by the commission. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or support Kansas arts license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer support Kansas arts license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in subsection (a), in the manner prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual logo use royalty payment established by the commission. If such logo use authorization statement is not presented at the time of registration or faxed by the commission, or the annual logo use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the support Kansas arts license plate to the county treasurer of such person's residence.

(g) The Kansas *creative arts industries* commission shall:

(1) Pay the initial cost of silk-screening for such support Kansas arts license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the Kansas *creative arts industries* commission for information concerning the application process or the status of their license plate application.

(h) The Kansas *creative arts industries* commission, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the support Kansas arts license plate and any subsequent registration renewal of such plate, the applicant must provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Kansas *creative arts industries* commission.

(j) Annual royalty payments collected by county treasurers under this section 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 Kansas *creative arts industries* commission special gifts fund.

Sec. 2. K.S.A. 2012 Supp. 12-4106, as amended by section 1 of 2013 House Bill No. 2041, 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 offenses 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, 8-1567 or 32-1131 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, 2014, 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. 3. K.S.A. 2012 Supp. 21-5109 is hereby amended to read as follows: 21-5109. (a) When the same conduct of a defendant may establish the commission of more than one crime under the laws of this state, the defendant may be prosecuted for each of such crimes. Each of such crimes may be alleged as a separate count in a single complaint, information or indictment.

(b) Upon prosecution for a crime, the defendant may be convicted of either the crime charged or a lesser included crime, but not both. A lesser included crime is:

(1) A lesser degree of the same crime, except that there are no lesser degrees of murder in the first degree under subsection (a)(2) of K.S.A. 2012 Supp. 21-5402, and amendments thereto;

(2) a crime where all elements of the lesser crime are identical to some of the elements of the crime charged;

(3) an attempt to commit the crime charged; or

(4) an attempt to commit a crime defined under paragraph (1) or (2).

(c) Whenever charges are filed against a person, accusing the person of a crime which includes another crime of which the person has been convicted, the conviction of the lesser included crime shall not bar prosecution or conviction of the crime charged if the crime charged was not consummated at the time of conviction of the lesser included crime, but the conviction of the lesser included crime shall be annulled upon the filing of such charges. Evidence of the person's plea or any admission or statement made by the person in connection therewith in any of the proceedings which resulted in the person's conviction of the lesser included crime shall not be admissible at the trial of the crime charged. If the person is convicted of the crime charged, or of a lesser included crime, the person so convicted shall receive credit against any prison sentence imposed or fine to be paid for the period of confinement actually served or the amount of any fine actually paid under the sentence imposed for the annulled conviction.

(d) Unless otherwise provided by law, when crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct, the defendant:

(1) May not be convicted of the two crimes based upon the same conduct; and

(2) shall be sentenced according to the terms of the more specific crime.

(e) *A defendant may not be convicted of identical offenses based upon the same conduct. The prosecution may choose which such offense to charge and, upon conviction, the defendant shall be sentenced according to the terms of that offense.*

Sec. 4. K.S.A. 2012 Supp. 21-5302, as amended by section 6 of 2013 Senate Bill No. 16, 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 of 2013 Senate Substitute for House Bill No. 2034, and amendments thereto, if the offender is 18 years of age or older and the victim is less than 14 years of age;*

(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; or

(I) violations of the Kansas racketeer influenced and corrupt organization act, as described in section 3 of 2013 Senate Bill No. 16, and amendments thereto.

(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. 5. K.S.A. 2012 Supp. 21-5808 is hereby amended to read as follows: 21-5808. (a) Criminal trespass is entering or remaining upon or in any:

(1) Land, nonnavigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

(B) such premises or property are posted ~~in a~~ *as provided in K.S.A. 32-1013, and amendments thereto, or in any other* manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-3105, 60-3106, 60-3107, 60-31a05 or 60-31a06 or K.S.A. 2012 Supp. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) public or private land or structure in a manner that interferes with

access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) Criminal trespass is a class B nonperson misdemeanor. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(c) As used in this section:

(1) “Health care facility” means any licensed medical care facility, certificated health maintenance organization, licensed mental health center or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients; and

(2) “health care provider” means any person:

- (A) Licensed to practice a branch of the healing arts;
- (B) licensed to practice psychology;
- (C) licensed to practice professional or practical nursing;
- (D) licensed to practice dentistry;
- (E) licensed to practice optometry;
- (F) licensed to practice pharmacy;
- (G) registered to practice podiatry;
- (H) licensed as a social worker; or
- (I) registered to practice physical therapy.

(d) This section shall not apply to:

(1) A land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor’s authorized agents and employees who enter upon lands, waters and other premises in the making of a survey; or

(2) railroad property as defined in K.S.A. 2012 Supp. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 2012 Supp. 66-2302, and amendments thereto.

Sec. 6. K.S.A. 2012 Supp. 21-5904 is hereby amended to read as follows: 21-5904. (a) Interference with law enforcement is:

(1) Falsely reporting to a law enforcement officer, *law enforcement agency* or state investigative agency:

(A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;~~or~~

(B) any information, knowing that such information is false and intending to influence, impede or obstruct such officer’s or agency’s duty;

(C) *that a crime has been committed or any information concerning a crime or suspected crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or*

(D) *any information concerning the death, disappearance or potential death or disappearance of a child under the age of 13, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;*

(2) concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or

(3) knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(b)~~(1)~~ Interference with law enforcement as defined in:

(1) Subsection (a)(1)(A) is a:

(A) *Class A nonperson misdemeanor in the case of a misdemeanor;*
and

(B) *severity level 8, nonperson felony in the case of a felony;*

(2) subsection (a)(1)(B) is a:

(A) *Class A nonperson misdemeanor in the case of a misdemeanor;*
and

(B) *severity level 9, nonperson felony in the case of a felony;*

- (3) *subsection (a)(1)(C) is a class A misdemeanor; or*
- (4) *subsection (a)(1)(D) is a severity level 8, nonperson felony;*
- (5) *subsection (a)(2) is a:*
 - (A) *Class A nonperson misdemeanor, except as provided in subsection (b)(2), in the case of a misdemeanor; and*
 - (B) *severity level 8, nonperson felony in the case of a felony; and*
- (6) *subsection (a)(3) is a:*
 - (A) *Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and*
 - (B) *class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case.*
- ~~(2) Interference with law enforcement as defined in:~~
 - ~~(A) Subsection (a)(1)(A) or (a)(2) is a severity level 8, nonperson felony in the case of a felony; and~~
 - ~~(B) subsection (a)(1)(B) is a severity level 9, nonperson felony in the case of a felony.~~
- ~~(3) Interference with law enforcement as defined in subsection (a)(3) is a:~~
 - ~~(A) Severity level 9, nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; and~~
 - ~~(B) class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case.~~

Sec. 7. K.S.A. 2012 Supp. 21-5924 is hereby amended to read as follows: 21-5924. (a) Violation of a protective order is knowingly violating:

- (1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 and or 60-3107, and amendments thereto;
 - (2) a protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and amendments thereto;
 - (3) a restraining order issued pursuant to K.S.A. 2012 Supp. 23-2707, 38-2243, 38-2244 and or 38-2255, and amendments thereto, and or K.S.A. 60-1607, prior to its transfer;
 - (4) an order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;
 - (5) an order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or
 - (6) a protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.
- (b) (1) Violation of a protective order is a class A person misdemeanor, except as provided in subsection (b)(2).
- (2) Violation of an extended protective order as described in subsection (e)(2) of K.S.A. 60-3107, and amendments thereto, and subsection (d) of K.S.A. 60-31a06, and amendments thereto, is a severity level 6, person felony.
- (c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on such attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on such attorney's behalf, shall be identified in any such contact.
- (d) As used in this section, "order" includes any order issued by a municipal or district court.

Sec. 8. K.S.A. 2012 Supp. 21-6302, as amended by section 4 of 2013 Senate Substitute for House Bill No. 2052, is hereby amended to read as follows: 21-6302. (a) Criminal carrying of a weapon is knowingly carrying:

- (1) Any bludgeon, sandclub, metal knuckles or throwing star, ~~or any knife, commonly referred to as a switch blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;~~

(2) ~~concealed on one's person, a dagger, dirk, billy, blackjack, slung-shot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;~~

(3) on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business; or

(5) a shotgun with a barrel less than 18 inches in length or any other firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger whether the person knows or has reason to know the length of the barrel or that the firearm is designed or capable of discharging automatically.

(b) Criminal carrying of a weapon as defined in:

(1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson misdemeanor; and

(2) subsection (a)(5) is a severity level 9, nonperson felony.

(c) Subsection (a) shall not apply to:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

(4) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.

(d) Subsection (a)(4) shall not apply to:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) licensed hunters or fishermen, while engaged in hunting or fishing;

(3) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(5) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto;

(6) special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a, and amendments thereto;

(7) the United States attorney for the district of Kansas, the attorney general, any district attorney or county attorney, any assistant United States attorney if authorized by the United States attorney for the district of Kansas, any assistant attorney general if authorized by the attorney general, or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 75-7c19, and amendments thereto;

(8) law enforcement officers from another state or a retired law enforcement officer meeting the requirements of the federal law enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or

(9) any person carrying a concealed handgun as authorized by K.S.A. 2012 Supp. 75-7c01 through 75-7c17, and amendments thereto.

(e) Subsection (a)(5) shall not apply to:

(1) Any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. § 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor;

(2) any person employed by a laboratory which is certified by the United States department of justice, national institute of justice, while actually engaged in the duties of their employment and on the premises of such certified laboratory. Subsection (a)(5) shall not affect the manufacture of, transportation to or sale of weapons to such certified laboratory; or

(3) any person or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et seq.

