

## HOUSE BILL No. 2702

By Committee on Corrections and Juvenile Justice

2-14

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1 AN ACT concerning motor vehicles; relating to registration of vehicles;  
2 traffic infractions; amending K.S.A. 2013 Supp. 8-142, 8-285, 12-4516  
3 and 21-6614 and repealing the existing sections; also repealing K.S.A.  
4 2013 Supp. 21-6614d.  
5

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

7 Section 1. K.S.A. 2013 Supp. 8-142 is hereby amended to read as  
8 follows: 8-142. It shall be unlawful for any person to commit any of the  
9 following acts and except as otherwise provided, violation is subject to  
10 penalties provided in K.S.A. 8-149, and amendments thereto:

11 ~~*First:(a)*~~ To operate, or for the owner thereof knowingly to permit the  
12 operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and  
13 amendments thereto, which is not registered, or for which a certificate of  
14 title has not been issued or which does not have attached thereto and  
15 displayed thereon the license plate or plates assigned thereto by the  
16 division for the current registration year, including any registration decal  
17 required to be affixed to any such license plate pursuant to K.S.A. 8-134,  
18 and amendments thereto, subject to the exemptions allowed in K.S.A. 8-  
19 135, 8-198 and 8-1751a, and amendments thereto. A violation of this ~~*First*~~  
20 ~~*subsection*~~ by a person unlawfully claiming that a motor vehicle is exempt  
21 from registration as a self-propelled crane under subsection (b) of K.S.A.  
22 8-128, and amendments thereto, shall constitute an unclassified  
23 misdemeanor punishable by a fine of not less than \$500. *Any other*  
24 *violation of this subsection shall constitute a traffic infraction punishable*  
25 *by a fine of not less than \$75.*

26 ~~*Second:(b)*~~ To display or cause or permit to be displayed, or to have  
27 in possession, any registration receipt, certificate of title, registration  
28 license plate, registration decal, accessible parking placard or accessible  
29 parking identification card knowing the same to be fictitious or to have  
30 been canceled, revoked, suspended or altered. A violation of this ~~part~~  
31 ~~*Second subsection*~~ shall constitute ~~an unclassified misdemeanor~~ *a traffic*  
32 *infraction* punishable by a fine of not less than \$100 and forfeiture of the  
33 item. ~~A mandatory court appearance shall be required of any person~~  
34 ~~violating this part~~ ~~*Second*~~ ~~\$75.~~ This ~~part~~ ~~*Second subsection*~~ shall not apply  
35 to the possession of: ~~(a)~~ (1) Model year license plates displayed on antique  
36 vehicles as allowed under K.S.A. 8-172, and amendments thereto; or ~~(b)~~

1 (2) distinctive license plates allowed under K.S.A. 8-1,147, and  
2 amendments thereto.

3 ~~Third:(c)~~ To lend to or knowingly permit the use by one not entitled  
4 thereto any registration receipt, certificate of title, registration license plate  
5 or registration decal issued to the person so lending or permitting the use  
6 thereof.

7 ~~Fourth:(d)~~ To fail or refuse to surrender to the division, upon  
8 demand, any registration receipt, certificate of title, registration license  
9 plate or registration decal which has been suspended, canceled or revoked.

10 ~~Fifth:(e)~~ To use a false or fictitious name or address in any  
11 application for a certificate of title, the registration of any vehicle or for  
12 any renewal or duplicate thereof, or knowingly to make a false statement  
13 or knowingly to conceal a material fact or otherwise commit a fraud in any  
14 such application.

15 ~~Sixth:(f)~~ For the owner of a motor vehicle to file application for the  
16 registration thereof, in any county other than the county in which the  
17 owner of the vehicle resides or has a bona fide place of business, which  
18 place is not an office or facility established or maintained solely for the  
19 purpose of obtaining registration. *A violation of this subsection shall*  
20 *constitute a traffic infraction punishable by a fine of not less than \$75.*

21 ~~Seventh:(g)~~ To operate on the highways of this state a vehicle or  
22 combination of vehicles whose weight with cargo is in excess of the gross  
23 weight for which the truck or truck tractor propelling the same is  
24 registered, except as provided by K.S.A. 8-143, and amendments thereto,  
25 and subsections (a) to (f), inclusive, of K.S.A. 8-1911, and amendments  
26 thereto. Such gross weight shall not be required to be in excess of the  
27 limitations described by K.S.A. 8-1908 and 8-1909, and amendments  
28 thereto, for such vehicle or combination of vehicles of which it is a part.  
29 Any person or owner who operates a vehicle in this state with a  
30 registration in violation of subsection (b) of K.S.A. 8-143, and  
31 amendments thereto, shall be required to pay the additional fee equal to the  
32 fee required by the applicable registration fee schedule, less the amount of  
33 the fee required for the gross weight for which the vehicle is registered to  
34 obtain the proper registration therewith. A fine of \$75 shall be assessed for  
35 all such gross weight registration violations.

