

As Amended by House Committee

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2006

## SENATE BILL No. 418

By Senator Journey

1-20

14 AN ACT enacting the personal and family protection act; providing for  
15 licensure to carry certain concealed weapons; prohibiting certain acts  
16 and prescribing penalties for violations; amending K.S.A. 2005 Supp.  
17 12-4516, 21-4201 and 21-4619 and repealing the existing sections.  
18

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

20 New Section 1. Sections 1 through 18, and amendments thereto,  
21 shall be known and may be cited as the personal and family protection  
22 act.

23 New Sec. 2. As used in the personal and family protection act:

24 (a) "Attorney general" means the attorney general of the state of  
25 Kansas.

26 (b) "Weapon" means handgun, pistol or revolver.

27 **[(c) "Athletic event" means athletic instruction, practice or**  
28 **competition held at any location and including any number of**  
29 **athletes.]**

30 New Sec. 3. (a) On and after January 1, 2007, the attorney general  
31 shall issue licenses to carry concealed weapons to persons qualified as  
32 provided by this act. Such licenses shall be valid throughout the state for  
33 a period of four years from the date of issuance.

34 (b) The license, at the option of the licensee: (1) Shall be a separate  
35 card, in a form prescribed by the attorney general, that is approximately  
36 the size of a Kansas driver's license and shall bear the licensee's signature,  
37 name, address, date of birth and driver's license number or nondriver's  
38 identification card number; or (2) shall be noted on the licensee's valid  
39 Kansas driver's license or valid Kansas nondriver's identification license  
40 or card. At all times when the licensee is in actual possession of a con-  
41 cealed weapon, the licensee shall carry the license to carry concealed  
42 weapons or a valid Kansas driver's license or Kansas nondriver's identi-  
43 fication card with the license to carry a concealed weapon noted thereon,

1 which shall constitute the license to carry a concealed weapon. On de-  
2 mand of a law enforcement officer, the licensee shall display the license  
3 to carry a concealed weapon and proper identification unless such license  
4 is noted on the person's driver's license or nondriver's identification card.  
5 Verification by a law enforcement officer that a person holds a valid li-  
6 cense to carry a concealed weapon may be accomplished by a record  
7 check using the person's vehicle tag and driver's license information.

8 Violation of the provisions of this subsection shall constitute a class B  
9 nonperson misdemeanor.

10 (c) A valid license, issued by any other state or the District of Colum-  
11 bia, to carry concealed weapons shall be recognized ~~according to the~~  
12 ~~terms of such license~~ **as valid in this state**, but only while the holder is  
13 not a resident of Kansas, **if the attorney general determines that stan-**  
14 **dards for issuance of such license or permit by such state or district**  
15 **are equal to or greater than the standards imposed by this act. The**  
16 **attorney general shall maintain and publish a list of such states and**  
17 **district which the attorney general determines have standards**  
18 **equal to or greater than the standards imposed by this act.**

19 The provisions of this subsection shall take effect and be in force from  
20 and after January 1, 2007.

21 New Sec. 4. (a) On and after January 1, 2007, the attorney general  
22 shall issue a license pursuant to this act if the applicant:

23 (1) Is a resident of the county where application for licensure is made  
24 and has been a resident of the state for six months or more immediately  
25 preceding the filing of the application;

26 (2) is 21 years or more of age;

27 (3) does not suffer from a physical infirmity which prevents the safe  
28 handling of a weapon;

29 (4) has never been convicted or placed on diversion, in this or any  
30 other jurisdiction, for an act that constitutes a felony under the laws of  
31 this state or adjudicated, in this or any other jurisdiction, of committing  
32 as a juvenile an act that would be a felony under the laws of this state if  
33 committed by an adult;

34 (5) has not been, during the five years immediately preceding the  
35 date the application is submitted: (A) A mentally ill person or involuntary  
36 patient, as defined in K.S.A. 59-2946, and amendments thereto; (B) com-  
37 mitted for the abuse of a controlled substance; (C) convicted or placed  
38 on diversion, in this or any other jurisdiction, for an act that constitutes  
39 a felony or misdemeanor under the provisions of the uniform controlled  
40 substances act or adjudicated, in this or any other jurisdiction, of com-  
41 mitting as a juvenile an act that would be a misdemeanor under such act  
42 if committed by an adult; (D) committed for the abuse of alcohol; (E)  
43 convicted or placed on diversion, in this or any other jurisdiction, two or

1 more times for an act that constitutes a violation of K.S.A. 8-1567, and  
2 amendments thereto; (F) convicted or placed on diversion, in this or any  
3 other jurisdiction, for an act that constitutes a domestic violence misde-  
4 meanor under **any municipal ordinance or** article 34 or 35 of chapter  
5 21 of the Kansas Statutes Annotated or adjudicated, in this or any other  
6 jurisdiction, of committing as a juvenile an act that would be a domestic  
7 violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas  
8 Statutes Annotated if committed by an adult; or (G) convicted or placed  
9 on diversion, in this or any other jurisdiction, for an act that constitutes  
10 a violation of section 12, and amendments thereto, or a violation of sub-  
11 section (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated,  
12 in this or any other jurisdiction, of committing as a juvenile an act that  
13 would be a violation of section 12 or a violation of subsection (a)(4) of  
14 K.S.A. 21-4201, and amendments thereto, if committed by an adult;

15 (6) desires a legal means to carry a concealed weapon for lawful self-  
16 defense;

17 (7) except as provided by subsection (f) of section 5, and amendments  
18 thereto, presents evidence satisfactory to the attorney general that the  
19 applicant has satisfactorily completed a weapons safety and training  
20 course approved by the attorney general pursuant to subsection (b);

21 (8) has not been adjudged a disabled person under the act for ob-  
22 taining a guardian or conservator, or both, or under a similar law of an-  
23 other state or the District of Columbia, unless the applicant was ordered  
24 restored to capacity three or more years before the date on which the  
25 application is submitted;

26 (9) has not been dishonorably discharged from military service;

27 (10) is a citizen of the United States;

28 (11) is not subject to a restraining order issued under the protection  
29 from abuse act, under the protection from stalking act or pursuant to  
30 K.S.A. 60-1607, 38-1542, 38-1543 or 38-1563, and amendments thereto,  
31 or any equivalent order entered in another state or jurisdiction which is  
32 entitled to full faith and credit in Kansas; and

33 (12) is not in contempt of court in a child support proceeding.