~~(f) Subsection (a)(1) shall not apply to any ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the knife to overcome the bias towards closure to assist in the opening of the knife.~~

~~(g)~~ It shall not be a violation of this section if a person violates the provisions of K.S.A. 2012 Supp. 75-7c03, and amendments thereto, but has an otherwise valid license to carry a concealed handgun which is issued or recognized by this state.

~~(h)~~^(g) As used in this section, "throwing star" means the same as prescribed by K.S.A. 2012 Supp. 21-6301, and amendments thereto.

Sec. 9. K.S.A. 2012 Supp. 21-6614, as amended by section 19 of 2013 Senate Substitute for House Bill No. 2034, is hereby amended to read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e) and (f), any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or a class D or E felony, or for crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6 through 10, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity level 5 of the drug grid may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.

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

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

(c) Except as provided in subsections (e) and (f), no person may petition for expungement until five or more years have elapsed since the

person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony, or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5, or for crimes committed on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug grid, or for crimes committed on or after July 1, 2012, any felony ranked in severity levels 1 through 4 of the drug grid, or:

(1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its repeal, or K.S.A. 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) 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) 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.

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

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

(A) Defendant's full name;

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

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

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

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

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

(2) Except as otherwise provided by law, a petition for expungement shall be accompanied by a docket fee in the amount of \$100. On and after April 12, 2012, through June 30, 2013, the supreme court may impose a charge, not to exceed \$19 per case, to fund the costs of non-judicial personnel. The charge established in this section shall be the only fee collected or moneys in the nature of a fee collected for the case. Such charge shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee.

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

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

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

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

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

(i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of

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

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

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

(A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 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 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) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime, is placed on parole, postrelease supervision or probation, is assigned to a community correctional services program, is granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.

(k) (1) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state

that such person has never been arrested, convicted or diverted of such crime, ~~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.~~

(2) *Notwithstanding the provisions of subsection (k)(1), and except as provided in subsection (a)(3)(A) of K.S.A. 2012 Supp. 21-6304, and amendments thereto, the expungement of a prior felony conviction does not relieve the individual of complying with any state or federal law relating to the use, shipment, transportation, receipt or possession of firearms by persons previously convicted of a felony.*

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of the department for children and families, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the department for children and families of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecutor, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the Kansas sentencing commission;
- (12) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;
- (13) the Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a

broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

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

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

(16) the attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act; or

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

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

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

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

Sec. 10. K.S.A. 2012 Supp. 22-2802 is hereby amended to read as follows: 22-2802. (1) Any person charged with a crime shall, at the person's first appearance before a magistrate, be ordered released pending preliminary examination or trial upon the execution of an appearance bond in an amount specified by the magistrate and sufficient to assure the appearance of such person before the magistrate when ordered and to assure the public safety. If the person is being bound over for a felony, the bond shall also be conditioned on the person's appearance in the district court or by way of a two-way electronic audio-video communication as provided in subsection (14) at the time required by the court to answer the charge against such person and at any time thereafter that the court requires. Unless the magistrate makes a specific finding otherwise, if the person is being bonded out for a person felony or a person misdemeanor, the bond shall be conditioned on the person being prohibited from having any contact with the alleged victim of such offense for a period of at least 72 hours. The magistrate may impose such of the following additional conditions of release as will reasonably assure the appearance of the person for preliminary examination or trial:

(a) Place the person in the custody of a designated person or organization agreeing to supervise such person;

(b) place restrictions on the travel, association or place of abode of the person during the period of release;

(c) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody during specified hours;

(d) place the person under a house arrest program pursuant to K.S.A. 2012 Supp. 21-6609, and amendments thereto; or

(e) place the person under the supervision of a court services officer responsible for monitoring the person's compliance with any conditions of release ordered by the magistrate. The magistrate may order the person to pay for any costs associated with the supervision provided by the court services department in an amount not to exceed \$15 per week of such supervision. The magistrate may also order the person to pay for all other costs associated with the supervision and conditions for compliance in addition to the \$15 per week.

(2) In addition to any conditions of release provided in subsection (1), for any person charged with a felony, the magistrate may order such person to submit to a drug and alcohol abuse examination and evaluation in a public or private treatment facility or state institution and, if determined by the head of such facility or institution that such person is a drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to treatment for such drug or alcohol abuse, as a condition of release.

(3) The appearance bond shall be executed with sufficient solvent

sureties who are residents of the state of Kansas, unless the magistrate determines, in the exercise of such magistrate's discretion, that requiring sureties is not necessary to assure the appearance of the person at the time ordered.

(4) A deposit of cash in the amount of the bond may be made in lieu of the execution of the bond pursuant to subsection (3). Except as provided in subsection (5), such deposit shall be in the full amount of the bond and in no event shall a deposit of cash in less than the full amount of bond be permitted. Any person charged with a crime who is released on a cash bond shall be entitled to a refund of all moneys paid for the cash bond, after deduction of any outstanding restitution, costs, fines and fees, after the final disposition of the criminal case if the person complies with all requirements to appear in court. The court may not exclude the option of posting bond pursuant to subsection (3).

(5) Except as provided further, the amount of the appearance bond shall be the same whether executed as described in subsection (3) or posted with a deposit of cash as described in subsection (4). When the appearance bond has been set at \$2,500 or less and the most serious charge against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson felony, a drug severity level 4 felony committed prior to July 1, 2012, a drug severity level 5 felony committed on or after July 1, 2012, or a violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, the magistrate may allow the person to deposit cash with the clerk in the amount of 10% of the bond, provided the person meets at least the following qualifications:

- (A) Is a resident of the state of Kansas;
- (B) has a criminal history score category of G, H or I;
- (C) has no prior history of failure to appear for any court appearances;
- (D) has no detainer or hold from any other jurisdiction;
- (E) has not been extradited from, and is not awaiting extradition to, another state; and
- (F) has not been detained for an alleged violation of probation.

(6) In the discretion of the court, a person charged with a crime may be released upon the person's own recognizance by guaranteeing payment of the amount of the bond for the person's failure to comply with all requirements to appear in court. The release of a person charged with a crime upon the person's own recognizance shall not require the deposit of any cash by the person.

(7) The court shall not impose any administrative fee.

(8) In determining which conditions of release will reasonably assure appearance and the public safety, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the crime charged; the weight of the evidence against the defendant; whether the defendant is lawfully present in the United States; the defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, record of convictions, record of appearance or failure to appear at court proceedings or of flight to avoid prosecution; the likelihood or propensity of the defendant to commit crimes while on release, including whether the defendant will be likely to threaten, harass or cause injury to the victim of the crime or any witnesses thereto; and whether the defendant is on probation or parole from a previous offense at the time of the alleged commission of the subsequent offense.

(9) The appearance bond shall set forth all of the conditions of release.

(10) A person for whom conditions of release are imposed and who continues to be detained as a result of the person's inability to meet the conditions of release shall be entitled, upon application, to have the conditions reviewed without unnecessary delay by the magistrate who imposed them. If the magistrate who imposed conditions of release is not available, any other magistrate in the county may review such conditions.

(11) A magistrate ordering the release of a person on any conditions specified in this section may at any time amend the order to impose additional or different conditions of release. If the imposition of additional or different conditions results in the detention of the person, the provisions of subsection (10) shall apply.

(12) Statements or information offered in determining the conditions of release need not conform to the rules of evidence. No statement or

admission of the defendant made at such a proceeding shall be received as evidence in any subsequent proceeding against the defendant.

(13) The appearance bond and any security required as a condition of the defendant's release shall be deposited in the office of the magistrate or the clerk of the court where the release is ordered. If the defendant is bound to appear before a magistrate or court other than the one ordering the release, the order of release, together with the bond and security shall be transmitted to the magistrate or clerk of the court before whom the defendant is bound to appear.

(14) Proceedings before a magistrate as provided in this section to determine the release conditions of a person charged with a crime including release upon execution of an appearance bond may be conducted by two-way electronic audio-video communication between the defendant and the judge in lieu of personal presence of the defendant or defendant's counsel in the courtroom in the discretion of the court. The defendant may be accompanied by the defendant's counsel. The defendant shall be informed of the defendant's right to be personally present in the courtroom during such proceeding if the defendant so requests. Exercising the right to be present shall in no way prejudice the defendant.

(15) The magistrate may order the person to pay for any costs associated with the supervision of the conditions of release of the appearance bond in an amount not to exceed \$15 per week of such supervision. As a condition of sentencing under K.S.A. 2012 Supp. 21-6604, and amendments thereto, the court may impose the full amount of any such costs in addition to the \$15 per week, including, but not limited to, costs for treatment and evaluation under subsection (2).

Sec. 11. K.S.A. 2012 Supp. 22-2908 is hereby amended to read as follows: 22-2908. (a) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the county or district attorney shall consider at least the following factors among all factors considered:

- (1) The nature of the crime charged and the circumstances surrounding it;
- (2) any special characteristics or circumstances of the defendant;
- (3) whether the defendant is a first-time offender and if the defendant has previously participated in diversion, according to the certification of the Kansas bureau of investigation or the division of vehicles of the department of revenue;
- (4) whether there is a probability that the defendant will cooperate with and benefit from diversion;
- (5) whether the available diversion program is appropriate to the needs of the defendant;
- (6) the impact of the diversion of the defendant upon the community;
- (7) recommendations, if any, of the involved law enforcement agency;
- (8) recommendations, if any, of the victim;
- (9) provisions for restitution; and
- (10) any mitigating circumstances.

(b) A county or district attorney shall not enter into a diversion agreement in lieu of further criminal proceedings on a complaint if:

- (1) The complaint alleges a violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has previously participated in diversion upon a complaint alleging a violation of that statute or an ordinance of a city in this state which prohibits the acts prohibited by that statute; (B) has previously been convicted of or pleaded nolo contendere to a violation of that statute or a violation of a law of another state or of a political subdivision of this or any other state, which law prohibits the acts prohibited by that statute; or (C) during the time of the alleged violation was involved in a motor vehicle accident or collision resulting in personal injury or death;
- (2) the complaint alleges that the defendant committed a class A or B felony or for crimes committed on or after July 1, 1993, an off-grid crime, a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after July 1, 2012; or
- (3) the complaint alleges a domestic violence offense, as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, and the defendant

has participated in two or more diversions in the previous five year period upon complaints alleging a domestic violence offense.

