

SENATE BILL No. 313

By Committee on Judiciary

1-27

1 AN ACT concerning courts; relating to docket fees; amending K.S.A. 60-
2 729 and 61-3502 and K.S.A. 2013 Supp. 20-367, 21-6614, 22-2410,
3 28-172a, 38-2312, 59-104, 60-256, 60-2001 and 61-2704 and repealing
4 the existing sections; also repealing K.S.A. 2013 Supp. 21-6614d, 38-
5 2312c and 60-2001b.

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

8 New Section 1. (a) (1) On and after July 1, 2014, any party filing an
9 appeal with the court of appeals shall pay a fee in the amount of \$145 to
10 the clerk of the supreme court.

11 (2) On and after July 1, 2014, any party filing an appeal with the
12 supreme court shall pay a fee in the amount of \$145 to the clerk of the
13 supreme court.

14 (b) A poverty affidavit may be filed in lieu of a fee as established in
15 K.S.A. 60-2001, and amendments thereto.

16 (c) The fee shall be the only costs assessed in each case to services of
17 the clerk of the supreme court. The clerk of the supreme court shall remit
18 all revenues received from this section to the state treasurer, in accordance
19 with the provisions of K.S.A. 75-4215, and amendments thereto, for
20 deposit in the state treasury. The fee shall be disbursed in accordance with
21 subsection (f) of K.S.A. 20-362, and amendments thereto.

22 (d) Except as provided further, the fee established in this section shall
23 be the only fee collected or moneys in the nature of a fee collected for the
24 docket fee. Such fee shall only be established by an act of the legislature
25 and no other authority is established by law or otherwise to collect a fee.
26 On and after July 1, 2014, through July 1, 2015, the supreme court may
27 impose an additional charge, not to exceed \$10 per fee, to fund the costs of
28 non-judicial personnel.

29 New Sec. 2. There is hereby created in the state treasury the
30 electronic filing and management fund. All expenditures from the
31 electronic filing and management fund shall be for purposes of creating,
32 implementing and managing an electronic filing and management system
33 for the state court system and shall be made in accordance with
34 appropriation acts upon warrants of the director of accounts and reports
35 issued pursuant to vouchers approved by the chief justice of the supreme
36 court or by a person designated by the chief justice.

1 Sec. 3. K.S.A. 2013 Supp. 20-367 is hereby amended to read as
2 follows: 20-367. (a) ~~On and after July 1, 2009 through June 30, 2013, of~~
3 ~~the remittance of the balance of docket fees received by the state treasurer~~
4 ~~from clerks of the district court pursuant to subsection (g) of K.S.A. 20-~~
5 ~~362, and amendments thereto, the state treasurer shall deposit and credit:~~

- 6 (1) ~~3.05% to the judicial performance fund;~~
- 7 (2) ~~4.24% to the access to justice fund;~~
- 8 (3) ~~2.35% to the juvenile detention facilities fund;~~
- 9 (4) ~~1.81% to the judicial branch education fund;~~
- 10 (5) ~~.48% to the crime victims assistance fund;~~
- 11 (6) ~~2.31% to the protection from abuse fund;~~
- 12 (7) ~~3.66% to the judiciary technology fund;~~
- 13 (8) ~~.29% to the dispute resolution fund;~~
- 14 (9) ~~1.07% to the Kansas juvenile delinquency prevention trust fund;~~
- 15 (10) ~~.18% to the permanent families account in the family and~~
16 ~~children investment fund;~~
- 17 (11) ~~1.27% to the trauma fund;~~
- 18 (12) ~~.96% to the judicial council fund;~~
- 19 (13) ~~.58% to the child exchange and visitation centers fund;~~
- 20 (14) ~~15.54% to the judicial branch nonjudicial salary adjustment~~
21 ~~fund;~~
- 22 (15) ~~15.37% to the judicial branch nonjudicial salary initiative fund;~~
23 ~~and~~

24 (16) ~~the balance to the state general fund~~ *During the fiscal years*
25 *ending June 30, 2015, June 30, 2016, and June 30, 2017, of the remittance*
26 *of the balance of docket fees received by the state treasurer from clerks of*
27 *the district court pursuant to subsection (g) of K.S.A. 20-362, and*
28 *amendments thereto, the state treasurer shall deposit and credit the first*
29 *\$3,100,000 to the electronic filing and management fund created in*
30 *section 2, and amendments thereto. During the fiscal year ending June 30,*
31 *2018, and each fiscal year thereafter, of the remittance of the balance of*
32 *docket fees received by the state treasurer from clerks of the district court*
33 *pursuant to subsection (g) of K.S.A. 20-362, and amendments thereto, the*
34 *state treasurer shall deposit and credit the first \$1,000,000 to the*
35 *electronic filing and management fund.*

36 (b) ~~On and after July 1, 2013, of the remittance of the balance of~~
37 ~~docket fees received by the state treasurer from clerks of the district court~~
38 ~~pursuant to subsection (g) of K.S.A. 20-362, and amendments thereto~~ *Of*
39 *the balance which remains after deduction of the amounts specified in*
40 *subsection (a), the state treasurer shall deposit and credit:*

- 41 (1) 4.37% to the access to justice fund;
- 42 (2) 2.42% to the juvenile detention facilities fund;
- 43 (3) 1.87% to the judicial branch education fund;

- 1 (4) .50% to the crime victims assistance fund;
- 2 (5) 2.38% to the protection from abuse fund;
- 3 (6) 3.78% to the judiciary technology fund;
- 4 (7) .30% to the dispute resolution fund;
- 5 (8) 1.10% to the Kansas juvenile delinquency prevention trust fund;
- 6 (9) .19% to the permanent families account in the family and children
7 investment fund;
- 8 (10) 1.31% to the trauma fund;
- 9 (11) .99% to the judicial council fund;
- 10 (12) .60% to the child exchange and visitation centers fund;
- 11 (13) 16.03% to the judicial branch nonjudicial salary adjustment
12 fund;
- 13 (14) 15.85% to the judicial branch nonjudicial salary initiative fund;
14 and
- 15 (15) the balance to the state general fund.