34 (b) (1) The attorney general shall adopt rules and regulations estab-  
35 lishing procedures and standards as authorized by this act for an eight-  
36 hour weapons safety and training course required by this section. Such  
37 standards shall include: (A) A requirement that trainees receive training  
38 in the safe storage of weapons, actual firing of weapons and instruction  
39 in the laws of this state governing the carrying of a concealed weapon and  
40 the use of deadly force; (B) general guidelines for courses which are  
41 compatible with the industry standard for basic firearms training for ci-  
42 vilians; (C) qualifications of instructors; and (D) a requirement that the  
43 course be: (i) A weapons course certified or sponsored by the attorney

- 1 general; or (ii) a weapons course certified or sponsored by the national  
2 rifle association or by a law enforcement agency, college, private or public  
3 institution or organization or weapons training school, if the attorney gen-  
4 eral determines that such course meets or exceeds the standards required  
5 by rules and regulations adopted by the attorney general and is taught by  
6 instructors certified by the attorney general or by the national rifle asso-  
7 ciation, if the attorney general determines that the requirements for cer-  
8 tification of instructors by such association meet or exceed the standards  
9 required by rules and regulations adopted by the attorney general.
- 10 (2) The cost of the weapons safety and training course required by  
11 this section shall be paid by the applicant. The following shall constitute  
12 satisfactory evidence of satisfactory completion of an approved weapons  
13 safety and training course: (A) Evidence of completion of the course, in  
14 the form provided by rules and regulations adopted by the attorney gen-  
15 eral; or (B) an affidavit from the instructor, school, club, organization or  
16 group that conducted or taught such course attesting to the completion  
17 of the course by the applicant.
- 18 (c) In addition to the requirements of subsection (a), a person holding  
19 a license pursuant to this act, prior to renewal of the license provided  
20 herein, shall submit evidence satisfactory to the attorney general that the  
21 licensee has requalified by completion of an approved course given by an  
22 instructor of an approved weapons safety and training course under sub-  
23 section (b).
- 24 New Sec. 5. (a) The application for a license pursuant to this act shall  
25 be completed, under oath, on a form prescribed by the attorney general  
26 and shall only include:
- 27 (1) The name, address, social security number, place and date of  
28 birth, and occupation of the applicant;
- 29 (2) a statement that the applicant is in compliance with criteria con-  
30 tained within section 4, and amendments thereto;
- 31 (3) a waiver of the confidentiality of such mental health and medical  
32 records as necessary to determine the applicant's qualifications under  
33 subsection (a)(5) of section 4, and amendments thereto;
- 34 (4) a statement that the applicant has been furnished a copy of this  
35 act and is knowledgeable of its provisions;
- 36 (5) a conspicuous warning that the application is executed under oath  
37 and that a false answer to any question, or the submission of any false  
38 document by the applicant, subjects the applicant to criminal prosecution  
39 under K.S.A. 21-3805, and amendments thereto; and
- 40 (6) a statement that the applicant desires a concealed weapon license  
41 as a means of lawful self-defense.
- 42 (b) The applicant shall submit to the sheriff of the county where the  
43 applicant resides, during any normal business hours:

- 1 (1) A completed application described in subsection (a);
- 2 (2) except as provided by subsection (f), a nonrefundable license fee
- 3 not to exceed \$150, if the applicant has not previously been issued a
- 4 statewide license or if the applicant's license has permanently expired;
- 5 (3) a photocopy of a certificate or an affidavit or document as de-
- 6 scribed in subsection (b) of section 4, and amendments thereto; and
- 7 (4) a full frontal view photograph of the applicant taken within the
- 8 preceding 30 days.
- 9 (c) (1) The sheriff, upon receipt of the items listed in subsection (b)
- 10 of this section or subsection (a) of section 8, and amendments thereto,
- 11 shall provide for the full set of fingerprints of the applicant to be taken
- 12 and forwarded to the attorney general for purposes of a criminal history
- 13 records check as provided by subsection (d). In addition, the sheriff shall
- 14 forward a copy of the application and \$110 of the original license fee, or
- 15 \$50 of the renewal license fee, to the attorney general. The cost of taking
- 16 such fingerprints shall be included in the portion of the fee retained by
- 17 the sheriff.
- 18 (2) The sheriff of the applicant's county of residence, at the sheriff's
- 19 discretion, may participate in the process by submitting a voluntary report
- 20 to the attorney general containing readily discoverable information, cor-
- 21 roborated through public records, which, when combined with another
- 22 enumerated factor, establishes that the applicant poses a significantly
- 23 greater threat to law enforcement or the public at large than the average
- 24 citizen. Any such voluntary reporting shall be made within 45 days after
- 25 the date the sheriff receives the application. Any sheriff or law enforce-
- 26 ment officer submitting a voluntary report shall not incur any civil or
- 27 criminal liability as the result of the good faith submission of such report.
- 28 (3) All funds retained by the sheriff pursuant to the provisions of this
- 29 section shall be deposited in the general fund of the county and shall be
- 30 budgeted to the use of the sheriff's office.
- 31 (d) Each applicant shall be subject to a state and national criminal
- 32 history records check which conforms to applicable federal standards for
- 33 the purpose of verifying the identity of the applicant and whether the
- 34 applicant has been convicted of any crime that would disqualify the ap-
- 35 plicant from holding a license under this act. The attorney general is
- 36 authorized to use the information obtained from the national criminal
- 37 history record check to determine the applicant's eligibility for such
- 38 license.
- 39 (e) Within 180 days after the date of receipt of the items listed in
- 40 subsection (b), for applications received before July 1, 2007, and within
- 41 90 days after the date of receipt of the items listed in subsection (b), for
- 42 applications received on or after July 1, 2007, the attorney general shall:
- 43 (1) Issue the license; or

1 (2) deny the application based solely on: (A) The report submitted  
2 by the sheriff under subsection (c)(2) for good cause shown therein; or  
3 (B) the ground that the applicant fails to qualify under the criteria listed  
4 in section 4, and amendments thereto. If the attorney general denies the  
5 application, the attorney general shall notify the applicant in writing, stat-  
6 ing the ground for denial and informing the applicant of any right to a  
7 hearing pursuant to the Kansas administrative procedure act.

8 (f) A person who is a retired law enforcement officer, as defined in  
9 K.S.A. 21-3110, and amendments thereto, shall be: (1) Exempt from the  
10 original license fee; (2) exempt from the required completion of a weap-  
11 ons safety and training course if such person was certified by the Kansas  
12 law enforcement training commission not more than eight years prior to  
13 submission of the application; (3) required to pay the license renewal fee;  
14 and (4) required to comply with the criminal history records check re-  
15 quirement of this section.

16 New Sec. 6. (a) The attorney general shall maintain an automated  
17 listing of license holders and pertinent information, and such information  
18 shall be available, upon request, at all times to all law enforcement agen-  
19 cies in this state, other states and the District of Columbia.