(c) A county or district attorney may enter into a diversion agreement in lieu of further criminal proceedings on a complaint for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, if such diversion carries the same penalties as the conviction for the corresponding violations. If the defendant has previously participated in one or more diversions for violations of article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, then each subsequent diversion shall carry the same penalties as the conviction for the corresponding violations.

Sec. 12. K.S.A. 2012 Supp. 22-3212 is hereby amended to read as follows: 22-3212. (a) Upon request, the prosecuting attorney shall permit the defendant to inspect and copy or photograph the following, if relevant: (1) Written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (2) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (3) recorded testimony of the defendant before a grand jury or at an inquisition; and (4) memoranda of any oral confession made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.

(b) (1) Except as provided in subsection ~~(j)~~ (l), upon request, the prosecuting attorney shall permit the defendant to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies, or portions thereof, which are or have been within the possession, custody or control of the prosecution, and which are material to the case and will not place an unreasonable burden upon the prosecution.

(2) Except as provided in subsections (a)(2) and (a)(4), *and as otherwise provided by law*, this section does not authorize the discovery or inspection of reports, memoranda or other internal government documents made by officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses, other than the defendant, ~~except as may be provided by law.~~

(3) Except as provided in subsection ~~(e)~~ (g), this section does not require the prosecuting attorney to provide unredacted vehicle identification numbers or personal identifiers of persons mentioned in such books, papers or documents.

(4) As used in this subsection, personal identifiers include, but are not limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses and personal telephone numbers of any victims or material witnesses.

(5) If the prosecuting attorney does provide the defendant's counsel with unredacted vehicle identification numbers or personal identifiers, the defendant's counsel shall not further disclose the unredacted numbers or identifiers to the defendant or any other person, directly or indirectly, except as authorized by order of the court.

(6) If the prosecuting attorney provides books, papers or documents to the defendant's counsel with vehicle identification numbers or personal identifiers redacted by the prosecuting attorney, the prosecuting attorney shall provide notice to the defendant's counsel that such books, papers or documents had such numbers or identifiers redacted by the prosecuting attorney.

(7) Any redaction of vehicle identification numbers or personal identifiers by the prosecuting attorney shall be by alteration or truncation of such numbers or identifiers and shall not be by removal.

(c) If the defendant seeks discovery and inspection under subsection (a)(2) or subsection (b), the defendant shall:

(1) Permit the attorney for the prosecution to inspect and copy or

photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defendant intends to produce at any hearing, ~~and which~~ are material to the case and will not place an unreasonable burden on the defense; *and*

(2) *provide for the attorney for the prosecution, no less than 30 days prior to trial, a summary or written report of what any expert witness intends to testify, including the witness' qualifications, the witness' opinions and the bases and reasons for such opinions.*

(d) Except as to scientific or medical reports, ~~this~~ subsection (c) does not authorize the discovery or inspection of reports, memoranda or other internal defense documents made by the defendant, or the defendant's attorneys or agents in connection with the investigation or defense of the case, or of statements made by the defendant, or by prosecution or defense witnesses, or by prospective prosecution or defense witnesses, to the defendant, the defendant's agents or attorneys.

(e) *All disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, such disclosures shall be made as provided in this section.*

~~(d)~~(f) The prosecuting attorney and the defendant shall cooperate in discovery and reach agreement on the time, place and manner of making the discovery and inspection permitted, so as to avoid the necessity for court intervention.

~~(e)~~(g) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted, enlarged or deferred or make such other order as is appropriate. Upon motion, the court may permit either party to make such showing, in whole or in part, in the form of a written statement to be inspected privately by the court. If the court enters an order granting relief following such a private showing, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

~~(d)~~(h) Discovery under this section must be completed no later than 21 days after arraignment or at such reasonable later time as the court may permit.

~~(g)~~(i) If, subsequent to compliance with an order issued pursuant to this section, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under this section, the party shall promptly notify the other party or the party's attorney or the court of the existence of the additional material. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this section or with an order issued pursuant to this section, the court may order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

~~(d)~~(j) For crimes committed on or after July 1, 1993, the prosecuting attorney shall provide all prior convictions of the defendant known to the prosecuting attorney that would affect the determination of the defendant's criminal history for purposes of sentencing under a presumptive sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

~~(d)~~(k) The prosecuting attorney and defendant shall be permitted to inspect and copy any juvenile files and records of the defendant for the purpose of discovering and verifying the criminal history of the defendant.

~~(d)~~(l) (1) In any criminal proceeding, any property or material that constitutes a visual depiction, as defined in subsection (a)(2) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, shall remain in the care, custody and control of either the prosecution, law enforcement or the court.

(2) Notwithstanding subsection (b), if the state makes property or material described in this subsection reasonably available to the defendant, the court shall deny any request by the defendant to copy, photograph, duplicate or otherwise reproduce any such property or material submitted as evidence.

(3) For the purpose of this subsection, property or material described in this subsection shall be deemed to be reasonably available to the de-

fendant if the prosecution provides ample and liberal opportunity for inspection, viewing and examination of such property or material at a government facility, whether inside or outside the state of Kansas, by the defendant, the defendant's attorney and any individual the defendant may seek to qualify to furnish expert testimony at trial.

Sec. 13. K.S.A. 2012 Supp. 22-3717, as amended by section 27 of 2013 Senate Substitute for House Bill No. 2034, 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) *Persons sentenced to a term of imprisonment that includes a sentence for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, a sexually motivated crime in which the offender has been ordered to register pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-3717, and amendments thereto, electronic solicitation, K.S.A. 21-3523, prior to its repeal, or K.S.A. 2012 Supp. 21-5509, and amendments thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal, or K.S.A. 2012 Supp. 21-5512, and amendments thereto, shall serve the period of postrelease supervision as provided in subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease supervision.*

~~(D)(i) If 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~~ *subsection (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 *and payment of any restitution ordered pursuant to K.S.A. 2012 Supp. 21-6604, and amendments thereto*, the prisoner

review board may provide for early discharge from the postrelease supervision period *imposed pursuant to subsection (d)(1)(D)(i)* upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to ~~subparagraph~~ *subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C)*. Early discharge from postrelease supervision is at the discretion of the board.

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

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their repeal, or K.S.A. 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 post-release supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

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

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

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

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

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

~~(2)~~(5) As used in this subsection, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 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;

(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 of 2013 Senate Substitute for House Bill No. 2034, and amendments thereto; or

(M) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent crime as defined in this section.

~~(3)~~(6) As used in this subsection, “sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

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

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

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

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

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

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

(j) (1) Before ordering the parole of any inmate, the prisoner review board shall have the inmate appear either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board

shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the board may defer subsequent parole hearings for up to 10 years, but any such deferral shall require the board to state the basis for its findings.

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

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

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

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

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

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

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or post-release 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~~ *July 1, 2013*, who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section:

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

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

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

(C) severity level 5 crimes on the sentencing guidelines grid for drug crimes ~~on or before September 1, 2000~~ committed on and after July 1, 2012;

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

(A) severity levels 6, 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes ~~on or before November 1, 2000, and;~~

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

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

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

(A) Severity levels 1, 2, 3, 4 and ~~5 and 6~~ crimes on the sentencing guidelines grid for nondrug crimes ~~and;~~

(B) ~~severity level 3~~ levels 1 and 2 crimes on the sentencing guidelines grid for drug crimes committed at any time; and

(C) severity level 3 crimes on the sentencing guidelines grid for drug crimes ~~on or before January 1, 2001~~ committed on or after July 1, 2012.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 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. 14. K.S.A. 2012 Supp. 32-1438 is hereby amended to read as follows: 32-1438. (a) For taxable years commencing on and after December 31, 2003, December 31, 2004, December 31, 2005, December 31, 2006, and December 31, 2007, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who operates an agritourism activity on the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(b) For the first five taxable years commencing after a taxpayer opens such taxpayer's business, after the effective date of this act, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who starts an agritourism activity after the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(c) The secretary of ~~commerce~~ *wildlife, parks and tourism* shall adopt rules and regulations establishing criteria for determining those costs which qualify as costs of liability insurance for agritourism activities of a registered agritourism operator.

(d) On or before the 15th day of the regular legislative session in 2006, the secretary of commerce shall submit to the senate standing committee on commerce and the house standing committee on tourism and parks a report on the implementation and use of the tax credit provided by this section.

(e) As used in this section, terms have the meanings provided by K.S.A. 2012 Supp. 32-1432, and amendments thereto.

(f) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

Sec. 15. K.S.A. 2012 Supp. 39-709, as amended by section 1 of 2013 Senate Bill No. 149, is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for aid for families with dependent children, for food stamp assistance and for any other assistance provided through the ~~department of social and rehabilitation services~~ *Kansas department for children and families* under which federal moneys are expended, the secretary of ~~social and rehabilitation services~~ *for children and families* shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Assistance to families with dependent children.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children. Where husband and wife are living together both shall register for work under the program requirements for aid to families with dependent children in accordance with

criteria and guidelines prescribed by rules and regulations of the secretary.

(c) *Aid to families with dependent children; assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving aid to families with dependent children, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(d) *Eligibility requirements for general assistance, the cost of which is not shared by the federal government.* (1) General assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d).