16 Sec. 4. K.S.A. 2013 Supp. 21-6614 is hereby amended to read as
17 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)
18 and (f), any person convicted in this state of a traffic infraction, cigarette
19 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes
20 committed on or after July 1, 1993, nondrug crimes ranked in severity
21 levels 6 through 10, or for crimes committed on or after July 1, 1993, but
22 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,
23 or for crimes committed on or after July 1, 2012, any felony ranked in
24 severity level 5 of the drug grid may petition the convicting court for the
25 expungement of such conviction or related arrest records if three or more
26 years have elapsed since the person: (A) Satisfied the sentence imposed; or
27 (B) was discharged from probation, a community correctional services
28 program, parole, postrelease supervision, conditional release or a
29 suspended sentence.

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

35 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
36 3512, prior to its repeal, convicted of a violation of K.S.A. 2013 Supp. 21-
37 6419, and amendments thereto, or who entered into a diversion agreement
38 in lieu of further criminal proceedings for such violation, may petition the
39 convicting court for the expungement of such conviction or diversion
40 agreement and related arrest records if:

41 (1) One or more years have elapsed since the person satisfied the
42 sentence imposed or the terms of a diversion agreement or was discharged
43 from probation, a community correctional services program, parole,

1 postrelease supervision, conditional release or a suspended sentence; and

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

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

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

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

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

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

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

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

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

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

2 (d) No person may petition for expungement until 10 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, a community
5 correctional services program, parole, postrelease supervision, conditional
6 release or a suspended sentence, if such person was convicted of a
7 violation of K.S.A. 8-1567, and amendments thereto, including any
8 diversion for such violation.

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

12 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.
13 2013 Supp. 21-5503, and amendments thereto;

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

17 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
18 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
19 2013 Supp. 21-5504, and amendments thereto;

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

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

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

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

29 (8) endangering a child or aggravated endangering a child, as defined
30 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2013 Supp.
31 21-5601, and amendments thereto;

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

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

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

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

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

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

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

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

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

8 (18) any conviction for any offense in effect at any time prior to July
9 1, 2011, that is comparable to any offense as provided in this subsection.

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

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

20 (A) Defendant's full name;

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

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

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

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

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

29 (2) Except as otherwise provided by law, a petition for expungement
30 shall be accompanied by a docket fee in the amount of ~~\$100~~ \$176. On and
31 after ~~April 12, 2012, through June 30, 2013~~ *July 1, 2013, through July 1,*
32 *2015*, the supreme court may impose a charge, not to exceed \$19 per case,
33 to fund the costs of non-judicial personnel. The charge established in this
34 section shall be the only fee collected or moneys in the nature of a fee
35 collected for the case. Such charge shall only be established by an act of
36 the legislature and no other authority is established by law or otherwise to
37 collect a fee.

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

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

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

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

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

9 (i) When the court has ordered an arrest record, conviction or
10 diversion expunged, the order of expungement shall state the information
11 required to be contained in the petition. The clerk of the court shall send a
12 certified copy of the order of expungement to the Kansas bureau of
13 investigation which shall notify the federal bureau of investigation, the
14 secretary of corrections and any other criminal justice agency which may
15 have a record of the arrest, conviction or diversion. After the order of
16 expungement is entered, the petitioner shall be treated as not having been
17 arrested, convicted or diverted of the crime, except that:

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

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

23 (A) In any application for licensure as a private detective, private
24 detective agency, certification as a firearms trainer pursuant to K.S.A.
25 2013 Supp. 75-7b21, and amendments thereto, or employment as a
26 detective with a private detective agency, as defined by K.S.A. 75-7b01,
27 and amendments thereto; as security personnel with a private patrol
28 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
29 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
30 the *Kansas* department for ~~children and families~~ *aging and disability*
31 *services*;

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

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

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

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

6 (F) upon application for a commercial driver's license under K.S.A.
7 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

43 (2) Notwithstanding the provisions of subsection (k)(1), and except as

1 provided in subsection (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and
2 amendments thereto, the expungement of a prior felony conviction does
3 not relieve the individual of complying with any state or federal law
4 relating to the use, shipment, transportation, receipt or possession of
5 firearms by persons previously convicted of a felony.