20 (b) Within 30 days after the changing of a permanent address, or  
21 within 30 days after having a license lost or destroyed, the licensee shall  
22 notify the attorney general of such change, loss or destruction. The at-  
23 torney general, upon notice and hearing, may order a licensee to pay a  
24 fine of not more than \$100, or may suspend the licensee's license for not  
25 more than 180 days, for failure to notify the attorney general pursuant to  
26 the provisions of this subsection.

27 (c) In the event that a concealed weapon license is lost or destroyed,  
28 the license shall be automatically invalid, and the person to whom the  
29 license was issued, upon payment of \$15 to the attorney general, may  
30 obtain a duplicate, or substitute thereof, upon furnishing a notarized  
31 statement to the attorney general that such license has been lost or  
32 destroyed.

33 New Sec. 7. (a) The attorney general shall suspend or revoke at any  
34 time the license of any person who would be ineligible under section 4,  
35 and amendments thereto, if submitting an application for a license at such  
36 time or who fails to submit evidence of completion of a weapons safety  
37 and training course as required by subsection (c) of section 4, and amend-  
38 ments thereto. The suspension or revocation shall be subject to review  
39 by the district court in accordance with the act for judicial review and  
40 civil enforcement of agency actions. The suspension or revocation shall  
41 remain in effect pending any appeal and shall not be stayed by the court.

42 **(b) The sheriff of the county where a restraining order is issued**  
43 **that would prohibit issuance of a license under subsection (a)(11)**

1 **of section 4, and amendments thereto, shall notify the attorney**  
2 **general immediately upon receipt of such order. If the person sub-**  
3 **ject to the restraining order holds a license issued pursuant to this**  
4 **act, the attorney general immediately shall revoke such license**  
5 **upon receipt of notice of the issuance of such order. The attorney**  
6 **general shall adopt rules and regulations establishing procedures**  
7 **which allow for 24-hour notification and revocation of a license**  
8 **under the circumstances described in this subsection.**

9 New Sec. 8. (a) Not less than 90 days prior to the expiration date of  
10 the license, the attorney general shall mail to the licensee a written notice  
11 of the expiration and a renewal form prescribed by the attorney general.  
12 The licensee shall renew the license on or before the expiration date by  
13 filing with the sheriff of the applicant's county of residence the renewal  
14 form, a notarized affidavit stating that the licensee remains qualified pur-  
15 suant to the criteria specified in section 4, and amendments thereto, a  
16 full frontal view photograph of the applicant taken within the preceding  
17 30 days and a nonrefundable license renewal fee not to exceed \$100. The  
18 license shall be renewed upon receipt of the completed renewal appli-  
19 cation and appropriate payment of fees. A licensee who fails to file a  
20 renewal application on or before the expiration date of the license must  
21 pay an additional late fee of \$15.

22 (b) If the licensee is qualified as provided by this act, the license shall  
23 be renewed upon receipt by the attorney general of the items listed in  
24 subsection (a).

25 (c) No license shall be renewed six months or more after the expi-  
26 ration date of the license, and such license shall be deemed to be per-  
27 manently expired. A person whose license has been permanently expired  
28 may reapply for licensure but an application for licensure and fees pur-  
29 suant to section 5, and amendments thereto, shall be submitted, and a  
30 background investigation shall be conducted pursuant to the provisions  
31 of that section.

32 New Sec. 9. The application form for an original license and for a  
33 renewal license shall include, in a conspicuous place, the following:  
34 "WARNING: A false statement on this application may subject the ap-  
35 plicant to prosecution for the crime of perjury (K.S.A. 21-3805, and  
36 amendments thereto)."

37 New Sec. 10. (a) No license issued pursuant to this act shall authorize  
38 the licensee to carry a concealed weapon into:

- 39 (1) Any place where an activity declared a common nuisance by  
40 K.S.A. 22-3901, and amendments thereto, is maintained;
- 41 (2) any police, sheriff or highway patrol station;
- 42 (3) any detention facility, prison or jail;
- 43 (4) any courthouse;

- 1 (5) any courtroom, except that nothing in this section would preclude  
2 a judge from carrying a concealed weapon or determining who will carry  
3 a concealed weapon in the judge's courtroom;
- 4 (6) any polling place on the day an election is held;
- 5 (7) any meeting of the governing body of a county, city or other po-  
6 litical or taxing subdivision of the state, or any committee or subcommit-  
7 tee thereof;
- 8 (8) on the state fairgrounds;
- 9 (9) ~~or~~ any state office building;
- 10 (10) any athletic event not related to or involving firearms which is  
11 sponsored by a private or public elementary or secondary school or any  
12 private or public institution of postsecondary education;
- 13 (11) any professional athletic event not related to or involving  
14 firearms;
- 15 (12) any portion of a drinking establishment as defined by K.S.A. 41-  
16 2601, and amendments thereto, except that this provision shall not apply  
17 to a restaurant as defined by K.S.A. 41-2601, and amendments thereto;
- 18 (13) any elementary or secondary school building or structure used  
19 for student instruction or attendance;
- 20 (14) any community college, college or university facility;
- 21 (15) any place where the carrying of firearms is prohibited by federal  
22 or state law;
- 23 (16) any child exchange and visitation center provided for in K.S.A.  
24 75-720, and amendments thereto;
- 25 (17) any community mental health center organized pursuant to  
26 K.S.A. 19-4001 et seq., and amendments thereto; mental health clinic  
27 organized pursuant to K.S.A. 65-211 et seq., and amendments thereto;  
28 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments  
29 thereto; or state psychiatric hospital, as follows: Larned state hospital,  
30 Osawatomie state hospital or Rainbow mental health facility; ~~or~~
- 31 (18) any city hall;
- 32 **(19) any public library operated by the state or by a political**  
33 **subdivision of the state;**
- 34 **(20) any day care home or group day care home, as defined in**  
35 **Kansas administrative regulation 28-4-113, or any preschool or**  
36 **childcare center, as defined in Kansas administrative regulation**  
37 **28-4-420; or**
- 38 **(21) any church or temple.**
- 39 (b) Violation of this section is a class A misdemeanor.
- 40 New Sec. 11. (a) Nothing in this act shall be construed to prevent:
- 41 (1) Any public or private employer from restricting or prohibiting in  
42 any manner persons licensed under this act from carrying a concealed  
43 weapon while on the premises of the employer's business or while en-

1 gaged in the duties of the person's employment by the employer; or

2 (2) any entity owning or operating business premises open to the  
3 public from restricting or prohibiting in any manner persons licensed  
4 under this act from carrying a concealed weapon while on such premises,  
5 provided that the premises are posted, in a manner reasonably likely to  
6 come to the attention of persons entering the premises, as premises where  
7 carrying a concealed weapon is prohibited; or

8 (3) a property owner from restricting or prohibiting in any manner  
9 persons licensed under this act from carrying a concealed weapon while  
10 on such property, provided that the premises are posted, in a manner  
11 reasonably likely to come to the attention of persons entering the property  
12 where carrying a concealed weapon is prohibited.