(A) To qualify for general assistance in any form a needy person must have insufficient income or resources to provide a reasonable subsistence compatible with decency and health and, except as provided for transitional assistance, be a member of a family in which a minor child or a pregnant woman resides or be unable to engage in employment. The secretary shall adopt rules and regulations prescribing criteria for establishing when a minor child may be considered to be living with a family and whether a person is able to engage in employment, including such factors as age or physical or mental condition. Eligibility for general assistance, other than transitional assistance, is limited to families in which a minor child or a pregnant woman resides or to an adult or family in which all legally responsible family members are unable to engage in employment. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of general assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of general assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(B) To qualify for general assistance in any form a needy person must be a citizen of the United States or an alien lawfully admitted to the United States and must be residing in the state of Kansas.

(2) General assistance in the form of transitional assistance may be granted to eligible persons who do not qualify for financial assistance in a program in which the federal government participates and who satisfy the additional requirements prescribed by or under this subsection (d), but who do not meet the criteria prescribed by rules and regulations of

the secretary relating to inability to engage in employment or are not a member of a family in which a minor or a pregnant woman resides.

(3) In addition to the other requirements prescribed under this subsection (d), the secretary shall adopt rules and regulations which establish community work experience program requirements for eligibility for the receipt of general assistance in any form and which establish penalties to be imposed when a work assignment under a community work experience program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such community work experience program requirements. A first time failure to complete such a work assignment requirement shall result in ineligibility to receive general assistance for a period fixed by such rules and regulations of not more than three calendar months. A subsequent failure to complete such a work assignment requirement shall result in a period fixed by such rules and regulations of ineligibility of not more than six calendar months.

(4) If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, and amendments thereto, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the provisions of K.S.A. 39-720, and amendments thereto, or the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the provisions of such statute shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction. If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become forever ineligible to receive any form of general assistance under the provisions of this subsection (d) unless the conviction is the person's first conviction under the law of any other state concerning welfare fraud. First time offenders convicted of a misdemeanor under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 12 calendar months from the date of conviction. First time offenders convicted of a felony under the law of any other state concerning welfare fraud shall become ineligible to receive any form of general assistance for a period of 60 calendar months from the date of conviction.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered

to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.*

(1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303, ~~and amendments thereto~~, of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party

of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to subsection (d) of K.S.A. 39-756, and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is (A) a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both, and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection (g). The secretary is authorized to enforce each claim provided for under this subsection (g). The secretary shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary from claims under this subsection (g) shall be deposited in the social welfare fund. The secretary may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection (g).

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, which forms the basis for a claim under subsection (g)(2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,

and amendments thereto, which forms the basis for a claim under subsection (g)(2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) ~~The secretary of social and rehabilitation services of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien. This lien is for payments of medical assistance made by the department of social and rehabilitation services to the recipient who is an inpatient in a nursing home or other medical institution.~~

(A) *After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.*

(B) *The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home, nursing homes or other medical institution shall constitute a determination by the department of ~~social and rehabilitation services~~ health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of ~~social and rehabilitation services~~ after the expiration of six months from the date the recipient became eligible for compensated inpatient care at a nursing home, nursing homes or other medical institution of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.*

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title

by conveyance, sale, succession, inheritance or will unless one of the following events occur:

(A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary or the secretary's designee;

(B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; *or*

(C) the value of the real property is consumed by the lien, at which time the secretary or the secretary's designee may force the sale for the real property to satisfy the lien; ~~or~~

~~(D) after a lien is filed against the real property, it will be dissolved if the recipient leaves the nursing or medical facility and resides in the property to which the lien is attached for a period of more than 90 days without being readmitted as an inpatient to a nursing or medical facility, even though there may have been no reasonable expectation that this would occur. If the recipient is readmitted to a nursing or medical facility during this period, and does return home after being released, another 90 days must be completed before the lien can be dissolved.~~

(7) If the secretary of ~~social and rehabilitation~~ *for aging and disability services* or the *secretary of health and environment*, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) *Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.*

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary of ~~social and rehabilitation services for children and families~~ pays for the expenses of care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of aid to families with dependent children is a mother of the dependent child, as a condition of the mother's eligibility for aid to families with dependent children the mother shall

identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of aid to families with dependent children who fails to cooperate with requirements relating to child support enforcement under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations which penalty shall progress to ineligibility for the family after three months of noncooperation.

(k) By applying for or receiving child care benefits or food stamps, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food stamps, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of aid to families with dependent children.

(l) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on or before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this

subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013,

such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) “Cash assistance” means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) “Controlled substance” means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) “Controlled substance analog” means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto.

Sec. 16. K.S.A. 2012 Supp. 44-706, as amended by section 5 of 2013 Substitute for House Bill No. 2105, is hereby amended to read as follows: 44-706. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection. For purposes of this subsection, “good cause” is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual’s weekly benefit amount. An individual shall not be disqualified under this subsection if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual’s regular work or comparable and suitable work was not available. As used in this paragraph “health care provider” means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual’s spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual’s job. For the purposes of this provision the term “armed forces” means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are hazardous for an individual, the degree of risk involved to the individual’s health, safety and morals, the individual’s physical fitness and prior training and the

working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered; as used in this paragraph, “hazardous working conditions” means working conditions that could result in a danger to the physical or mental well-being of the individual; each determination as to whether hazardous working conditions exist shall include, but shall not be limited to, a consideration of: (A) The safety measures used or the lack thereof; and (B) the condition of equipment or lack of proper equipment; no work shall be considered hazardous if the working conditions surrounding the individual’s work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a substantially equal or higher skill level than the individual’s past adversely affected employment (as defined for purposes of the federal trade act of 1974), and wages for such work are not less than 80% of the individual’s average weekly wage as determined for the purposes of the federal trade act of 1974;

(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge and that would impel the average worker to give up such worker’s employment;

(8) the individual left work to accept better work; each determination as to whether or not the work accepted is better work shall include, but shall not be limited to, consideration of: (A) The rate of pay, the hours of work and the probable permanency of the work left as compared to the work accepted; (B) the cost to the individual of getting to the work left in comparison to the cost of getting to the work accepted; and (C) the distance from the individual’s place of residence to the work accepted in comparison to the distance from the individual’s residence to the work left;

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

(10) the individual left work because of a substantial violation of the work agreement by the employing unit and, before the individual left, the individual had exhausted all remedies provided in such agreement for the settlement of disputes before terminating. For the purposes of this paragraph, a demotion based on performance does not constitute a violation of the work agreement;

(11) after making reasonable efforts to preserve the work, the individual left work due to a personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from domestic violence, including:

(i) The individual’s reasonable fear of future domestic violence at or en route to or from the individual’s place of employment;

(ii) the individual’s need to relocate to another geographic area in order to avoid future domestic violence;

(iii) the individual’s need to address the physical, psychological and legal impacts of domestic violence;

(iv) the individual’s need to leave employment as a condition of receiving services or shelter from an agency which provides support services or shelter to victims of domestic violence; or

(v) the individual’s reasonable belief that termination of employment is necessary to avoid other situations which may cause domestic violence and to provide for the future safety of the individual or the individual’s family.

(B) An individual may prove the existence of domestic violence by providing one of the following:

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction;

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the

Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be disclosed by the department of labor unless consent for disclosure is given by the individual.

(b) If the individual has been discharged or suspended for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and in cases where the disqualification is due to discharge for misconduct has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment including, but not limited to, a violation of a company rule, including a safety rule, if: (A) The individual knew or should have known about the rule; (B) the rule was lawful and reasonably related to the job; and (C) the rule was fairly and consistently enforced.

(2) (A) Failure of the employee to notify the employer of an absence and an individual's leaving work prior to the end of such individual's assigned work period without permission shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(B) For the purposes of this subsection, misconduct shall include, but not be limited to, violation of the employer's reasonable attendance expectations if the facts show:

(i) The individual was absent or tardy without good cause;

(ii) the individual had knowledge of the employer's attendance expectation; and

(iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

(C) For the purposes of this subsection, if an employee disputes being absent or tardy without good cause, the employee shall present evidence that a majority of the employee's absences or tardiness were for good cause. If the employee alleges that the employee's repeated absences or tardiness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(3) (A) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection. Gross misconduct shall include, but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to property; (iv) intentional infliction of personal injury; or (v) any conduct that constitutes a felony.

(B) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

(i) The use of alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(ii) the impairment caused by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

- (iii) a positive breath alcohol test or a positive chemical test, provided:
 - (a) The test was either:
 - (1) Required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.;
 - (2) administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;
 - (3) requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment;
 - (4) required by law and the test constituted a required condition of employment for the individual's job; or
 - (5) there was reasonable suspicion to believe that the individual used, had possession of, or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;
 - (b) the test sample was collected either:
 - (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;
 - (2) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;
 - (3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;
 - (4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or
 - (5) at a time contemporaneous with the events establishing probable cause;
 - (c) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;
 - (d) the chemical test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;
 - (e) the chemical test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample or a breath alcohol test;
 - (f) the breath alcohol test was administered by an individual trained to perform breath tests, the breath testing instrument used was certified and operated strictly according to a description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and
 - (g) the foundation evidence establishes, beyond a reasonable doubt, that the test results were from the sample taken from the individual;
- (iv) an individual's refusal to submit to a chemical test or breath alcohol test, provided:
 - (a) The test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;
 - (b) the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;
 - (c) the test was otherwise required by law and the test constituted a required condition of employment for the individual's job;
 - (d) the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or
 - (e) there was reasonable suspicion to believe that the individual used, possessed or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;
 - (v) an individual's dilution or other tampering of a chemical test.
- ~~(B)~~(C) For purposes of this subsection:

(i) “Alcohol concentration” means the number of grams of alcohol per 210 liters of breath;

(ii) “alcoholic liquor” shall be defined as provided in K.S.A. 41-102, and amendments thereto;

(iii) “cereal malt beverage” shall be defined as provided in K.S.A. 41-2701, and amendments thereto;

(iv) “chemical test” shall include, but is not limited to, tests of urine, blood or saliva;

(v) “controlled substance” shall be defined as provided in K.S.A. 2012 Supp. 21-5701, and amendments thereto;

(vi) “required by law” means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;

(vii) “positive breath test” shall mean a test result showing an alcohol concentration of .04 or greater, or the levels listed in 49 C.F.R. Part 40, if applicable, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case “positive chemical test” shall mean a test result showing an alcohol concentration at or above the levels provided for in the assistance or treatment program;

(viii) “positive chemical test” shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, or 49 C.F.R. Part 40, as applicable, for the drugs or abuse listed therein, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case “positive chemical test” shall mean a chemical result showing a concentration at or above the levels provided for in the assistance or treatment program.