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

11 (1) The person whose record was expunged;

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

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

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

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

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

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

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

40 (9) the governor or the Kansas racing and gaming commission, or a
41 designee of the commission, and the request is accompanied by a
42 statement that the request is being made to aid in determining
43 qualifications for executive director of the commission, for employment

- 1 with the commission, for work in sensitive areas in parimutuel racing as
2 deemed appropriate by the executive director of the commission or for
3 licensure, renewal of licensure or continued licensure by the commission;
- 4 (10) the Kansas racing and gaming commission, or a designee of the
5 commission, and the request is accompanied by a statement that the
6 request is being made to aid in determining qualifications of the following
7 under the Kansas expanded lottery act: (A) Lottery gaming facility
8 managers and prospective managers, racetrack gaming facility managers
9 and prospective managers, licensees and certificate holders; and (B) their
10 officers, directors, employees, owners, agents and contractors;
- 11 (11) the Kansas sentencing commission;
- 12 (12) the state gaming agency, and the request is accompanied by a
13 statement that the request is being made to aid in determining
14 qualifications: (A) To be an employee of the state gaming agency; or (B)
15 to be an employee of a tribal gaming commission or to hold a license
16 issued pursuant to a tribal-gaming compact;
- 17 (13) the Kansas securities commissioner or a designee of the
18 commissioner, and the request is accompanied by a statement that the
19 request is being made in conjunction with an application for registration as
20 a broker-dealer, agent, investment adviser or investment adviser
21 representative by such agency and the application was submitted by the
22 person whose record has been expunged;
- 23 (14) 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;
- 27 (15) 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 (16) the attorney general and the request is accompanied by a
32 statement that the request is being made to aid in determining
33 qualifications for a license to carry a concealed weapon pursuant to the
34 personal and family protection act; or
- 35 (17) the Kansas bureau of investigation for the purposes of:
- 36 (A) Completing a person's criminal history record information within
37 the central repository, in accordance with K.S.A. 22-4701 et seq., and
38 amendments thereto; or
- 39 (B) providing information or documentation to the federal bureau of
40 investigation, in connection with the national instant criminal background
41 check system, to determine a person's qualification to possess a firearm.
- 42 (m) The provisions of subsection (l)(17) shall apply to records
43 created prior to, on and after July 1, 2011.

1 Sec. 5. K.S.A. 2013 Supp. 22-2410 is hereby amended to read as
2 follows: 22-2410. (a) Any person who has been arrested in this state may
3 petition the district court for the expungement of such arrest record.

4 (b) When a petition for expungement is filed, the court shall set a date
5 for hearing on such petition and shall cause notice of such hearing to be
6 given to the prosecuting attorney and the arresting law enforcement
7 agency. When a petition for expungement is filed, the official court file
8 shall be separated from the other records of the court, and shall be
9 disclosed only to a judge of the court and members of the staff of the court
10 designated by a judge of the district court, the prosecuting attorney, the
11 arresting law enforcement agency, or any other person when authorized by
12 a court order, subject to any conditions imposed by the order. Except as
13 otherwise provided by law, a petition for expungement shall be
14 accompanied by a docket fee in the amount of ~~\$100~~ \$176. Except as
15 provided further, the docket fee established in this section shall be the only
16 fee collected or moneys in the nature of a fee collected for the docket fee.
17 Such fee shall only be established by an act of the legislature and no other
18 authority is established by law or otherwise to collect a fee. On and after
19 July 1, 2013, through July 1, 2015, the supreme court may impose an
20 additional charge, not to exceed \$19 per docket fee, to fund the costs of
21 non-judicial personnel. The petition shall state:

- 22 (1) The petitioner's full name;
- 23 (2) the full name of the petitioner at the time of arrest, if different
24 than the petitioner's current name;
- 25 (3) the petitioner's sex, race and date of birth;
- 26 (4) the crime for which the petitioner was arrested;
- 27 (5) the date of the petitioner's arrest; and
- 28 (6) the identity of the arresting law enforcement agency.

29 No surcharge or fee shall be imposed to any person filing a petition
30 pursuant to this section, who was arrested as a result of being a victim of
31 identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of
32 K.S.A. 2013 Supp. 21-6107, and amendments thereto, or who has had
33 criminal charges dismissed because a court has found that there was no
34 probable cause for the arrest, the petitioner was found not guilty in court
35 proceedings or the charges have been dismissed. Any person who may
36 have relevant information about the petitioner may testify at the hearing.
37 The court may inquire into the background of the petitioner.

38 (c) At the hearing on a petition for expungement, the court shall order
39 the arrest record and subsequent court proceedings, if any, expunged upon
40 finding: (1) The arrest occurred because of mistaken identity;
41 (2) a court has found that there was no probable cause for the arrest;
42 (3) the petitioner was found not guilty in court proceedings; or
43 (4) the expungement would be in the best interests of justice and: (A)

1 Charges have been dismissed; or (B) no charges have been or are likely to
2 be filed.

3 (d) When the court has ordered expungement of an arrest record and
4 subsequent court proceedings, if any, the order shall state the information
5 required to be stated in the petition and shall state the grounds for
6 expungement under subsection (c). The clerk of the court shall send a
7 certified copy of the order to the Kansas bureau of investigation which
8 shall notify the federal bureau of investigation, the secretary of corrections
9 and any other criminal justice agency which may have a record of the
10 arrest. If an order of expungement is entered, the petitioner shall be treated
11 as not having been arrested.

12 (e) If the ground for expungement is as provided in subsection (c)(4),
13 the court shall determine whether, in the interests of public welfare, the
14 records should be available for any of the following purposes: (1) In any
15 application for employment as a detective with a private detective agency,
16 as defined in K.S.A. 75-7b01, and amendments thereto; as security
17 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,
18 and amendments thereto; or with an institution, as defined in K.S.A. 76-
19 12a01, and amendments thereto, of the department of social and
20 rehabilitation services;

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

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

27 (4) to aid in determining the petitioner's qualifications for executive
28 director of the Kansas racing commission, for employment with the
29 commission or for work in sensitive areas in parimutuel racing as deemed
30 appropriate by the executive director of the commission, or to aid in
31 determining qualifications for licensure or renewal of licensure by the
32 commission;

33 (5) in any application for a commercial driver's license under K.S.A.
34 8-2,125 through 8-2,142, and amendments thereto;

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

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

40 (8) in any other circumstances which the court deems appropriate.