36 ~~Eighth:(h)~~ To operate a local truck or truck tractor which is registered  
37 for a gross weight of more than 12,000 pounds as a common carrier  
38 outside a radius of three miles beyond the corporate limits of the city in  
39 which such vehicle was based when registered and licensed or to operate  
40 any other local truck or truck tractor licensed for a gross weight of more  
41 than 12,000 pounds outside a radius of 25 miles beyond the corporate  
42 limits of the city in which such vehicle was based when registered and  
43 licensed, except as provided in subsection (b) of K.S.A. 8-143 or 8-143i,

1 and amendments thereto.

2 ~~Ninth:~~(i) To operate on the highways of this state a farm truck or farm  
3 trailer other than to transport: ~~(a)~~ (1) Agricultural products produced by  
4 such owner; ~~(b)~~ (2) commodities purchased by the owner for use on the  
5 farm owned or rented by the owner of such vehicles; ~~(c)~~ (3) commodities  
6 for religious or educational institutions being transported by the owner of  
7 such vehicles for charity and without compensation of any kind, except as  
8 provided in subsection (c) of K.S.A. 66-1,109, and amendments thereto; or  
9 ~~(d)~~ (4) sand, gravel, slag stone, limestone, crushed stone, cinders, black  
10 top, dirt or fill material to a township road maintenance or construction site  
11 of the township in which the owner of such truck resides.

12 ~~Tenth:~~(j) To operate a farm truck or truck tractor used in combination  
13 with a trailer or semitrailer for a gross weight which does not include the  
14 empty weight of the truck or truck tractor or of the combination of any  
15 truck or truck tractor and any type of trailer or semitrailer, plus the  
16 maximum weight of cargo which will be transported on or with the same;  
17 and such farm truck or farm truck tractor used to transport a gross weight  
18 of more than 54,000 pounds shall have durably lettered on the side of the  
19 motor vehicle the words "farm vehicle—not for hire."

20 ~~Eleventh:~~(k) To operate on the highways of this state any truck or  
21 truck tractor without the current quarter of license fees being paid thereon.

22 ~~Twelfth:~~(l) To operate on the highways of this state a truck or truck  
23 tractor without carrying in the cab a copy of the registration receipt for  
24 such vehicle or without having painted or otherwise durably marked on  
25 ~~said~~ such vehicle on both sides thereof, the gross weight for which ~~said~~  
26 such vehicle is licensed and the name and address of the owner thereof,  
27 except as provided in K.S.A. 8-143e, and amendments thereto.

28 ~~Thirteenth:~~(m) To operate on the highways of this state a farm trailer  
29 carrying more than 6,000 pounds without being registered and the  
30 registration fees paid thereon.

31 ~~Fourteenth:~~(n) To operate more than 6,000 miles in any calendar year  
32 any truck or truck tractor which has been registered and licensed to operate  
33 not more than 6,000 miles in such calendar year, as provided in subsection  
34 (b) of K.S.A. 8-143, and amendments thereto, unless the additional fee  
35 required by such subsection (b) has been paid.

36 ~~Fifteenth:~~(o) For any owner who has registered a truck or truck  
37 tractor on the basis of operating not more than 6,000 miles to fail to keep  
38 the records required by the director of vehicles, or to fail to comply with  
39 rules and regulations of the secretary of revenue relating to such  
40 registration.

41 ~~Sixteenth:~~(p) To operate a vehicle or combination of vehicles on the  
42 national system of interstate and defense highways with a gross weight  
43 greater than permitted by the laws of the United States congress.