(4) An individual shall not be disqualified under this subsection if the individual is discharged under the following circumstances:

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit, except that the individual shall be disqualified after the time at which such individual intended to quit and any individual who commits misconduct after such individual gives notice to such individual’s intent to quit shall be disqualified;

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience; (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-faith errors in judgment or discretion; or (v) unsatisfactory work or conduct due to circumstances beyond the individual’s control; or

(C) the individual’s refusal to perform work in excess of the contract of hire.

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual’s determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual’s customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual’s residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual’s most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade

act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs any of whom are participating in or financing or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection be deemed to be a separate factory, establishment or other premises. For the purposes of this subsection, failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept the individual's available and customary work at the factory, establishment or other premises where the individual is or was last employed shall be considered as participation and interest in the labor dispute.

(e) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to receive any unemployment allowance or compensation granted by the United States under an act of congress to ex-service men and women in recognition of former service with the military or naval services of the United States.

(g) For the period of five years beginning with the first day following the last week of unemployment for which the individual received benefits, or for five years from the date the act was committed, whichever is the later, if the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received.

(h) For any week with respect to which the individual is receiving compensation for temporary total disability or permanent total disability under the workmen's compensation law of any state or under a similar law of the United States.

(i) For any week of unemployment on the basis of service in an instructional, research or principal administrative capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms during such period or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(k) For any week of unemployment on the basis of service in any capacity for an educational institution as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during an established and customary vacation period or holiday recess, if the individual performs services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such

plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

(o) For any week of unemployment on the basis of services performed in any capacity and under any of the circumstances described in subsection (i), (j) or (k) which an individual performed in an educational institution while in the employ of an educational service agency. For the purposes of this subsection, the term "educational service agency" means a governmental agency or entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related functions or activities for an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection for any week of unemployment on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services performed by the individual in any capacity and under any of the circumstances described in subsection (i), (j), (k) or (o) which are provided to or on behalf of an educational institution, as defined in subsection (v) of K.S.A. 44-703, and amendments thereto, while the individual is in the employ of an employer which is a governmental entity, Indian tribe or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income under section 501(a) of the code.

(r) For any week in which an individual is registered at and attending an established school, training facility or other educational institution, or is on vacation during or between two successive academic years or terms. An individual shall not be disqualified for benefits as provided in this subsection provided:

(1) The individual was engaged in full-time employment concurrent with the individual's school attendance;

(2) the individual is attending approved training as defined in subsection (s) of K.S.A. 44-703, and amendments thereto; or

(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to

the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

~~(t) If the individual has been discharged for failing a preemployment drug screen required by the employer and if such discharge occurs not later than seven days after the employer is notified of the results of such drug screen. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.~~

(1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

(2) Any individual who has been discharged or refused employment for failing a preemployment drug screen required by an employer may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any such individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening.

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A. 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

Sec. 17. K.S.A. 2012 Supp. 44-709, as amended by section 3 of 2013 Senate Bill No. 187, is hereby amended to read as follows: 44-709. (a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the

secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination.* (1) Except as otherwise provided in this ~~subsection (b)(1) paragraph~~, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of subsection (d) of K.S.A. 44-706, and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c), *except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.* The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, *except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.*

(d) *Referees.* The secretary shall appoint, in accordance with subsection (c) of K.S.A. 44-714, and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last

day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* (1) There is hereby created an employment security board of review, hereinafter referred to as the board, consisting of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

(2) When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a nominee to the governor for appointment to each vacancy on the employment security board of review, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. The governor shall either: (A) Accept and submit to the senate for confirmation the person nominated by the nominating committee; or (B) reject the nomination and request the nominating committee to nominate another person for that position. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the employment security board of review, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate.

(3) No member of the employment security board of review shall serve more than two consecutive terms.

(4) Each member of the employment security board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member.

(5) Each member of the employment security board of review shall be entitled to receive as compensation for the member's services at the rate of \$15,000 per year, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(6) The employment security board of review shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. The board shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary shall attend the meetings of the board.

(7) The employment security board of review, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(8) Two members of the employment security board of review shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure.* The manner in which disputed claims are presented, the reports on claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the employment security board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions in connection with a disputed claim. All testimony at any

hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board shall have access to all of the records which pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) *Court review.* Any action of the employment security board of review is subject to review in accordance with the Kansas judicial review act. No bond shall be required for commencing an action for such review. In the absence of an action for such review, the action of such board shall become final 16 calendar days after the date of the mailing of the decision. In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of such board. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the employment security board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the employment security board of review either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 18. K.S.A. 2012 Supp. 45-221, as amended by section 2 of 2013 Senate Bill No. 81, is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, ~~except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.~~

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901 et seq., and

amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third-party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communi-

cations services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers, DD Form 214. Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safe-house or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act, and amendments thereto, upon request of the party submitting such records.

(51) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a law enforcement officer as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, parole officer, probation officer, court services officer or community correctional services officer. Such individual officer shall file with the custodian of such record a request to have such officer's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such officer's identifying information from such public access. Such restriction shall expire after five years and such officer may file with the custodian of such record a new request for restriction at any time.

(52) Records of a public agency on a public website which are searchable by a keyword search and identify the home address or home ownership of a federal judge, a justice of the supreme court, a judge of the court of appeals, a district judge, a district magistrate judge, the United States attorney for the district of Kansas, an assistant United States attorney, the attorney general, an assistant attorney general, a district attorney or county attorney or an assistant district attorney or assistant county attorney. Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request for restriction at any time.

(53) Records of a public agency that would disclose the name, home address, *zip code*, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who enrolled in or completed any weapons

training in order to be licensed or has made application for such license under the personal and family protection act, K.S.A. 2012 Supp. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

(54) *Records of a utility concerning information about cyber security threats, attacks or general attempts to attack utility operations provided to law enforcement agencies, the state corporation commission, the federal energy regulatory commission, the department of energy, the southwest power pool, the North American electric reliability corporation, the federal communications commission or any other federal, state or regional organization that has a responsibility for the safeguarding of telecommunications, electric, potable water, waste water disposal or treatment, motor fuel or natural gas energy supply systems.*

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

Sec. 19. K.S.A. 2012 Supp. 45-229, as amended by section 1 of 2013 House Bill No. 2012, is hereby amended to read as follows: 45-229. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;
- (2) the public record is necessary for the effective and efficient administration of a governmental program; or
- (3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are

met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by July 15, the language and statutory citation of each exception which will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law which creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law which creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or

(4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and which have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, ~~38-1664~~, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1) through (43) of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2009 are hereby continued in existence until July 1, 2015, at which time such exceptions shall expire: 17-2036, 40-5301, subsections (a)(45) and (a)(46) of 45-221, 60-3351, 72-972a, 74-99d05 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and which have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2010 are hereby continued in existence until July 1, 2016, at which time such exceptions shall expire: 12-5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 44-1132, 60-3333, 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2006, 2007 and 2008 are hereby continued in existence until July 1, 2014, at which time such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46) and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239, 66-1233, 74-50,184, 74-8134, 74-99b06 and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2011 are hereby continued in existence until July 1, 2017, at which time such exceptions shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-8772 and 75-7427.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and which have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-712 and 75-5366.

Sec. 20. K.S.A. 2012 Supp. 47-422 is hereby amended to read as follows: 47-422. (a) Any brand registered with the animal health commissioner of the Kansas department of agriculture in compliance with the requirements of this act shall be the property of the person causing such record to be made. Such brand shall be subject to sale, assignment, transfer, devise and descent as other personal property. Instruments of writing evidencing the sale, assignment or transfer of such brand shall be recorded by the animal health commissioner. The fee for recording such instruments of writing shall be \$15. Such instruments shall have the same force and effect as recorded instruments affecting real estate. A certified copy of the record of any such instrument may be introduced in evidence the same as ~~is now provided for~~ certified copies of instruments affecting real estate. Any brand recorded with the Kansas department of agriculture division of animal health shall not be used by any person other than the recorded owner.

(b) Any person violating any provision of this section shall be guilty of a class C misdemeanor.

Sec. 21. K.S.A. 2012 Supp. 47-1804 is hereby amended to read as follows: 47-1804. As used in K.S.A. 47-1804 through 47-1808, and amendments thereto, unless the context otherwise requires:

(a) “Commissioner” means the animal health commissioner of the Kansas department of agriculture.

(b) “Livestock” means cattle, bison, swine, horses, sheep, goats, camelids and all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas and domesticated deer.

(c) “Livestock dealer” means any person engaged in the business of buying or selling livestock in commerce, either on that person’s own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis and shall include any person who buys or sells livestock with the use of a video. “Livestock dealer” does not include any person who buys or sells livestock as part of that person’s own breeding, feeding or dairy operation, nor any person who receives livestock exclusively for immediate slaughter.

(d) “Person” means any individual, partnership, corporation, company, firm or association. “Person” does not include any public livestock market operator licensed under K.S.A. 47-1001 et seq., and amendments thereto, or any feedlot operator licensed under K.S.A. 47-1501 et seq., and amendments thereto.