41 (f) The court shall make all expunged records and related information
42 in such court's possession, created prior to, on and after July 1, 2011,
43 available to the Kansas bureau of investigation for the purposes of:

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

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

7 (g) Subject to any disclosures required under subsection (e), in any
8 application for employment, license or other civil right or privilege, or any
9 appearance as a witness, a person whose arrest records have been
10 expunged as provided in this section may state that such person has never
11 been arrested.

12 (h) Whenever a petitioner's arrest records have been expunged as
13 provided in this section, the custodian of the records of arrest,
14 incarceration due to arrest or court proceedings related to the arrest, shall
15 not disclose the arrest or any information related to the arrest, except as
16 directed by the order of expungement or when requested by the person
17 whose arrest record was expunged.

18 (i) The docket fee collected at the time the petition for expungement
19 is filed shall be disbursed in accordance with K.S.A. 20-362, and
20 amendments thereto.

21 Sec. 6. K.S.A. 2013 Supp. 28-172a is hereby amended to read as
22 follows: 28-172a. (a) Except as otherwise provided in this section,
23 whenever the prosecuting witness or defendant is adjudged to pay the costs
24 in a criminal proceeding in any county, a docket fee shall be taxed as
25 follows, on and after July 1, 2013:

26	Murder or manslaughter.....	\$180.50
27	Other felony.....	171.00
28	Misdemeanor.....	136.00
29	Forfeited recognizance.....	72.50
30	Appeals from other courts.....	72.50

31 (b) (1) Except as provided in paragraph (2), in actions involving the
32 violation of any of the laws of this state regulating traffic on highways,
33 including those listed in subsection (c) of K.S.A. 8-2118, and amendments
34 thereto, a cigarette or tobacco infraction, any act declared a crime pursuant
35 to the statutes contained in chapter 32 of the Kansas Statutes Annotated,
36 and amendments thereto, or any act declared a crime pursuant to the
37 statutes contained in article 8 of chapter 82a of the Kansas Statutes
38 Annotated, and amendments thereto, whenever the prosecuting witness or
39 defendant is adjudged to pay the costs in the action, on and after July 1,
40 ~~2013~~ 2014, a docket fee of ~~\$74~~ \$86 shall be charged. When an action is
41 disposed of under subsections (a) and (b) of K.S.A. 8-2118 or subsection
42 (f) of K.S.A. 79-3393, and amendments thereto, on and after July 1, ~~2013~~
43 2014, the docket fee to be paid as court costs shall be ~~\$74~~ \$86.

1 (2) In actions involving the violation of a moving traffic violation
2 under K.S.A. 8-2118, and amendments thereto, as defined by rules and
3 regulations adopted under K.S.A. 8-249, and amendments thereto,
4 whenever the prosecuting witness or defendant is adjudged to pay the costs
5 in the action, on and after July 1, ~~2013~~ 2014, a docket fee of ~~\$74~~ \$86 shall
6 be charged. When an action is disposed of under subsection (a) and (b) of
7 K.S.A. 8-2118, and amendments thereto, on and after July 1, ~~2013~~ 2014,
8 the docket fee to be paid as court costs shall be ~~\$74~~ \$86.

9 (c) If a conviction is on more than one count, the docket fee shall be
10 the highest one applicable to any one of the counts. The prosecuting
11 witness or defendant, if assessed the costs, shall pay only one fee. Multiple
12 defendants shall each pay one fee.

13 (d) Statutory charges for law library funds, the law enforcement
14 training center fund, the prosecuting attorneys' training fund, the juvenile
15 detention facilities fund, the judicial branch education fund, the emergency
16 medical services operating fund and the judiciary technology fund shall be
17 paid from the docket fee; the family violence and child abuse and neglect
18 assistance and prevention fund fee shall be paid from criminal proceedings
19 docket fees. All other fees and expenses to be assessed as additional court
20 costs shall be approved by the court, unless specifically fixed by statute.
21 Additional fees shall include, but are not limited to, fees for Kansas bureau
22 of investigation forensic or laboratory analyses, fees for detention facility
23 processing pursuant to K.S.A. 12-16,119, and amendments thereto, fees
24 for the sexual assault evidence collection kit, fees for conducting an
25 examination of a sexual assault victim, fees for service of process outside
26 the state, witness fees, fees for transcripts and depositions, costs from
27 other courts, doctors' fees and examination and evaluation fees. No sheriff
28 in this state shall charge any district court of this state a fee or mileage for
29 serving any paper or process.

30 (e) In each case charging a violation of the laws relating to parking of
31 motor vehicles on the statehouse grounds or other state-owned or operated
32 property in Shawnee county, Kansas, as specified in K.S.A. 75-4510a, and
33 amendments thereto, or as specified in K.S.A. 75-4508, and amendments
34 thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs
35 in the case, except that witness fees, mileage and expenses incurred in
36 serving a warrant shall be in addition to the fee. Appearance bond for a
37 parking violation of K.S.A. 75-4508 or 75-4510a, and amendments
38 thereto, shall be \$3, unless a warrant is issued. The judge may order the
39 bond forfeited upon the defendant's failure to appear, and \$2 of any bond
40 so forfeited shall be regarded as court costs.