1       Sec. 2. K.S.A. 2013 Supp. 8-285 is hereby amended to read as  
2 follows: 8-285. Except as otherwise provided in this section, as used in  
3 this act, the words and phrases defined in K.S.A. 8-234a, and amendments  
4 thereto, shall have the meanings ascribed to them therein. The term  
5 "habitual violator" means any resident or nonresident person who, within  
6 the immediately preceding five years, has been convicted in this or any  
7 other state:

8       (a) Three or more times of:

9       (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its  
10 repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto, or as  
11 prohibited by any ordinance of any city in this state, any resolution of any  
12 county in this state or any law of another state which is in substantial  
13 conformity with that statute;

14       (2) violating K.S.A. 8-1567, and amendments thereto, or violating an  
15 ordinance of any city in this state, any resolution of any county in this state  
16 or any law of another state, which ordinance, resolution or law declares to  
17 be unlawful the acts prohibited by that statute;

18       (3) driving while the privilege to operate a motor vehicle on the  
19 public highways of this state has been canceled, suspended or revoked, as  
20 prohibited by K.S.A. 8-262, and amendments thereto, or while such  
21 person's privilege to obtain a driver's license is suspended or revoked  
22 pursuant to K.S.A. 8-252a, and amendments thereto, or, as prohibited by  
23 any ordinance of any city in this state, any resolution of any county in this  
24 state or any law of another state which is in substantial conformity with  
25 those statutes;

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

29       (5) violating the provisions of ~~the fifth clause~~ *subsection (e)* of  
30 K.S.A. 8-142, and amendments thereto, relating to fraudulent applications,  
31 or violating the provisions of a law of another state which is in substantial  
32 conformity with that statute;

33       (6) any crime punishable as a felony, if a motor vehicle was used in  
34 the perpetration of the crime;

35       (7) failing to stop at the scene of an accident and perform the duties  
36 required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or  
37 required by any ordinance of any city in this state, any resolution of any  
38 county in this state or a law of another state which is in substantial  
39 conformity with those statutes;

40       (8) violating the provisions of K.S.A. 40-3104, and amendments  
41 thereto, relating to motor vehicle liability insurance coverage, or an  
42 ordinance of any city in this state or a resolution of any county in this state  
43 which is in substantial conformity with such statute; or

1 (9) violating K.S.A. 2013 Supp. 8-1025, and amendments thereto, or  
2 violating an ordinance of any city in this state, a resolution of any county  
3 in this state or any law of another state which ordinance, resolution or law  
4 declares to be unlawful the acts prohibited by that statute.

5 (b) Three or more times, either singly or in combination, of any of the  
6 offenses enumerated in subsection (a).

7 For the purpose of subsections (a)(2) and (a)(9), in addition to the  
8 definition of "conviction" otherwise provided by law, conviction includes,  
9 but is not limited to, a diversion agreement entered into in lieu of further  
10 criminal proceedings, or a plea of nolo contendere, on a complaint,  
11 indictment, information, citation or notice to appear alleging a violation of  
12 K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or  
13 an ordinance of a city in this state, a resolution of a county in this state or  
14 law of another state, which ordinance or law prohibits the acts prohibited  
15 by those statutes.

16 Sec. 3. K.S.A. 2013 Supp. 12-4516 is hereby amended to read as  
17 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d) and  
18 (e), any person who has been convicted of a violation of a city ordinance  
19 of this state may petition the convicting court for the expungement of such  
20 conviction and related arrest records if three or more years have elapsed  
21 since the person:

22 (A) Satisfied the sentence imposed; or

23 (B) was discharged from probation, parole or a suspended sentence.

24 (2) Except as provided in subsections (b), (c), (d) and (e), any person  
25 who has fulfilled the terms of a diversion agreement based on a violation  
26 of a city ordinance of this state may petition the court for the expungement  
27 of such diversion agreement and related arrest records if three or more  
28 years have elapsed since the terms of the diversion agreement were  
29 fulfilled.

30 (b) Any person convicted of the violation of a city ordinance which  
31 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a  
32 violation of K.S.A. 2013 Supp. 21-6419, and amendments thereto, or who  
33 entered into a diversion agreement in lieu of further criminal proceedings  
34 for such violation, may petition the convicting court for the expungement  
35 of such conviction or diversion agreement and related arrest records if:

36 (1) One or more years have elapsed since the person satisfied the  
37 sentence imposed or the terms of a diversion agreement or was discharged  
38 from probation, parole, conditional release or a suspended sentence; and

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

1 abuse or threatened abuse of the legal process.