(e) “Domesticated deer” means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for: (1) Breeding stock; ~~for~~ (2) any carcass, skin or part of such animal; ~~for~~ (3) exhibition; or ~~for~~ (4) companionship.

Sec. 22. K.S.A. 2012 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties. Such order shall contain a statement that if such order is violated, such violation may constitute assault as defined in subsection (a) of K.S.A. 2012 Supp. 21-5412, and amendments thereto, battery as defined in sub-

section (a) of K.S.A. 2012 Supp. 21-5413, and amendments thereto, domestic battery as defined in K.S.A. 2012 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 2012 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ and *article 27 of chapter 23 of the Kansas Statutes Annotated*, and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 2012 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ or *article 22 or 27 of chapter 23 of the Kansas Statutes Annotated*, and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under

the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 2012 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ and articles 22 and 27 of chapter 23 of the *Kansas Statutes Annotated*, and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto. Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.

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

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

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

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

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

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

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp. 21-5808, and amendments thereto, and violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as defined in subsection (a) of K.S.A. 2012 Supp. 21-5412, and amendments thereto, battery as defined in subsection (a) of K.S.A. 2012 Supp. 21-5413, and amendments thereto, domestic battery as defined in K.S.A. 2012 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto.

Sec. 23. K.S.A. 2012 Supp. 60-4104, as amended by section 41 of 2013 Senate Substitute for House Bill No. 2034, 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) selling sexual relations, as defined in K.S.A. 2012 Supp. 21-6419, and amendments thereto, promoting the sale of sexual relations, as defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, and 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;
- (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 of 2013 Senate Substitute for House Bill No. 2034, and amendments thereto; and

(bb) violations of the Kansas racketeer influenced and corrupt organization act, as described in section 3 of 2013 Senate Bill No. 16, and amendments thereto.

Sec. 24. K.S.A. 2012 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) “Application service provider” means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) “Board” means the state board of pharmacy.

~~(d)~~(e) “Bureau” means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

~~(e)~~(f) “Controlled substance” means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(g) (1) “Controlled substance analog” means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

~~(h)~~(h) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

~~(g)~~(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

~~(h)~~(l) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary

to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

~~(i)~~(m) “Dispenser” means a practitioner or pharmacist who dispenses.

~~(j)~~(n) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

~~(k)~~(o) “Distributor” means a person who distributes.

~~(l)~~(p) “Drug” means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

~~(m)~~(q) “Immediate precursor” means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) “*Electronic prescription*” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) “*Electronic prescription application*” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(t) “*Electronic signature*” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person’s approval of the information contained in the transmission.

(u) “*Electronic transmission*” means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber’s electronic prescription application to a pharmacy’s computer, where the data file is imported into the pharmacy prescription application.

(v) “*Electronically prepared prescription*” means a prescription that is generated using an electronic prescription application.

(w) “*Facsimile transmission*” or “*fax transmission*” means the transmission of a digital image of a prescription from the prescriber or the prescriber’s agent to the pharmacy. “*Facsimile transmission*” includes, but is not limited to, transmission of a written prescription between the prescriber’s fax machine and the pharmacy’s fax machine; transmission of an electronically prepared prescription from the prescriber’s electronic prescription application to the pharmacy’s fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber’s fax machine to the pharmacy’s fax machine, computer or printer.

(x) “*Intermediary*” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) “*Isomer*” means all enantiomers and diastereomers.

~~(n)~~(z) “*Manufacture*” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual’s own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner’s agent pursuant to a lawful order of a practitioner as an incident to the practitioner’s administering or dispensing of a controlled substance in the course of the practitioner’s professional practice; or

(2) by a practitioner or by the practitioner’s authorized agent under

such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

~~(e)~~(aa) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(cc) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

~~(p)~~(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~(q)~~(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

~~(r)~~(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

~~(s)~~(gg) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., to practice pharmacy.

(ii) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by the pharmacy.

~~(t)~~(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~(u)~~—"Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

~~(v)~~(ll) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance

in teaching or chemical analysis or to conduct research with respect to a controlled substance.

~~(mm)~~ “Prescriber” means a practitioner or a mid-level practitioner.

~~(nn)~~ “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

~~(oo)~~ “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

~~(pp)~~ “Ultimate user” means a person who lawfully possesses a controlled substance for such person’s own use or for the use of a member of such person’s household or for administering to an animal owned by such person or by a member of such person’s household.

~~(y)~~ “Isomer” means all enantiomers and diastereomers.

~~(z)~~ “Medical care facility” shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

~~(aa)~~ “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

~~(bb) (1)~~ “Controlled substance analog” means a substance that is intended for human consumption, and:

~~(A)~~ The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

~~(B)~~ which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

~~(C)~~ with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

~~(2)~~ “Controlled substance analog” does not include:

~~(A)~~ A controlled substance;

~~(B)~~ a substance for which there is an approved new drug application; or

~~(C)~~ a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption.

~~(cc)~~ “Mid-level practitioner” means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

Sec. 25. K.S.A. 2012 Supp. 72-978 is hereby amended to read as follows: 72-978. (a) Each year, the state board of education shall determine the amount of state aid for the provision of special education and related services each school district shall receive for the ensuing school year. The amount of such state aid shall be computed by the state board as provided in this section. The state board shall:

(1) Determine the total amount of general fund and local option budgets of all school districts;

(2) subtract from the amount determined in paragraph (1) the total amount attributable to assignment of transportation weighting, program weighting, special education weighting and at-risk pupil weighting to enrollment of all school districts;

(3) divide the remainder obtained in paragraph (2) by the total num-

ber of full-time equivalent pupils enrolled in all school districts on September 20;

(4) determine the total full-time equivalent enrollment of exceptional children receiving special education and related services provided by all school districts;

(5) multiply the amount of the quotient obtained in paragraph (3) by the full-time equivalent enrollment determined in paragraph (4);

(6) determine the amount of federal funds received by all school districts for the provision of special education and related services;

(7) determine the amount of revenue received by all school districts rendered under contracts with the state institutions for the provisions of special education and related services by the state institution;

(8) add the amounts determined under paragraphs (6) and (7) to the amount of the product obtained under paragraph (5);

(9) determine the total amount of expenditures of all school districts for the provision of special education and related services;

(10) subtract the amount of the sum obtained under paragraph (8) from the amount determined under paragraph (9); and

(11) multiply the remainder obtained under paragraph (10) by 92%.

The computed amount is the amount of state aid for the provision of special education and related services aid a school district is entitled to receive for the ensuing school year.

(b) Each school district shall be entitled to receive:

(1) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(2) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(3) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

(4) (A) except for those school districts entitled to receive reimbursement under subsection (c) or (d), after subtracting the amounts of reimbursement under paragraphs (1), (2) and (3) of this subsection (a) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(B) Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as $\frac{2}{3}$ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(C) *For purposes of this paragraph (4), a special teacher, qualified to assist in the provision of special education and related services to exceptional children, who assists in providing special education and related services to exceptional children at either the state school for the blind or the state school for the deaf and whose services are paid for by a school district pursuant to K.S.A. 76-1006 or 76-1102, and amendments thereto, shall be considered a special teacher of such school district.*

(c) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which

bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(d) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (b)(4). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(e) No time spent by a special teacher in connection with duties performed under a contract entered into by the Kansas juvenile correctional complex, the Atchison juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

Sec. 26. K.S.A. 2012 Supp. 74-7901 is hereby amended to read as follows: 74-7901. There is hereby created a Kansas wildlife arts council which shall be composed of five members. One member shall be a member of the Kansas wildlife ~~and parks~~, *parks and tourism* commission appointed by such commission, one member shall be a member of the Kansas creative arts industries commission appointed by such commission, one member shall be the director of the Fort Hays state university Sternberg museum, and two members shall be from the public at large appointed by the president of Fort Hays state university. The director of the Fort Hays state university Sternberg museum shall be chairperson of the council, and personnel of the Fort Hays state university Sternberg museum shall provide such staff and clerical services as the council may require.

Sec. 27. K.S.A. 2012 Supp. 75-7c05, as amended by section 7 of 2013 Senate Substitute for House Bill No. 2052, is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 2012 Supp. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2012 Supp. 21-5903, and amendments thereto; and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) The applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) a nonrefundable license fee of \$132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has

permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of \$32.50 payable to the sheriff of the county where the applicant resides and \$100 payable to the attorney general;

(3) ~~a photocopy of a certificate or an affidavit or document as described in subsection (b) of K.S.A. 2012 Supp. 75-7c04, and amendments thereto, or if applicable, of a license to carry a firearm as described in if applicable, a photocopy of the proof of training required by subsection (d) of K.S.A. 2012 Supp. 75-7c03, and amendments thereto; and~~

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) The sheriff, upon receipt of the items listed in subsection (b) of this section, shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward to the attorney general ~~a copy of~~ the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff. Notwithstanding anything in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 2012 Supp. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) *Except as provided in K.S.A. 2012 Supp. 75-7c03, and amendments thereto*, within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

(1) Issue the license and certify the issuance to the department of revenue; or

(2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c)(2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 2012 Supp. 75-7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) Each person issued a license shall pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, shall be: (A) Required to pay an original license fee as provided in subsection (b)(2), to be forwarded by the sheriff to the attorney general; (B) exempt from

the required completion of a handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) required to pay the license renewal fee; (D) required to pay to the department of revenue the fees required by subsection (f); and (E) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

(h) A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay an original license fee as provided in subsection (b)(2); (2) exempt from the required completion of a handgun safety and training course if such person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; (3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5) required to comply with the criminal history records check requirement of this section.