41 (f) Except as provided further, the docket fee established in this
42 section shall be the only fee collected or moneys in the nature of a fee
43 collected for the docket fee. Such fee shall only be established by an act of

1 the legislature and no other authority is established by law or otherwise to
2 collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme
3 court may impose an additional charge, not to exceed \$22 per docket fee,
4 to fund the costs of non-judicial personnel.

5 Sec. 7. K.S.A. 2013 Supp. 38-2312 is hereby amended to read as
6 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any
7 records or files specified in this code concerning a juvenile may be
8 expunged upon application to a judge of the court of the county in which
9 the records or files are maintained. The application for expungement may
10 be made by the juvenile, if 18 years of age or older or, if the juvenile is
11 less than 18 years of age, by the juvenile's parent or next friend.

12 (b) There shall be no expungement of records or files concerning acts
13 committed by a juvenile which, if committed by an adult, would constitute
14 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-
15 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,
16 prior to its repeal, or K.S.A. 2013 Supp. 21-5403, and amendments
17 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,
18 or K.S.A. 2013 Supp. 21-5404, and amendments thereto, voluntary
19 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2013 Supp.
20 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-
21 3439, prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments
22 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection
23 (a)(3) of K.S.A. 2013 Supp. 21-5405, and amendments thereto,
24 involuntary manslaughter while driving under the influence of alcohol or
25 drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503,
26 and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or
27 subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto,
28 indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or
29 subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto,
30 aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its
31 repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments
32 thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal,
33 or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto,
34 indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or
35 subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto,
36 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its
37 repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto, sexual
38 exploitation of a child; K.S.A. 21-3603, prior to its repeal, or subsection
39 (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto, aggravated
40 incest; K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2013
41 Supp. 21-5601, and amendments thereto, endangering a child; K.S.A. 21-
42 3609, prior to its repeal, or K.S.A. 2013 Supp. 21-5602, and amendments
43 thereto, abuse of a child; or which would constitute an attempt to commit a

1 violation of any of the offenses specified in this subsection.

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

8 (d) When a petition for expungement is filed, the court shall set a date
9 for a hearing on the petition and shall give notice thereof to the county or
10 district attorney. The petition shall state: (1) The juvenile's full name; (2)
11 the full name of the juvenile as reflected in the court record, if different
12 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which
13 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity
14 of the trial court. Except as otherwise provided by law, a petition for
15 expungement shall be accompanied by a docket fee in the amount of ~~\$100~~
16 ~~\$176~~. On and after ~~the effective date of this act through June 30, 2013~~ *July*
17 *1, 2013, through July 1, 2015*, the supreme court may impose a charge, not
18 to exceed \$19 per case, to fund the costs of non-judicial personnel. All
19 petitions for expungement shall be docketed in the original action. Any
20 person who may have relevant information about the petitioner may testify
21 at the hearing. The court may inquire into the background of the petitioner.

22 (e) (1) After hearing, the court shall order the expungement of the
23 records and files if the court finds that:

24 (A) (i) The juvenile has reached 23 years of age or that two years
25 have elapsed since the final discharge; or

26 (ii) one year has elapsed since the final discharge for an adjudication
27 concerning acts committed by a juvenile which, if committed by an adult,
28 would constitute a violation of K.S.A. 2013 Supp. 21-6419, and
29 amendments thereto;

30 (B) since the final discharge of the juvenile, the juvenile has not been
31 convicted of a felony or of a misdemeanor other than a traffic offense or
32 adjudicated as a juvenile offender under the revised Kansas juvenile justice
33 code and no proceedings are pending seeking such a conviction or
34 adjudication; and

35 (C) the circumstances and behavior of the petitioner warrant
36 expungement.

37 (2) The court may require that all court costs, fees and restitution
38 shall be paid.

39 (f) Upon entry of an order expunging records or files, the offense
40 which the records or files concern shall be treated as if it never occurred,
41 except that upon conviction of a crime or adjudication in a subsequent
42 action under this code the offense may be considered in determining the
43 sentence to be imposed. The petitioner, the court and all law enforcement

1 officers and other public offices and agencies shall properly reply on
2 inquiry that no record or file exists with respect to the juvenile. Inspection
3 of the expunged files or records thereafter may be permitted by order of
4 the court upon petition by the person who is the subject thereof. The
5 inspection shall be limited to inspection by the person who is the subject of
6 the files or records and the person's designees.

7 (g) A certified copy of any order made pursuant to subsection (a) or
8 (d) shall be sent to the Kansas bureau of investigation, which shall notify
9 every juvenile or criminal justice agency which may possess records or
10 files ordered to be expunged. If the agency fails to comply with the order
11 within a reasonable time after its receipt, such agency may be adjudged in
12 contempt of court and punished accordingly.

13 (h) The court shall inform any juvenile who has been adjudicated a
14 juvenile offender of the provisions of this section.

15 (i) Nothing in this section shall be construed to prohibit the
16 maintenance of information relating to an offense after records or files
17 concerning the offense have been expunged if the information is kept in a
18 manner that does not enable identification of the juvenile.

19 (j) Nothing in this section shall be construed to permit or require
20 expungement of files or records related to a child support order registered
21 pursuant to the revised Kansas juvenile justice code.