2 (c) No person may petition for expungement until five or more years  
3 have elapsed since the person satisfied the sentence imposed or the terms  
4 of a diversion agreement or was discharged from probation, parole,  
5 conditional release or a suspended sentence, if such person was convicted  
6 of the violation of a city ordinance which would also constitute:

7 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its  
8 repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto;

9 (2) driving while the privilege to operate a motor vehicle on the  
10 public highways of this state has been canceled, suspended or revoked, as  
11 prohibited by K.S.A. 8-262, and amendments thereto;

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

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

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

18 (6) failing to stop at the scene of an accident and perform the duties  
19 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and  
20 amendments thereto;

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

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

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

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

33 (f) (1) When a petition for expungement is filed, the court shall set a  
34 date for a hearing of such petition and shall cause notice of such hearing to  
35 be given to the prosecuting attorney and the arresting law enforcement  
36 agency. The petition shall state the:

37 (A) Defendant's full name;

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

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

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

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

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

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

5 (3) Any person who may have relevant information about the  
6 petitioner may testify at the hearing. The court may inquire into the  
7 background of the petitioner and shall have access to any reports or  
8 records relating to the petitioner that are on file with the secretary of  
9 corrections or the prisoner review board.

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

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

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

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

18 (h) When the court has ordered an arrest record, conviction or  
19 diversion expunged, the order of expungement shall state the information  
20 required to be contained in the petition. The clerk of the court shall send a  
21 certified copy of the order of expungement to the Kansas bureau of  
22 investigation which shall notify the federal bureau of investigation, the  
23 secretary of corrections and any other criminal justice agency which may  
24 have a record of the arrest, conviction or diversion. After the order of  
25 expungement is entered, the petitioner shall be treated as not having been  
26 arrested, convicted or diverted of the crime, except that:

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

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

32 (A) In any application for employment as a detective with a private  
33 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
34 as security personnel with a private patrol operator, as defined by K.S.A.  
35 75-7b01, and amendments thereto; or with an institution, as defined in  
36 K.S.A. 76-12a01, and amendments thereto, of the department for children  
37 and families;

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

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

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

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

12 (F) upon application for a commercial driver's license under K.S.A.  
13 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

24 (K) for applications received on and after July 1, 2006, to aid in  
25 determining the petitioner's qualifications for a license to carry a concealed  
26 weapon pursuant to the personal and family protection act, K.S.A. 2013  
27 Supp. 75-7c01 et seq., and amendments thereto;

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

31 (4) the conviction may be disclosed in a subsequent prosecution for  
32 an offense which requires as an element of such offense a prior conviction  
33 of the type expunged.

34 (i) Whenever a person is convicted of an ordinance violation, pleads  
35 guilty and pays a fine for such a violation, is placed on parole or probation  
36 or is granted a suspended sentence for such a violation, the person shall be  
37 informed of the ability to expunge the arrest records or conviction.  
38 Whenever a person enters into a diversion agreement, the person shall be  
39 informed of the ability to expunge the diversion.

40 (j) Subject to the disclosures required pursuant to subsection (g), in  
41 any application for employment, license or other civil right or privilege, or  
42 any appearance as a witness, a person whose arrest records, conviction or  
43 diversion of an offense has been expunged under this statute may state that

1 such person has never been arrested, convicted or diverted of such offense.

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

7 (1) The person whose record was expunged;

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

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

14 (4) the secretary of the department for children and families, or a  
15 designee of the secretary, for the purpose of obtaining information relating  
16 to employment in an institution, as defined in K.S.A. 76-12a01, and  
17 amendments thereto, of the department for children and families of any  
18 person whose record has been expunged;

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

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

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

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

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

43 (10) the Kansas racing and gaming commission, or a designee of the

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

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

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

18 (13) the attorney general, and the request is accompanied by a  
19 statement that the request is being made to aid in determining  
20 qualifications for a license to carry a concealed weapon pursuant to the  
21 personal and family protection act;

22 (14) the Kansas sentencing commission;

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

27 (16) a law enforcement agency and the request is accompanied by a  
28 statement that the request is being made to aid in determining eligibility  
29 for employment as a law enforcement officer as defined by K.S.A. 22-  
30 2202, and amendments thereto.

31 Sec. 4. K.S.A. 2013 Supp. 21-6614 is hereby amended to read as  
32 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)  
33 and (f), any person convicted in this state of a traffic infraction, cigarette  
34 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes  
35 committed on or after July 1, 1993, nondrug crimes ranked in severity  
36 levels 6 through 10, or for crimes committed on or after July 1, 1993, but  
37 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,  
38 or for crimes committed on or after July 1, 2012, any felony ranked in  
39 severity level 5 of the drug grid may petition the convicting court for the  
40 expungement of such conviction or related arrest records if three or more  
41 years have elapsed since the person: (A) Satisfied the sentence imposed; or  
42 (B) was discharged from probation, a community correctional services  
43 program, parole, postrelease supervision, conditional release or a

1 suspended sentence.