Sec. 28. K.S.A. 2012 Supp. 75-3740 is hereby amended to read as follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and amendments thereto, and ~~subsection (g)~~ subsections (b) and (k), all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) *A contract shall be awarded to a certified business which is also a responsible bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.*

(c) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) (A) *A responsible bidder purchases from a qualified vendor goods or services on the list certified by the director of purchases pursuant to K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder; or*

(B) *a responsible bidder purchases from a certified business the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder;*

~~(1)~~(2) the dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

~~(2)~~(3) in the case of bids for paper products specified in K.S.A. 75-3740b, and amendments thereto, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.

~~(e)~~(d) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure made after the bid is opened. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect

and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bidder on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider: (1) The criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available; and (2) the recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law or the state agency elects not to proceed with the procurement.

~~(d)~~(e) Before the awarding of any contract for construction of a building or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

~~(e)~~(f) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

~~(f) As used in this section and in K.S.A. 75-3741, and amendments thereto, "project architect" shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.~~

(g) As used in this section:

(1) "Certified business" means any business certified annually by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Does business primarily in Kansas or substantially all of its production in Kansas;

(B) employs at least 20% of its employees who are individuals with disabilities and reside in Kansas;

(C) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. The level of such coverage shall be at least equal to the level of benefits offered by the state employee benefit program established by K.S.A. 75-6501 et seq., and amendments thereto. The department of administration shall require a certification of these facts as a condition to the certified business being awarded a contract pursuant to subsection (b); and

(D) does not employ individuals under a certificate issued by the United States secretary of labor under subsection (c) of 29 U.S.C. § 214;

(2) "individuals with disabilities" or "individual with a disability" means any individual who:

(A) Is certified by the Kansas department for aging and disability services as having a physical or mental impairment which constitutes a substantial barrier to employment;

(B) works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (g)(1); and

(C) (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) *is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or*

(iii) *is an individual with a severe and persistent mental illness, as determined by a clinical or functional assessment approved by the Kansas department for aging and disability services;*

(3) *“physical or mental impairment” means:*

(A) *Any physiological disorder or condition, cosmetic disfigurement or anatomical loss substantially affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or*

(B) *any mental or psychological disorder, such as intellectual disability, organic brain syndrome, mental illness and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis and intellectual disability; and*

(4) *“project architect” shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.*

(h) *Any state agency authorized by the director of purchases to make purchases pursuant to subsection (e) of K.S.A. 75-3739, and amendments thereto, shall consider any unsolicited proposal for goods or services under this section.*

(i) *The secretary of administration and the secretary for aging and disability services, jointly, shall adopt rules and regulations as necessary to effectuate the purpose of this section.*

(j) *On and after January 13, 2014, at the beginning of each regular session of the legislature, the secretary of administration and the secretary for aging and disability services shall submit to the social services budget committee of the house of representatives and the appropriate subcommittee of the committee on ways and means of the senate, a written report on:*

(1) *The number of certified businesses certified by the department of administration during the previous fiscal year;*

(2) *the number of certified businesses awarded contracts pursuant to subsection (b) during the previous fiscal year;*

(3) *the number of contracts awarded pursuant to subsection (b) to each certified business during the previous fiscal year;*

(4) *the number of individuals with disabilities removed from, reinstated to or not reinstated to home and community based services or other medicaid program services during the previous fiscal year as a result of employment with a certified business;*

(5) *the number of individuals employed by each certified business during the previous fiscal year; and*

(6) *the number of individuals with disabilities employed by each certified business during the previous fiscal year.*

(k) *When a state agency is receiving bids to purchase passenger motor vehicles, such agency shall follow the procedures prescribed in subsection ~~(b)(1)~~ (c)(2), except in the case where one of the responsible bidders offers motor vehicles which are assembled in Kansas. In such a case, 3% of the bid of the responsible bidder which offers motor vehicles assembled in Kansas shall be subtracted from the bid amount, and that amount shall be used to determine the lowest bid pursuant to subsection ~~(b)(1)~~ (c)(2). This subsection shall only apply to bids which match the exact motor vehicle specifications of the agency purchasing passenger motor vehicles.*

Sec. 29. K.S.A. 2012 Supp. 75-37,121 is hereby amended to read as follows: 75-37,121. (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any

state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Department of social and rehabilitation services, juvenile justice authority, department on aging, department of health and environment, Kansas public employees retirement system, Kansas water office, ~~Kansas animal health~~ *department of agriculture division of animal health* and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife, parks and tourism and state court of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, ~~state conservation commission~~ *Kansas department of agriculture division of conservation*, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative

hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

Sec. 30. K.S.A. 2012 Supp. 75-4362, as amended by section 5 of 2013 Senate Bill No. 149, is hereby amended to read as follows: 75-4362. (a) The director of the division of personnel services of the department of administration shall have the authority to establish and implement a drug screening program for persons taking office as governor, lieutenant gov-

ernor, attorney general or members of the Kansas senate or house of representatives and for applicants for safety sensitive positions in state government, but no applicant for a safety sensitive position shall be required to submit to a test as a part of this program unless the applicant is first given a conditional offer of employment.

(b) The director also shall have the authority to establish and implement a drug screening program based upon a reasonable suspicion of illegal drug use by any person currently holding one of the following positions or offices:

- (1) The office of governor, lieutenant governor or attorney general;
- (2) members of the Kansas senate or house of representatives;
- (3) any safety sensitive position;
- (4) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive position;
- (5) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto;
- (6) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; or
- (7) any employee of a state veteran's home operated by the Kansas commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.

(c) Any public announcement or advertisement soliciting applications for employment in a safety sensitive position in state government shall include a statement of the requirements of the drug screening program established under this section for applicants for and employees holding a safety sensitive position.

(d) *Except for a person who has access to a secured biological laboratory in the office of laboratory services of the department of health and environment*, no person shall be terminated solely due to positive results of a test administered as a part of a program authorized by this section if:

- (1) The employee has not previously had a valid positive test result; and
- (2) the employee undergoes a drug evaluation and successfully completes any education or treatment program recommended as a result of the evaluation. Nothing herein shall be construed as prohibiting demotions, suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and amendments thereto.

(e) Except in hearings before the state civil service board regarding disciplinary action taken against the employee, the results of any test administered as a part of a program authorized by this section shall be confidential and shall not be disclosed publicly.

(f) The secretary of administration may adopt such rules and regulations as necessary to carry out the provisions of this section.

(g) "Safety sensitive positions" means the following:

- (1) All state law enforcement officers who are authorized to carry firearms;
- (2) all state corrections officers;
- (3) all state parole officers;
- (4) heads of state agencies who are appointed by the governor and employees on the governor's staff;
- (5) all employees with access to secure facilities of a correctional institution, as defined in K.S.A. 2012 Supp. 21-5914, and amendments thereto;
- (6) all employees of a juvenile correctional facility, as defined in K.S.A. 2012 Supp. 38-2302, and amendments thereto; ~~and~~
- (7) all employees within an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, who provide clinical, therapeutic or habilitative services to the clients and patients of those institutions; *and*
- (8) *all employees who have access to a secured biological laboratory in the office of laboratory services of the department of health and environment.*

Sec. 31. K.S.A. 2012 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, re-

ports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

(1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or the attorney general's designee;

(3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106, and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to county appraisers as is necessary to insure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq., and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries, *microdistilleries* and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries, *microdistilleries* and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is

limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606, and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, or to any law enforcement officer, as defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in conjunction with a pending investigation;

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department;

(17) provide information concerning remittance by sellers, as defined in K.S.A. 2012 Supp. 12-5363, and amendments thereto, of prepaid wireless 911 fees from returns to the local collection point administrator, as defined in K.S.A. 2012 Supp. 12-5363, and amendments thereto, for purposes of verifying seller compliance with collection and remittance of such fees; and

(18) release or publish charitable gaming information obtained in bingo licensee and registration applications and renewals in accordance with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The information to be released is limited to: The name, address, phone number, license registration number and email address of the organization, distributor or of premises.

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.

Sec. 32. K.S.A. 2012 Supp. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof.

(b) "Municipality" means any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) (1) "Employee" means: (A) Any officer, employee, servant or member of a board, commission, committee, division, department, branch or council of a governmental entity, including elected or appointed officials and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation and a charitable health care provider;

(B) any steward or racing judge appointed pursuant to K.S.A. 74-

8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator;

(G) an employee of an indigent health care clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and

(J) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another health care institution.

(2) "Employee" does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in paragraph (1) of this subsection.

(e) "Charitable health care provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American registry of radiology technologists, the American registry for diagnostic medical sonography or cardiovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a health care provider as the term "health care provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the health care provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the ~~Kansas health policy authority~~ *department of health and environment*, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children's immunization programs administered by the secretary;

(3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the ~~Kansas health policy authority~~ *department of health and environment* gratuitously

or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3); or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; or (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include “oral and maxillofacial surgery” as defined by ~~rules and regulations adopted by the Kansas dental board K.A.R. 71-2-2,~~ or use sedation or general anesthesia that result in “deep sedation” or “general anesthesia” as defined by ~~rules and regulations adopted by the Kansas dental board K.A.R. 71-5-7.~~

(f) “Medically indigent person” means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) “Indigent health care clinic” means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(h) “Local health department” shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

(i) “Fire control, fire rescue or emergency medical services equipment” means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.

Sec. 33. K.S.A. 2012 Supp. 75-6609 is hereby amended to read as follows: 75-6609. (a) When used in this section, “surplus real estate” means real estate which is no longer needed by the state agency which owns such real estate as determined in accordance with this section.

(b) (1) The secretary of administration shall develop criteria for the identification of surplus real estate, including, but not limited to, a review of any legal restrictions associated with the real estate and the reasons for the state agency to keep the real estate. In accordance with such criteria, the secretary shall assist state agencies in the identification of surplus real estate. The secretary of administration shall periodically review the status of all real estate of state agencies subject to this section to determine if any of the real estate owned by state agencies is potentially surplus real estate. If any real estate owned by a state agency is determined by the secretary of administration, in consultation with the head of the state agency, to be surplus real estate in accordance with the criteria developed under subsection (a), then the secretary of administration shall recommend to the governor that such real estate be sold under the procedures prescribed by this section.