22 (k) Whenever the records or files of any adjudication have been
23 expunged under the provisions of this section, the custodian of the records
24 or files of adjudication relating to that offense shall not disclose the
25 existence of such records or files, 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) the Kansas lottery, and the request is accompanied by a statement
42 that the request is being made to aid in determining qualifications for
43 employment with the Kansas lottery or for work in sensitive areas within

1 the Kansas lottery as deemed appropriate by the executive director of the
2 Kansas lottery;

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

10 (8) the Kansas sentencing commission; or

11 (9) the Kansas bureau of investigation, for the purposes of:

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

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

18 (l) The provisions of subsection (k)(9) shall apply to all records
19 created prior to, on and after July 1, 2011.

20 Sec. 8. K.S.A. 2013 Supp. 59-104 is hereby amended to read as
21 follows: 59-104. (a) *Docket fee.* (1) Except as otherwise provided by law,
22 no case shall be filed or docketed in the district court under the provisions
23 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,
24 or of articles 40 and 52 of chapter 65 of the Kansas Statutes Annotated,
25 and amendments thereto, without payment of an appropriate docket fee as
26 follows, on and after July 1, ~~2013~~ 2014:

27 Treatment of mentally ill	34.50
28 Treatment of alcoholism or drug abuse	34.50
29 Determination of descent of property	49.50
30 Termination of life estate	48.50
31 Termination of joint tenancy	48.50
32 Refusal to grant letters of administration	48.50
33 Adoption	48.50
34 Filing a will and affidavit under K.S.A. 59-618a.....	48.50
35 Guardianship	69.50
36 Conservatorship	69.50
37 Trusteeship	69.50
38 Combined guardianship and conservatorship	69.50
39 Certified probate proceedings under K.S.A. 59-213, 40 and amendments thereto	23.50
41 Decrees in probate from another state	108.50 73.00
42 Probate of an estate or of a will.....	109.50
43 Civil commitment under K.S.A. 59-29a01 et seq.	33.50

1 (2) Except as provided further, the docket fee established in this
2 section shall be the only fee collected or moneys in the nature of a fee
3 collected for the docket fee. Such fee shall only be established by an act of
4 the legislature and no other authority is established by law or otherwise to
5 collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme
6 court may impose an additional charge, not to exceed \$22 per docket fee,
7 to fund the costs of non-judicial personnel.

8 (b) *Poverty affidavit in lieu of docket fee and exemptions.* The
9 provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and
10 amendments thereto, shall apply to probate docket fees prescribed by this
11 section.

12 (c) *Disposition of docket fee.* Statutory charges for the law library and
13 for the prosecuting attorneys' training fund shall be paid from the docket
14 fee. The remainder of the docket fee shall be paid to the state treasurer in
15 accordance with K.S.A. 20-362, and amendments thereto.

16 (d) *Additional court costs.* Other fees and expenses to be assessed as
17 additional court costs shall be approved by the court, unless specifically
18 fixed by statute. Other fees shall include, but not be limited to, witness
19 fees, appraiser fees, fees for service of process outside the state, fees for
20 depositions, transcripts and publication of legal notice, executor or
21 administrator fees, attorney fees, court costs from other courts and any
22 other fees and expenses required by statute. All additional court costs shall
23 be taxed and billed against the parties or estate as directed by the court. No
24 sheriff in this state shall charge any district court in this state a fee or
25 mileage for serving any paper or process.

26 Sec. 9. K.S.A. 2013 Supp. 60-256 is hereby amended to read as
27 follows: 60-256. (a) *By a claiming party.* A party claiming relief may
28 move, with or without supporting affidavits or supporting declarations
29 pursuant to K.S.A. 53-601, and amendments thereto, for summary
30 judgment on all or part of the claim.

31 (b) *By a defending party.* A party against whom relief is sought may
32 move, with or without supporting affidavits or supporting declarations
33 pursuant to K.S.A. 53-601, and amendments thereto, for summary
34 judgment on all or part of the claim.

35 (c) *Time for a motion; response and reply; proceedings.* (1) These
36 times apply unless a different time is set by local rule or the court orders
37 otherwise:

38 (A) A party may move for summary judgment at any time until 30
39 days after the close of all discovery;

40 (B) a party opposing the motion must file a response within 21 days
41 after the motion is served or a responsive pleading is due, whichever is
42 later; and

43 (C) the movant may file a reply within 14 days after the response is

1 served.

2 (2) The judgment sought should be rendered if the pleadings, the
3 discovery and disclosure materials on file, and any affidavits or
4 declarations show that there is no genuine issue as to any material fact and
5 that the movant is entitled to judgment as a matter of law.

6 (d) *Case not fully adjudicated on the motion.* (1) *Establishing facts.* If
7 summary judgment is not rendered on the whole action, the court should,
8 to the extent practicable, determine what material facts are not genuinely
9 at issue. The court should so determine by examining the pleadings and
10 evidence before it and by interrogating the attorneys. It should then issue
11 an order specifying what facts, including items of damages or other relief,
12 are not genuinely at issue. The facts so specified must be treated as
13 established in the action.

14 (2) *Establishing liability.* An interlocutory summary judgment may be
15 rendered on liability alone, even if there is a genuine issue on the amount
16 of damages.

17 (e) *Affidavits or declarations; further testimony.* (1) *In general.* A
18 supporting or opposing affidavit or declaration must be made on personal
19 knowledge, set out facts that would be admissible in evidence and show
20 that the affiant or declarant is competent to testify on the matters stated. If
21 a paper or part of a paper is referred to in an affidavit or declaration, a
22 sworn or certified copy must be attached to or served with the affidavit or
23 declaration. The court may permit an affidavit or declaration to be
24 supplemented or opposed by depositions, answers to interrogatories or
25 additional affidavits or declarations.