13 (b) ~~Violation of this section~~ ***Carrying a concealed weapon on***  
14 ***premises in violation of any restriction or prohibition allowed by***  
15 ***subsection (a), or in violation of any restriction or prohibition al-***  
16 ***lowed by subsection (b) or (c) if the premises are posted as required***  
17 ***by such subsection,*** is a class B misdemeanor.

18 New Sec. 12. It is a class A nonperson misdemeanor for a person  
19 licensed pursuant to this act to carry a concealed weapon while under the  
20 influence of alcohol or drugs, or both.

21 New Sec. 13. (a) All moneys received by the attorney general pur-  
22 suant to this act shall be remitted to the state treasurer who shall deposit  
23 the entire amount in the state treasury and credit it to the concealed  
24 weapon licensure fund, which is hereby created in the state treasury.

25 (b) Moneys in the concealed weapon licensure fund shall be used  
26 only for: (1) Payment of the expenses of administration of the personal  
27 and family protection act; and (2) transfers to the county law enforcement  
28 equipment fund and to the forensic laboratory and materials fee fund as  
29 provided by subsection (e).

30 (c) On or before the 10th day of each month, the director of accounts  
31 and reports shall transfer from the state general fund to the concealed  
32 weapon licensure fund the amount of money certified by the pooled  
33 money investment board in accordance with this subsection. Prior to the  
34 10th day of each month, the pooled money investment board shall certify  
35 to the director of accounts and reports the amount of money equal to the  
36 proportionate amount of all the interest credited to the state general fund  
37 for the preceding month, pursuant to K.S.A. 75-4210a, and amendments  
38 thereto, that is attributable to moneys in the concealed weapon licensure  
39 fund. Such amount of money shall be determined by the pooled money  
40 investment board based on: (1) The average daily balance of moneys in  
41 the concealed weapon licensure fund for the preceding month; and (2)  
42 the net earnings for the pooled money investment portfolio for the pre-  
43 ceding month.

1 (d) All expenditures from the concealed weapon licensure fund shall  
2 be made in accordance with appropriation acts upon warrants of the di-  
3 rector of accounts and reports issued pursuant to vouchers approved by  
4 the attorney general for the purposes set forth in this section.

5 (e) The attorney general shall certify to the director of accounts and  
6 reports on each July 1 and January 1 after moneys are first credited to  
7 the concealed weapons licensure fund the amount of moneys in such fund  
8 needed to administer this act. On or before the 15th day of each month  
9 after moneys are first credited to the concealed weapons licensure fund,  
10 the director of accounts and reports shall transfer moneys in the con-  
11 cealed weapons licensure fund as follows: (1) Of the amount in excess of  
12 the amount certified by the attorney general, 20% shall be credited to  
13 the county law enforcement equipment fund; and (2) the remaining 80%  
14 shall be credited to a separate account in the forensic laboratory and  
15 materials fee fund cited in K.S.A. 28-176, and amendments thereto, to  
16 be used solely to assist city and county law enforcement agencies to obtain  
17 prompt laboratory services from the bureau. Moneys credited to the fo-  
18 rensic laboratory and materials fee fund as provided by this subsection  
19 shall be used to supplement existing appropriations and shall not be used  
20 to supplant general fund appropriations to the attorney general.

21 New Sec. 14. (a) There is hereby created in the state treasury the  
22 county law enforcement equipment fund.

23 (b) Moneys in the county law enforcement equipment fund shall be  
24 used only to fund grants to sheriffs' departments for purchases of law  
25 enforcement equipment other than motor vehicles. Such grants shall be  
26 administered by the attorney general. Such grants shall be based on ap-  
27 plications submitted by sheriffs' departments that demonstrate the need  
28 for the equipment for which the grant is sought and substantiate that  
29 grant moneys will not be used to supplant existing funding of the recipient  
30 sheriff's department.

31 (c) On or before the 10th day of each month, the director of accounts  
32 and reports shall transfer from the state general fund to the county law  
33 enforcement equipment fund interest earnings based on: (1) The average  
34 daily balance of moneys in the county law enforcement equipment fund  
35 for the preceding month; and (2) the net earnings rate of the pooled  
36 money investment portfolio for the preceding month.

37 (d) All expenditures from the county law enforcement equipment  
38 fund shall be made in accordance with appropriation acts upon warrants  
39 of the director of accounts and reports issued pursuant to vouchers ap-  
40 proved by the attorney general for the purposes set forth in this section.

41 New Sec. 15. The committee on surety bonds and insurance, within  
42 the limitations of appropriations made therefor, shall purchase such lia-  
43 bility insurance as it deems necessary for the protection of persons en-

1 gaged in conducting an approved weapons safety and training course  
2 against any liability for injuries or damages arising from the conducting  
3 of such course of instruction by such persons.

4 New Sec. 16. (a) The attorney general shall adopt such rules and  
5 regulations as necessary to administer the provisions of this act.

6 (b) On or before January 1 of each year, the attorney general shall  
7 submit a statistical report to the governor, president of the senate, the  
8 senate minority leader, the speaker of the house of representatives and  
9 the house minority leader indicating the number of licenses issued, re-  
10 voked, suspended and denied during the preceding fiscal year **and the**  
11 **reasons for the revocations, suspensions and denials.**

12 New Sec. 17. (a) The legislature finds as a matter of public policy  
13 and fact that it is necessary to provide statewide uniform standards for  
14 issuing licenses to carry concealed weapons for self-defense and finds it  
15 necessary to occupy the field of regulation of the bearing of concealed  
16 weapons for self-defense to ensure that no honest, law-abiding person  
17 who qualifies under the provisions of this act is subjectively or arbitrarily  
18 denied the person's rights. Any city ordinance or county resolution that  
19 regulates, restricts or prohibits the carrying of concealed weapons shall  
20 not be applicable to any person licensed in accordance with the provisions  
21 of this act.

22 (b) The legislature does not delegate to the attorney general the au-  
23 thority to regulate or restrict the issuing of licenses provided for in this  
24 act, beyond those provisions of this act pertaining to licensing and train-  
25 ing. Subjective or arbitrary actions or rules and regulations which encum-  
26 ber the issuing process by placing burdens on the applicant beyond those  
27 sworn statements and specified documents detailed in this act or which  
28 create restrictions beyond those specified in this act are in conflict with  
29 the intent of this act and are prohibited.

30 (c) This act shall be liberally construed. This act is supplemental and  
31 additional to existing constitutional rights to bear arms and nothing in this  
32 act shall impair or diminish such rights.