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

7 (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
8 3512, prior to its repeal, convicted of a violation of K.S.A. 2013 Supp. 21-  
9 6419, and amendments thereto, or who entered into a diversion agreement  
10 in lieu of further criminal proceedings for such violation, may petition the  
11 convicting court for the expungement of such conviction or diversion  
12 agreement and related arrest records if:

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

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

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

35 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
36 repeal, or K.S.A. 2013 Supp. 21-5406, and amendments thereto, or as  
37 prohibited by any law of another state which is in substantial conformity  
38 with that statute;

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

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

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

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

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

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

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

17 (d) No person may petition for expungement until 10 or more years  
18 have elapsed since the person satisfied the sentence imposed or the terms  
19 of a diversion agreement or was discharged from probation, a community  
20 correctional services program, parole, postrelease supervision, conditional  
21 release or a suspended sentence, if such person was convicted of a  
22 violation of K.S.A. 8-1567, and amendments thereto, including any  
23 diversion for such violation.

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

27 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
28 2013 Supp. 21-5503, and amendments thereto;

29 (2) indecent liberties with a child or aggravated indecent liberties  
30 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
31 or K.S.A. 2013 Supp. 21-5506, and amendments thereto;

32 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of  
33 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.  
34 2013 Supp. 21-5504, and amendments thereto;

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

37 (5) indecent solicitation of a child or aggravated indecent solicitation  
38 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
39 or K.S.A. 2013 Supp. 21-5508, and amendments thereto;

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

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

1 (8) endangering a child or aggravated endangering a child, as defined  
2 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2013 Supp.  
3 21-5601, and amendments thereto;

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

6 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
7 or K.S.A. 2013 Supp. 21-5401, and amendments thereto;

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

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

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

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

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

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

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

23 (18) any conviction for any offense in effect at any time prior to July  
24 1, 2011, that is comparable to any offense as provided in this subsection.

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

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

35 (A) Defendant's full name;

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

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

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

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

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

1 (2) Except as otherwise provided by law, a petition for expungement  
2 shall be accompanied by a docket fee in the amount of \$100. On and after  
3 ~~April 12, 2012, through June 30, 2013~~ *July 1, 2013, through July 1, 2015*,  
4 the supreme court may impose a charge, not to exceed \$19 per case, to  
5 fund the costs of non-judicial personnel. The charge established in this  
6 section shall be the only fee collected or moneys in the nature of a fee  
7 collected for the case. Such charge shall only be established by an act of  
8 the legislature and no other authority is established by law or otherwise to  
9 collect a fee.

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

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

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

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

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

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

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

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

38 (A) In any application for licensure as a private detective, private  
39 detective agency, certification as a firearms trainer pursuant to K.S.A.  
40 2013 Supp. 75-7b21, and amendments thereto, or employment as a  
41 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
42 and amendments thereto; as security personnel with a private patrol  
43 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with

1 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
2 the *Kansas* department for ~~children and families~~ *aging and disability*  
3 *services*;

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

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

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

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

21 (F) upon application for a commercial driver's license under K.S.A.  
22 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

33 (K) for applications received on and after July 1, 2006, to aid in  
34 determining the petitioner's qualifications for a license to carry a concealed  
35 weapon pursuant to the personal and family protection act, K.S.A. 2013  
36 Supp. 75-7c01 et seq., and amendments thereto;

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

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

42 (5) upon commitment to the custody of the secretary of corrections,  
43 any previously expunged record in the possession of the secretary of

1 corrections may be reinstated and the expungement disregarded, and the  
2 record continued for the purpose of the new commitment.

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

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

15 (2) Notwithstanding the provisions of subsection (k)(1), and except as  
16 provided in subsection (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and  
17 amendments thereto, the expungement of a prior felony conviction does  
18 not relieve the individual of complying with any state or federal law  
19 relating to the use, shipment, transportation, receipt or possession of  
20 firearms by persons previously convicted of a felony.

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

26 (1) The person whose record was expunged;

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

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

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

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

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

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

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

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

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

26 (11) the Kansas sentencing commission;

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

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

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

42 (15) a law enforcement agency and the request is accompanied by a  
43 statement that the request is being made to aid in determining eligibility

1 for employment as a law enforcement officer as defined by K.S.A. 22-  
2 2202, and amendments thereto;

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

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

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

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

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

16 Sec. 5. K.S.A. 2013 Supp. 8-142, 8-285, 12-4516, 21-6614 and 21-  
17 6614d are hereby repealed.

18 Sec. 6. This act shall take effect and be in force from and after its  
19 publication in the statute book.