26 (2) *Opposing party's obligation to respond.* When a motion for
27 summary judgment is properly made and supported, an opposing party
28 may not rely merely on allegations or denials in its own pleading; rather,
29 its response must, by affidavits or by declarations pursuant to K.S.A. 53-
30 601, and amendments thereto, or as otherwise provided in this section, set
31 out specific facts showing a genuine issue for trial. If the opposing party
32 does not so respond, summary judgment should, if appropriate, be entered
33 against that party.

34 (f) *When affidavits or declarations are unavailable.* If a party
35 opposing the motion shows by affidavit or by declaration pursuant to
36 K.S.A. 53-601, and amendments thereto, that, for specified reasons, it
37 cannot present facts essential to justify its opposition, the court may:

38 (1) Deny the motion;

39 (2) order a continuance to enable affidavits or declarations to be
40 obtained, depositions to be taken or other discovery to be undertaken; or

41 (3) issue any other just order.

42 (g) *Affidavits or declarations submitted in bad faith.* If satisfied that
43 an affidavit or declaration under this section is submitted in bad faith or

1 solely for delay, the court must order the submitting party or attorney to
2 pay the other party the reasonable expenses, including attorney's fees, it
3 incurred as a result. An offending party or attorney may be held in
4 contempt.

5 *(h) Fee for filing a motion for summary judgment. (1) On and after*
6 *July 1, 2014, any party filing a motion for summary judgment shall pay a*
7 *fee in the amount of \$195 to the clerk of the district court.*

8 *(2) A poverty affidavit may be filed in lieu of a fee as established in*
9 *K.S.A. 60-2001, and amendments thereto.*

10 *(3) The fee shall be disbursed in accordance with subsection (f) of*
11 *K.S.A. 20-362, and amendments thereto.*

12 *(4) Such fee shall only be established by an act of the legislature and*
13 *no other authority is established by law or otherwise to collect a fee.*

14 Sec. 10. K.S.A. 60-729 is hereby amended to read as follows: 60-729.

15 *(a) Garnishment is a procedure whereby the wages, money or intangible*
16 *property of a person can be seized or attached pursuant to an order of*
17 *garnishment issued by the court under the conditions set forth in the order.*

18 *(b) On and after July 1, 2014, any party requesting an order of*
19 *garnishment shall pay a fee in the amount of \$7.50 to the clerk of the*
20 *district court.*

21 *(c) A poverty affidavit may be filed in lieu of a fee as established in*
22 *K.S.A. 60-2001, and amendments thereto.*

23 *(d) The fee shall be the only costs assessed in each case to services of*
24 *the clerk of the district court and the sheriff. The fee shall be disbursed in*
25 *accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.*

26 *(e) Except as provided further, the fee established in this section shall*
27 *be the only fee collected or moneys in the nature of a fee collected for the*
28 *docket fee. Such fee shall only be established by an act of the legislature*
29 *and no other authority is established by law or otherwise to collect a fee.*
30 *On and after July 1, 2014, through July 1, 2015, the supreme court may*
31 *impose an additional charge, not to exceed \$12.50 per fee, to fund the*
32 *costs of non-judicial personnel.*

33 Sec. 11. K.S.A. 2013 Supp. 60-2001 is hereby amended to read as
34 follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no
35 case shall be filed or docketed in the district court, whether original or
36 appealed, without payment of a docket fee in the amount of ~~\$156 on and~~
37 ~~after July 1, 2009 through June 30, 2013, and \$154~~ \$173 on and after July
38 1, ~~2013~~ 2014, to the clerk of the district court. Except as provided further,
39 the docket fee established in this subsection shall be the only fee collected
40 or moneys in the nature of a fee collected for the docket fee. Such fee shall
41 only be established by an act of the legislature and no other authority is
42 established by law or otherwise to collect a fee. On and after ~~the effective~~
43 ~~date of this act through June 30, 2013~~ July 1, 2013, through July 1, 2015,

1 the supreme court may impose an additional charge, not to exceed \$22 per
2 docket fee, to fund the costs of non-judicial personnel.

3 (b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case
4 where a plaintiff by reason of poverty is unable to pay a docket fee, and an
5 affidavit so stating is filed, no fee will be required. An inmate in the
6 custody of the secretary of corrections may file a poverty affidavit only if
7 the inmate attaches a statement disclosing the average account balance, or
8 the total deposits, whichever is less, in the inmate's trust fund for each
9 month in: (A) The six-month period preceding the filing of the action; or
10 (B) the current period of incarceration, whichever is shorter. Such
11 statement shall be certified by the secretary. On receipt of the affidavit and
12 attached statement, the court shall determine the initial fee to be assessed
13 for filing the action and in no event shall the court require an inmate to pay
14 less than \$3. The secretary of corrections is hereby authorized to disburse
15 money from the inmate's account to pay the costs as determined by the
16 court. If the inmate has a zero balance in such inmate's account, the
17 secretary shall debit such account in the amount of \$3 per filing fee as
18 established by the court until money is credited to the account to pay such
19 docket fee. Any initial filing fees assessed pursuant to this subsection shall
20 not prevent the court, pursuant to subsection (d), from taxing that
21 individual for the remainder of the amount required under subsection (a) or
22 this subsection.