33 New Sec. 18. If any provision of this act or the application thereof  
34 to any person or circumstance is held invalid, the invalidity shall not affect  
35 other provisions or applications of the act which can be given effect with-  
36 out the invalid provision or application. To this end the provisions of this  
37 act are severable.

38 Sec. 19. K.S.A. 2005 Supp. 12-4516 is hereby amended to read as  
39 follows: 12-4516. (a) (1) Except as provided in subsection (b), any per-  
40 son who has been convicted of a violation of a city ordinance of this state  
41 may petition the convicting court for the expungement of such conviction  
42 and related arrest records if three or more years have elapsed since the  
43 person:

- 1 (A) Satisfied the sentence imposed; or  
2 (B) was discharged from probation, parole or a suspended sentence.
- 3 (2) Except as provided in subsection (b), any person who has fulfilled  
4 the terms of a diversion agreement based on a violation of a city ordinance  
5 of this state may petition the court for the expungement of such diversion  
6 agreement and related arrest records if three or more years have elapsed  
7 since the terms of the diversion agreement were fulfilled.
- 8 (b) No person may petition for expungement until five or more years  
9 have elapsed since the person satisfied the sentence imposed or the terms  
10 of a diversion agreement or was discharged from probation, parole, con-  
11 ditional release or a suspended sentence, if such person was convicted of  
12 the violation of a city ordinance which would also constitute:
- 13 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
14 ments thereto;
- 15 (2) a violation of K.S.A. 8-1567, and amendments thereto;
- 16 (3) driving while the privilege to operate a motor vehicle on the public  
17 highways of this state has been canceled, suspended or revoked, as pro-  
18 hibited by K.S.A. 8-262, and amendments thereto;
- 19 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
20 ments thereto;
- 21 (5) a violation of the provisions of the fifth clause of K.S.A. 8-142,  
22 and amendments thereto, relating to fraudulent applications;
- 23 (6) any crime punishable as a felony wherein a motor vehicle was  
24 used in the perpetration of such crime;
- 25 (7) failing to stop at the scene of an accident and perform the duties  
26 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto;
- 27 (8) a violation of the provisions of K.S.A. 40-3104, and amendments  
28 thereto, relating to motor vehicle liability insurance coverage; or
- 29 (9) a violation of K.S.A. 21-3405b, and amendments thereto.
- 30 (c) When a petition for expungement is filed, the court shall set a  
31 date for a hearing of such petition and shall cause notice of such hearing  
32 to be given to the prosecuting attorney and the arresting law enforcement  
33 agency. The petition shall state: (1) The defendant's full name;
- 34 (2) the full name of the defendant at the time of arrest, conviction or  
35 diversion, if different than the defendant's current name;
- 36 (3) the defendant's sex, race and date of birth;
- 37 (4) the crime for which the defendant was arrested, convicted or  
38 diverted;
- 39 (5) the date of the defendant's arrest, conviction or diversion; and
- 40 (6) the identity of the convicting court, arresting law enforcement  
41 agency or diverting authority. A municipal court may prescribe a fee to  
42 be charged as costs for a person petitioning for an order of expungement  
43 pursuant to this section. Any person who may have relevant information

1 about the petitioner may testify at the hearing. The court may inquire  
2 into the background of the petitioner and shall have access to any reports  
3 or records relating to the petitioner that are on file with the secretary of  
4 corrections or the Kansas parole board.

5 (d) At the hearing on the petition, the court shall order the peti-  
6 tioner's arrest record, conviction or diversion expunged if the court finds  
7 that:

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

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

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

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

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

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

28 (A) In any application for employment as a detective with a private  
29 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
30 as security personnel with a private patrol operator, as defined by K.S.A.  
31 75-7b01, and amendments thereto; or with an institution, as defined in  
32 K.S.A. 76-12a01, and amendments thereto, of the department of social  
33 and rehabilitation services;

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

36 (C) to aid in determining the petitioner's qualifications for employ-  
37 ment with the Kansas lottery or for work in sensitive areas within the  
38 Kansas lottery as deemed appropriate by the executive director of the  
39 Kansas lottery;

40 (D) to aid in determining the petitioner's qualifications for executive  
41 director of the Kansas racing commission, for employment with the com-  
42 mission or for work in sensitive areas in parimutuel racing as deemed  
43 appropriate by the executive director of the commission, or to aid in

1 determining qualifications for licensure or renewal of licensure by the  
2 commission;

3 (E) upon application for a commercial driver's license under K.S.A.  
4 8-2,125 through 8-2,142, and amendments thereto;

5 (F) to aid in determining the petitioner's qualifications to be an em-  
6 ployee of the state gaming agency;

7 (G) to aid in determining the petitioner's qualifications to be an em-  
8 ployee of a tribal gaming commission or to hold a license issued pursuant  
9 to a tribal-state gaming compact; or

10 (H) in any application for registration as a broker-dealer, agent, in-  
11 vestment adviser or investment adviser representative all as defined in  
12 K.S.A. 2005 Supp. 17-12a102, and amendments thereto;

13 (3) the court, in the order of expungement, may specify other cir-  
14 cumstances under which the arrest, conviction or diversion is to be dis-  
15 closed; and

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

19 (f) Whenever a person is convicted of an ordinance violation, pleads  
20 guilty and pays a fine for such a violation, is placed on parole or probation  
21 or is granted a suspended sentence for such a violation, the person shall  
22 be informed of the ability to expunge the arrest records or conviction.  
23 Whenever a person enters into a diversion agreement, the person shall  
24 be informed of the ability to expunge the diversion.

25 (g) Subject to the disclosures required pursuant to subsection (e), in  
26 any application for employment, license or other civil right or privilege,  
27 or any appearance as a witness, a person whose arrest records, conviction  
28 or diversion of an offense has been expunged under this statute may state  
29 that such person has never been arrested, convicted or diverted of such  
30 offense.