(2) The secretary of administration shall develop guidelines for the sale of surplus real estate. In accordance with such guidelines and upon the approval of the governor, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: (A) Public auction; (B)

by listing the surplus property with a licensed real estate broker or salesperson; or (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

(c) Prior to the sale of any surplus real estate under subsection (b), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) Prior to offering any real estate for sale, such property shall be appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless the appraisal is waived as provided in this subsection. The secretary of administration may waive the requirement for appraisal for any parcel of surplus real estate that is to be sold at public auction under this section if the secretary of administration determines that it is in the best interests of the state to waive the requirement for appraisal for such parcel of surplus real estate. The costs of any such appraisal may be paid from the proceeds of the sale.

(e) Conveyance of title in surplus real estate offered for sale by the secretary of administration shall be executed on behalf of the state agency by the secretary of administration. The deed for the conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the secretary of administration in consultation with the head of the state agency which owns the surplus real estate.

(f) (1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and any cost of appraisal of the surplus real estate, shall be deposited in the state treasury as prescribed by this subsection, unless otherwise authorized by law. On and after ~~the effective date of this act~~ July 1, 2012, 20% of the proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by state or federal law or by the limitations or restrictions of the state's title to the real estate being sold. In the case of proceeds from the sale of surplus real estate at a state mental health institution or a state institution for people with intellectual disability, such portion of the proceeds shall be credited to the client benefit fund of such institution or to another special revenue fund of such institution for: (A) Rehabilitation and repair or other capital improvements for such institution; or (B) one-time expenditures for community mental health organizations if the real estate sold was at a state mental health institution or for community developmental disabilities organizations if the real estate sold was at a state institution for people with intellectual disability, and, in any such case, shall be expended in accordance with the provisions of appropriation acts. The remaining 80% of the proceeds from each such sale deposited in the state treasury shall be credited to the Kansas public employees retirement fund to be applied to the payment, in full or in part, of the unfunded actuarial pension liability as directed by the Kansas public employees retirement system. As used in this section, "unfunded actuarial pension liability" means the unfunded actuarially accrued liability of the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31, 2011, or the end of the most recent calendar year for which an actuarial valuation report is available.

(2) The amount of expenses and the cost of appraisal for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury. Subject to the provisions of appropriation acts,

moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.

(g) Any sale of property by the secretary of transportation pursuant to K.S.A. 68-413, and amendments thereto, shall not be subject to the provisions of this section. The provisions of this section shall not be applicable to real estate given as an endowment, bequest, or gift to a state educational institution as defined in K.S.A. 72-4412, and amendments thereto, or to the university of Kansas medical center.

(h) Sale of the Olathe travel information center shall not be subject to the provisions of this section.

Sec. 34. K.S.A. 2012 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2012 Supp. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 2012 Supp. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2012 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency

status to the *Kansas* department of wildlife ~~and parks~~, *parks and tourism* to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, “title IV-D case” means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals’ reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 et seq., and amendments thereto;

(13) (i) provide taxpayer information of persons suspected of violating K.S.A. 2012 Supp. 44-766, and amendments thereto, to the secretary of labor or such secretary’s designee for the purpose of determining compliance by any person with the provisions of *subsection (i)(3)(D) of K.S.A. 44-703* ~~(i)(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of *subsection (i)(3)(D) of K.S.A. 44-703* ~~(i)(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the results or status of such audit or investigation;

(ii) any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality; *and*

(iii) each of the secretary of labor and the secretary of revenue may

adopt rules and regulations necessary to effect the provisions of this paragraph;

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, “associated persons” includes spouses or dependents listed on income tax returns; and

(15) after receipt of information pursuant to subsection (f), forward such information and provide the following reported Kansas individual income tax information for each listed defendant, if available, to the state board of indigents’ defense services in an electronic format and in the manner determined by the secretary: (A) The defendant’s name; (B) social security number; (C) Kansas adjusted gross income; (D) number of exemptions claimed; and (E) the relevant tax year of such records. Any social security number provided to the secretary and the state board of indigents’ defense services pursuant to this section shall remain confidential.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) For the purpose of determining whether a defendant is financially able to employ legal counsel under the provisions of K.S.A. 22-4504, and amendments thereto, in all felony cases with appointed counsel where the defendant’s social security number is accessible from the records of the district court, the court shall electronically provide the defendant’s name, social security number, district court case number and county to the secretary of revenue in the manner and format agreed to by the office of judicial administration and the secretary.

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 35. K.S.A. 2012 Supp. 79-32,117, as amended by section 3 of 2013 House Substitute for Senate Bill No. 83 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual’s federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be

included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2012 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxi) For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) *For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in section 1 of 2013 House Bill No. 2253, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2012 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.*

(xxv) *For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in section 1 of 2013 House Bill No. 2253, and amendments thereto, when such expenses were paid or incurred*

for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2012 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2012 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws

of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to

such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 36. K.S.A. 2012 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a. (a) For taxable years commencing after December 31, 1999, *and before January 1, 2012*, any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, and effective for tax years commencing after December 31, 2010, *and before January 1, 2012*, located in an area other than a metropolitan county as defined in either K.S.A. 2012 Supp. 74-50,114 or 74-50,211, and amendments thereto, and also meets the definition of a business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if: (1) The employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility; or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) Two thousand five hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, and effective for tax years commencing after December 31, 2010, *and before January 1, 2012*, located in an area other than a metropolitan county as defined in either K.S.A. 2012 Supp. 74-50,114 or 74-50,211, and amendments thereto, and which also meets the definition of business in subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax. Such portion shall be an amount equal to the sum of the following:

(1) One thousand five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year, or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed upon the amount which exceeds such tax liability or such portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in subsection (d) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, *and except as otherwise provided in this subsection*, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without

regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. *For tax years beginning on or after January 1, 2012, for a qualified business facility investment in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte counties, such credit shall be in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a qualified business facility pursuant to this subsection in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and commences investments in a qualified business facility prior to December 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and subsection (e) of 79-32,160a, and amendments thereto, in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000. Timing modifications may be authorized at the discretion of the secretary of commerce and the secretary of revenue during the transition period.* The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments thereto*, for the taxable year, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the 16th taxable year succeeding the taxable year in which such credit initially was claimed, and no carryforward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and this act. In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.

(f) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for such credits, shall provide information pursuant to K.S.A. 2012 Supp. 79-32,243, and amendments thereto, as part of the tax return in which such credits are claimed. Such credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A. 2012 Supp. 79-32,243, and amendments thereto.

(g) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976, and amendments thereto.

Sec. 37. K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161, 8-1,161a, 12-4106, as amended by section 1 of 2013 House Bill No. 2041, 12-4106, as amended by section 8 of 2013 Senate Substitute for House Bill No. 2034, 21-5109, 21-5109a, 21-5302, as amended by section 6 of 2013 Senate Bill No. 16, 21-5302, as amended by section 12 of 2013 Senate Substitute for House Bill No. 2034, 21-5808, 21-5808a, 21-5904, 21-5904a, 21-5924, 21-5924a, 21-6302, as amended by section 4 of 2013 Senate Substitute for House Bill No. 2052, 21-6302, as amended by section 3 of 2013 House Bill No. 2033, 21-6614, as amended by section 19 of 2013 Senate Substitute for House Bill No. 2034, 21-6614, as amended by section 3 of 2013 Senate Bill No. 21, 22-2802, 22-2802c, 22-2908, 22-2908a, 22-3212, 22-3212b, 22-3717, as amended by section 27 of 2013 Senate Substitute for House Bill No. 2034, 22-3717, as amended by section 6 of 2013 House Bill No. 2170, 32-1438, 32-1438a, 39-709, as amended by section 1 of 2013 Senate Bill No. 149, 39-709, as amended by section 23 of 2013 Substitute for House Bill No. 2183, 39-923a, 44-706, as amended by section 5 of 2013 Substitute for House Bill No. 2105, 44-706, as amended by section 4 of 2013 Senate Bill No. 149, 44-709, as amended by section 3 of 2013 Senate Bill No. 187, 44-709, as amended by section 6 of 2013 Substitute for House Bill No. 2105, 45-221, as amended by section 2 of 2013 Senate Bill No. 81, 45-221, as amended by section 6 of 2013 Senate Substitute for House Bill No. 2052, 45-221, as amended by section 1 of 2013 House Bill No. 2128, 45-229, as amended by section 1 of 2013 House Bill No. 2012, 45-229, as amended by section 1 of 2013 House

Bill No. 2144, 47-422, 47-422a, 47-1001g, 47-1008a, 47-1302a, 47-1701a, 47-1709a, 47-1725a, 47-1804, 47-1804a, 47-1809a, 60-3107, 60-3107a, 60-4104, as amended by section 41 of 2013 Senate Substitute for House Bill No. 2034, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16, 65-1685a, 65-4101, 65-4101b, 72-978, 72-978a, 74-7901, 74-7901a, 75-7c05, as amended by section 7 of 2013 Senate Substitute for House Bill No. 2052, 75-7c05, as amended by section 6 of 2013 Senate Bill No. 21, 75-3740, 75-3740d, 75-37,121, 75-37,121a, 75-4362, as amended by section 5 of 2013 Senate Bill No. 149, 75-4362, as amended by section 2 of 2013 House Bill No. 2302, 75-5133, 75-5133b, 75-6102, 75-6102c, 75-6609, 75-6609a, 79-3234, 79-3234c, 79-32,117, as amended by section 3 of 2013 House Substitute for Senate Bill No. 83, 79-32,117, as amended by section 17 of 2013 House Bill No. 2253, 79-32,160a, 79-32,160f, 82a-220a and 82a-903a are hereby repealed.

Sec. 38. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.