23 (2) *Form of affidavit.* The affidavit provided for in this subsection
24 shall set forth a factual basis upon which the plaintiff alleges by reason of
25 poverty an inability to pay a docket fee, including, but not limited to, the
26 source and amount of the plaintiff's weekly income. Such affidavit shall be
27 signed and sworn to by the plaintiff under oath, before one who has
28 authority to administer the oath, under penalty of perjury, K.S.A. 2013
29 Supp. 21-5903, and amendments thereto. The form of the affidavit shall be
30 deemed sufficient if in substantial compliance with the form set forth by
31 the judicial council.

32 (3) *Court review; grounds for dismissal; service of process.* The court
33 shall review any petition authorized for filing under this subsection. Upon
34 such review, if the court finds that the plaintiff's allegation of poverty is
35 untrue, the court shall direct the plaintiff to pay the docket fee or dismiss
36 the petition without prejudice. Notwithstanding K.S.A. 60-301, and
37 amendments thereto, service of process shall not issue unless the court
38 grants leave following its review.

39 (c) *Disposition of fees.* The docket fees and the fees for service of
40 process shall be the only costs assessed in each case for services of the
41 clerk of the district court and the sheriff. For every person to be served by
42 the sheriff, the persons requesting service of process shall provide proper
43 payment to the clerk and the clerk of the district court shall forward the

1 service of process fee to the sheriff in accordance with K.S.A. 28-110, and
2 amendments thereto. The service of process fee, if paid by check or money
3 order, shall be made payable to the sheriff. Such service of process fee
4 shall be submitted by the sheriff at least monthly to the county treasurer
5 for deposit in the county treasury and credited to the county general fund.
6 The docket fee shall be disbursed in accordance with K.S.A. 20-362, and
7 amendments thereto.

8 (d) *Additional court costs.* Other fees and expenses to be assessed as
9 additional court costs shall be approved by the court, unless specifically
10 fixed by statute. Other fees shall include, but not be limited to, witness
11 fees, appraiser fees, fees for service of process, fees for depositions,
12 alternative dispute resolution fees, transcripts and publication, attorney
13 fees, court costs from other courts and any other fees and expenses
14 required by statute. All additional court costs shall be taxed and billed
15 against the parties as directed by the court. No sheriff in this state shall
16 charge any mileage for serving any papers or process.

17 Sec. 12. K.S.A. 2013 Supp. 61-2704 is hereby amended to read as
18 follows: 61-2704. (a) An action seeking the recovery of a small claim shall
19 be considered to have been commenced at the time a person files a written
20 statement of the person's small claim with the clerk of the court if, within
21 90 days after the small claim is filed, service of process is obtained or the
22 first publication is made for service by publication. Otherwise, the action
23 is deemed commenced at the time of service of process or first publication.
24 An entry of appearance shall have the same effect as service.

25 (b) Upon the filing of a plaintiff's small claim, the clerk of the court
26 shall require from the plaintiff a docket fee of ~~\$37~~ \$35 on and after July 1,
27 ~~2013~~ 2014, if the claim does not exceed \$500; or ~~\$57~~ \$55 on and after July
28 1, ~~2013~~ 2014, if the claim exceeds \$500; unless for good cause shown the
29 judge waives the fee. The docket fee shall be the only costs required in an
30 action seeking recovery of a small claim. No person may file more than 20
31 small claims under this act in the same court during any calendar year.

32 (c) Except as provided further, the docket fee established in this
33 section shall be the only fee collected or moneys in the nature of a fee
34 collected for the docket fee. Such fee shall only be established by an act of
35 the legislature and no other authority is established by law or otherwise to
36 collect a fee. On and after July 1, 2013, through July 1, 2015, the supreme
37 court may impose an additional charge, not to exceed \$12.50 per docket
38 fee, to fund the costs of non-judicial personnel.

39 Sec. 13. K.S.A. 61-3502 is hereby amended to read as follows: 61-
40 3502. (a) Garnishment is a procedure whereby the wages, money or
41 intangible property of a person can be seized or attached pursuant to an
42 order of garnishment issued by the court under the conditions set forth in
43 the order.

1 (b) *On and after July 1, 2014, any party requesting an order of*
2 *garnishment shall pay a fee in the amount of \$7.50 to the clerk of the*
3 *district court.*

4 (c) *A poverty affidavit may be filed in lieu of a fee as established in*
5 *K.S.A. 60-2001, and amendments thereto.*

6 (d) *The fee shall be the only costs assessed in each case to services of*
7 *the clerk of the district court and the sheriff. The fee shall be disbursed in*
8 *accordance with subsection (f) of K.S.A. 20-362, and amendments thereto.*

9 (e) *Except as provided further, the fee established in this section shall*
10 *be the only fee collected or moneys in the nature of a fee collected for the*
11 *docket fee. Such fee shall only be established by an act of the legislature*
12 *and no other authority is established by law or otherwise to collect a fee.*
13 *On and after July 1, 2014, through July 1, 2015, the supreme court may*
14 *impose an additional charge, not to exceed \$12.50 per fee, to fund the*
15 *costs of non-judicial personnel.*

16 Sec. 14. K.S.A. 60-729 and 61-3502 and K.S.A. 2013 Supp. 20-367,
17 21-6614, 21-6614d, 22-2410, 28-172a, 38-2312, 38-2312c, 59-104, 60-
18 256, 60-2001, 60-2001b and 61-2704 are hereby repealed.

19 Sec. 15. This act shall take effect and be in force from and after its
20 publication in the statute book.