31 (h) Whenever the record of any arrest, conviction or diversion has  
32 been expunged under the provisions of this section or under the provi-  
33 sions of any other existing or former statute, the custodian of the records  
34 of arrest, conviction, diversion and incarceration relating to that crime  
35 shall not disclose the existence of such records, except when requested  
36 by:

37 (1) The person whose record was expunged;

38 (2) a private detective agency or a private patrol operator, and the  
39 request is accompanied by a statement that the request is being made in  
40 conjunction with an application for employment with such agency or op-  
41 erator by the person whose record has been expunged;

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

- 1 (4) the secretary of social and rehabilitation services, or a designee of  
2 the secretary, for the purpose of obtaining information relating to em-  
3 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-  
4 ments thereto, of the department of social and rehabilitation services of  
5 any person whose record has been expunged;
- 6 (5) a person entitled to such information pursuant to the terms of the  
7 expungement order;
- 8 (6) a prosecuting attorney, and such request is accompanied by a  
9 statement that the request is being made in conjunction with a prosecu-  
10 tion of an offense that requires a prior conviction as one of the elements  
11 of such offense;
- 12 (7) the supreme court, the clerk or disciplinary administrator thereof,  
13 the state board for admission of attorneys or the state board for discipline  
14 of attorneys, and the request is accompanied by a statement that the  
15 request is being made in conjunction with an application for admission,  
16 or for an order of reinstatement, to the practice of law in this state by the  
17 person whose record has been expunged;
- 18 (8) the Kansas lottery, and the request is accompanied by a statement  
19 that the request is being made to aid in determining qualifications for  
20 employment with the Kansas lottery or for work in sensitive areas within  
21 the Kansas lottery as deemed appropriate by the executive director of the  
22 Kansas lottery;
- 23 (9) the governor or the Kansas racing commission, or a designee of  
24 the commission, and the request is accompanied by a statement that the  
25 request is being made to aid in determining qualifications for executive  
26 director of the commission, for employment with the commission, for  
27 work in sensitive areas in parimutuel racing as deemed appropriate by  
28 the executive director of the commission or for licensure, renewal of  
29 licensure or continued licensure by the commission;
- 30 (10) the state gaming agency, and the request is accompanied by a  
31 statement that the request is being made to aid in determining qualifi-  
32 cations: (A) To be an employee of the state gaming agency; or (B) to be  
33 an employee of a tribal gaming commission or to hold a license issued  
34 pursuant to a tribal-state gaming compact; ~~or~~
- 35 (11) the Kansas securities commissioner, or a designee of the com-  
36 missioner, and the request is accompanied by a statement that the request  
37 is being made in conjunction with an application for registration as a  
38 broker-dealer, agent, investment adviser or investment adviser represen-  
39 tative by such agency and the application was submitted by the person  
40 whose record has been expunged; *or*
- 41 (12) *the attorney general, and the request is accompanied by a state-*  
42 *ment that the request is being made to aid in determining qualifications*  
43 *for a license to carry a concealed weapon pursuant to the personal and*

1 *family protection act.*

2 Sec. 20. K.S.A. 2005 Supp. 21-4201 is hereby amended to read as  
3 follows: 21-4201. (a) Criminal use of weapons is knowingly:

4 (1) Selling, manufacturing, purchasing, possessing or carrying any  
5 bludgeon, sandclub, metal knuckles or throwing star, or any knife, com-  
6 monly referred to as a switch-blade, which has a blade that opens auto-  
7 matically by hand pressure applied to a button, spring or other device in  
8 the handle of the knife, or any knife having a blade that opens or falls or  
9 is ejected into position by the force of gravity or by an outward, downward  
10 or centrifugal thrust or movement;

11 (2) carrying concealed on one's person, or possessing with intent to  
12 use the same unlawfully against another, a dagger, dirk, billy, blackjack,  
13 slungshot, dangerous knife, straight-edged razor, stiletto or any other dan-  
14 gerous or deadly weapon or instrument of like character, except that an  
15 ordinary pocket knife with no blade more than four inches in length shall  
16 not be construed to be a dangerous knife, or a dangerous or deadly  
17 weapon or instrument;

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

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

24 (5) setting a spring gun;

25 (6) possessing any device or attachment of any kind designed, used  
26 or intended for use in suppressing the report of any firearm;

27 (7) selling, manufacturing, purchasing, possessing or carrying a shot-  
28 gun with a barrel less than 18 inches in length or any other firearm de-  
29 signed to discharge or capable of discharging automatically more than  
30 once by a single function of the trigger; or

31 (8) possessing, manufacturing, causing to be manufactured, selling,  
32 offering for sale, lending, purchasing or giving away any cartridge which  
33 can be fired by a handgun and which has a plastic-coated bullet that has  
34 a core of less than 60% lead by weight.

35 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect  
36 any of the following:

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

40 (2) wardens, superintendents, directors, security personnel and keep-  
41 ers of prisons, penitentiaries, jails and other institutions for the detention  
42 of persons accused or convicted of crime, while acting within the scope  
43 of their authority;

- 1 (3) members of the armed services or reserve forces of the United  
2 States or the Kansas national guard while in the performance of their  
3 official duty; or
- 4 (4) manufacture of, transportation to, or sale of weapons to a person  
5 authorized under subsections (b)(1), (2) and (3) to possess such weapons.
- 6 (c) Subsection (a)(4) shall not apply to or affect the following:
- 7 (1) Watchmen, while actually engaged in the performance of the du-  
8 ties of their employment;
- 9 (2) licensed hunters or fishermen, while engaged in hunting or  
10 fishing;
- 11 (3) private detectives licensed by the state to carry the firearm in-  
12 volved, while actually engaged in the duties of their employment;
- 13 (4) detectives or special agents regularly employed by railroad com-  
14 panies or other corporations to perform full-time security or investigative  
15 service, while actually engaged in the duties of their employment;
- 16 (5) the state fire marshal, the state fire marshal's deputies or any  
17 member of a fire department authorized to carry a firearm pursuant to  
18 K.S.A. 31-157 and amendments thereto, while engaged in an investigation  
19 in which such fire marshal, deputy or member is authorized to carry a  
20 firearm pursuant to K.S.A. 31-157 and amendments thereto; or
- 21 (6) special deputy sheriffs described in K.S.A. 2005 Supp. 19-827,  
22 and amendments thereto, who have satisfactorily completed the basic  
23 course of instruction required for permanent appointment as a part-time  
24 law enforcement officer under K.S.A. 74-5607a and amendments thereto.
- 25 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who  
26 sells, purchases, possesses or carries a firearm, device or attachment  
27 which has been rendered unserviceable by steel weld in the chamber and  
28 marriage weld of the barrel to the receiver and which has been registered  
29 in the national firearms registration and transfer record in compliance  
30 with 26 U.S.C. 5841 et seq. in the name of such person and, if such person  
31 transfers such firearm, device or attachment to another person, has been  
32 so registered in the transferee's name by the transferor.
- 33 (e) Subsection (a)(8) shall not apply to a governmental laboratory or  
34 solid plastic bullets.
- 35 (f) Subsection (a)(6) shall not apply to a law enforcement officer who  
36 is:
- 37 (1) Assigned by the head of such officer's law enforcement agency to  
38 a tactical unit which receives specialized, regular training;
- 39 (2) designated by the head of such officer's law enforcement agency  
40 to possess devices described in subsection (a)(6); and
- 41 (3) in possession of commercially manufactured devices which are:  
42 (A) Owned by the law enforcement agency; (B) in such officer's posses-  
43 sion only during specific operations; and (C) approved by the bureau of

1 alcohol, tobacco, firearms and explosives of the United States department  
2 of justice.

3 (g) Subsections (a)(6), (7) and (8) shall not apply to any person em-  
4 ployed by a laboratory which is certified by the United States department  
5 of justice, national institute of justice, while actually engaged in the duties  
6 of their employment and on the premises of such certified laboratory.  
7 Subsections (a)(6), (7) and (8) shall not affect the manufacture of, trans-  
8 portation to or sale of weapons to such certified laboratory.

9 (h) *Subsection (a)(4) shall not apply to any person carrying a con-*  
10 *cealed weapon as authorized by sections 1 through 17, and amendments*  
11 *thereto.*

12 (i) It shall be a defense that the defendant is within an exemption.

13 ~~(j)~~ (j) Violation of subsections (a)(1) through (a)(5) is a class A non-  
14 person misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is a  
15 severity level 9, nonperson felony.

16 ~~(k)~~ (k) As used in this section, “throwing star” means any instrument,  
17 without handles, consisting of a metal plate having three or more radiating  
18 points with one or more sharp edges and designed in the shape of a  
19 polygon, trefoil, cross, star, diamond or other geometric shape, manufac-  
20 tured for use as a weapon for throwing.

21 Sec. 21. K.S.A. 2005 Supp. 21-4619 is hereby amended to read as  
22 follows: 21-4619. (a) (1) Except as provided in subsections (b) and (c),  
23 any person convicted in this state of a traffic infraction, cigarette or to-  
24 bacco infraction, misdemeanor or a class D or E felony, or for crimes  
25 committed on or after July 1, 1993, nondrug crimes ranked in severity  
26 levels 6 through 10 or any felony ranked in severity level 4 of the drug  
27 grid, may petition the convicting court for the expungement of such con-  
28 viction or related arrest records if three or more years have elapsed since  
29 the person: (A) Satisfied the sentence imposed; or (B) was discharged  
30 from probation, a community correctional services program, parole, post-  
31 release supervision, conditional release or a suspended sentence.

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

37 (b) Except as provided in subsection (c), no person may petition for  
38 expungement until five or more years have elapsed since the person sat-  
39 isfied the sentence imposed, the terms of a diversion agreement or was  
40 discharged from probation, a community correctional services program,  
41 parole, postrelease supervision, conditional release or a suspended sen-  
42 tence, if such person was convicted of a class A, B or C felony, or for  
43 crimes committed on or after July 1, 1993, if convicted of an off-grid

- 1 felony or any nondrug crime ranked in severity levels 1 through 5 or any  
2 felony ranked in severity levels 1 through 3 of the drug grid, or:
- 3 (1) Vehicular homicide, as defined by K.S.A. 21-3405, and amend-  
4 ments thereto, or as prohibited by any law of another state which is in  
5 substantial conformity with that statute;
- 6 (2) a violation of K.S.A. 8-1567, and amendments thereto, or a vio-  
7 lation of any law of another state, which declares to be unlawful the acts  
8 prohibited by that statute;
- 9 (3) driving while the privilege to operate a motor vehicle on the public  
10 highways of this state has been canceled, suspended or revoked, as pro-  
11 hibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
12 any law of another state which is in substantial conformity with that  
13 statute;
- 14 (4) perjury resulting from a violation of K.S.A. 8-261a, and amend-  
15 ments thereto, or resulting from the violation of a law of another state  
16 which is in substantial conformity with that statute;
- 17 (5) violating the provisions of the fifth clause of K.S.A. 8-142, and  
18 amendments thereto, relating to fraudulent applications or violating the  
19 provisions of a law of another state which is in substantial conformity with  
20 that statute;
- 21 (6) any crime punishable as a felony wherein a motor vehicle was  
22 used in the perpetration of such crime;
- 23 (7) failing to stop at the scene of an accident and perform the duties  
24 required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto,  
25 or required by a law of another state which is in substantial conformity  
26 with those statutes;
- 27 (8) violating the provisions of K.S.A. 40-3104, and amendments  
28 thereto, relating to motor vehicle liability insurance coverage; or
- 29 (9) a violation of K.S.A. 21-3405b, prior to its repeal.
- 30 (c) There shall be no expungement of convictions for the following  
31 offenses or of convictions for an attempt to commit any of the following  
32 offenses: (1) Rape as defined in K.S.A. 21-3502, and amendments thereto;  
33 (2) indecent liberties with a child as defined in K.S.A. 21-3503, and  
34 amendments thereto; (3) aggravated indecent liberties with a child as  
35 defined in K.S.A. 21-3504, and amendments thereto; (4) criminal sodomy  
36 as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amend-  
37 ments thereto; (5) aggravated criminal sodomy as defined in K.S.A. 21-  
38 3506, and amendments thereto; (6) indecent solicitation of a child as  
39 defined in K.S.A. 21-3510, and amendments thereto; (7) aggravated in-  
40 decent solicitation of a child as defined in K.S.A. 21-3511, and amend-  
41 ments thereto; (8) sexual exploitation of a child as defined in K.S.A. 21-  
42 3516, and amendments thereto; (9) aggravated incest as defined in K.S.A.  
43 21-3603, and amendments thereto; (10) endangering a child as defined

1 in K.S.A. 21-3608, and amendments thereto; (11) abuse of a child as  
2 defined in K.S.A. 21-3609, and amendments thereto; (12) capital murder  
3 as defined in K.S.A. 21-3439, and amendments thereto; (13) murder in  
4 the first degree as defined in K.S.A. 21-3401, and amendments thereto;  
5 (14) murder in the second degree as defined in K.S.A. 21-3402, and  
6 amendments thereto; (15) voluntary manslaughter as defined in K.S.A.  
7 21-3403, and amendments thereto; (16) involuntary manslaughter as de-  
8 fined in K.S.A. 21-3404, and amendments thereto; (17) involuntary man-  
9 slaughter while driving under the influence of alcohol or drugs as defined  
10 in K.S.A. 2005 Supp. 21-3442, and amendments thereto; (18) sexual bat-  
11 tery as defined in K.S.A. 21-3517, and amendments thereto, when the  
12 victim was less than 18 years of age at the time the crime was committed;  
13 (19) aggravated sexual battery as defined in K.S.A. 21-3518, and amend-  
14 ments thereto; or (20) any conviction for any offense in effect at any time  
15 prior to the effective date of this act, that is comparable to any offense  
16 as provided in this subsection.

17 (d) When a petition for expungement is filed, the court shall set a  
18 date for a hearing of such petition and shall cause notice of such hearing  
19 to be given to the prosecuting attorney and the arresting law enforcement  
20 agency. The petition shall state: (1) The defendant's full name;

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

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

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

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

27 (6) the identity of the convicting court, arresting law enforcement  
28 authority or diverting authority. There shall be no docket fee for filing a  
29 petition pursuant to this section. All petitions for expungement shall be  
30 docketed in the original criminal action. Any person who may have rel-  
31 evant information about the petitioner may testify at the hearing. The  
32 court may inquire into the background of the petitioner and shall have  
33 access to any reports or records relating to the petitioner that are on file  
34 with the secretary of corrections or the Kansas parole board.

35 (e) At the hearing on the petition, the court shall order the peti-  
36 tioner's arrest record, conviction or diversion expunged if the court finds  
37 that:

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

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

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

- 1 (f) When the court has ordered an arrest record, conviction or diver-  
2 sion expunged, the order of expungement shall state the information re-  
3 quired to be contained in the petition. The clerk of the court shall send  
4 a certified copy of the order of expungement to the Kansas bureau of  
5 investigation which shall notify the federal bureau of investigation, the  
6 secretary of corrections and any other criminal justice agency which may  
7 have a record of the arrest, conviction or diversion. After the order of  
8 expungement is entered, the petitioner shall be treated as not having been  
9 arrested, convicted or diverted of the crime, except that:
- 10 (1) Upon conviction for any subsequent crime, the conviction that  
11 was expunged may be considered as a prior conviction in determining the  
12 sentence to be imposed;
- 13 (2) the petitioner shall disclose that the arrest, conviction or diversion  
14 occurred if asked about previous arrests, convictions or diversions:
- 15 (A) In any application for licensure as a private detective, private  
16 detective agency, certification as a firearms trainer pursuant to K.S.A.  
17 2005 Supp. 75-7b21, and amendments thereto, or employment as a de-  
18 tective with a private detective agency, as defined by K.S.A. 75-7b01, and  
19 amendments thereto; as security personnel with a private patrol operator,  
20 as defined by K.S.A. 75-7b01, and amendments thereto; or with an insti-  
21 tution, as defined in K.S.A. 76-12a01, and amendments thereto, of the  
22 department of social and rehabilitation services;
- 23 (B) in any application for admission, or for an order of reinstatement,  
24 to the practice of law in this state;
- 25 (C) to aid in determining the petitioner's qualifications for employ-  
26 ment with the Kansas lottery or for work in sensitive areas within the  
27 Kansas lottery as deemed appropriate by the executive director of the  
28 Kansas lottery;
- 29 (D) to aid in determining the petitioner's qualifications for executive  
30 director of the Kansas racing commission, for employment with the com-  
31 mission or for work in sensitive areas in parimutuel racing as deemed  
32 appropriate by the executive director of the commission, or to aid in  
33 determining qualifications for licensure or renewal of licensure by the  
34 commission;
- 35 (E) upon application for a commercial driver's license under K.S.A.  
36 8-2,125 through 8-2,142, and amendments thereto;
- 37 (F) to aid in determining the petitioner's qualifications to be an em-  
38 ployee of the state gaming agency;
- 39 (G) to aid in determining the petitioner's qualifications to be an em-  
40 ployee of a tribal gaming commission or to hold a license issued pursuant  
41 to a tribal-state gaming compact;
- 42 (H) in any application for registration as a broker-dealer, agent, in-  
43 vestment adviser or investment adviser representative all as defined in

- 1 K.S.A. 2005 Supp. 17-12a102, and amendments thereto; or
- 2 (I) in any application for employment as a law enforcement officer
- 3 as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;
- 4 (3) the court, in the order of expungement, may specify other cir-
- 5 cumstances under which the conviction is to be disclosed;
- 6 (4) the conviction may be disclosed in a subsequent prosecution for
- 7 an offense which requires as an element of such offense a prior conviction
- 8 of the type expunged; and
- 9 (5) upon commitment to the custody of the secretary of corrections,
- 10 any previously expunged record in the possession of the secretary of cor-
- 11 rections may be reinstated and the expungement disregarded, and the
- 12 record continued for the purpose of the new commitment.
- 13 (g) Whenever a person is convicted of a crime, pleads guilty and pays
- 14 a fine for a crime, is placed on parole, postrelease supervision or proba-
- 15 tion, is assigned to a community correctional services program, is granted
- 16 a suspended sentence or is released on conditional release, the person
- 17 shall be informed of the ability to expunge the arrest records or convic-
- 18 tion. Whenever a person enters into a diversion agreement, the person
- 19 shall be informed of the ability to expunge the diversion.
- 20 (h) Subject to the disclosures required pursuant to subsection (f), in
- 21 any application for employment, license or other civil right or privilege,
- 22 or any appearance as a witness, a person whose arrest records, conviction
- 23 or diversion of a crime has been expunged under this statute may state
- 24 that such person has never been arrested, convicted or diverted of such
- 25 crime, but the expungement of a felony conviction does not relieve an
- 26 individual of complying with any state or federal law relating to the use
- 27 or possession of firearms by persons convicted of a felony.
- 28 (i) Whenever the record of any arrest, conviction or diversion has
- 29 been expunged under the provisions of this section or under the provi-
- 30 sions of any other existing or former statute, the custodian of the records
- 31 of arrest, conviction, diversion and incarceration relating to that crime
- 32 shall not disclose the existence of such records, except when requested
- 33 by:
- 34 (1) The person whose record was expunged;
- 35 (2) a private detective agency or a private patrol operator, and the
- 36 request is accompanied by a statement that the request is being made in
- 37 conjunction with an application for employment with such agency or op-
- 38 erator by the person whose record has been expunged;
- 39 (3) a court, upon a showing of a subsequent conviction of the person
- 40 whose record has been expunged;
- 41 (4) the secretary of social and rehabilitation services, or a designee of
- 42 the secretary, for the purpose of obtaining information relating to em-
- 43 ployment in an institution, as defined in K.S.A. 76-12a01, and amend-

1 ments thereto, of the department of social and rehabilitation services of  
2 any person whose record has been expunged;

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

5 (6) a prosecuting attorney, and such request is accompanied by a  
6 statement that the request is being made in conjunction with a prosecu-  
7 tion of an offense that requires a prior conviction as one of the elements  
8 of such offense;

9 (7) the supreme court, the clerk or disciplinary administrator thereof,  
10 the state board for admission of attorneys or the state board for discipline  
11 of attorneys, and the request is accompanied by a statement that the  
12 request is being made in conjunction with an application for admission,  
13 or for an order of reinstatement, to the practice of law in this state by the  
14 person whose record has been expunged;

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

20 (9) the governor or the Kansas racing commission, or a designee of  
21 the commission, and the request is accompanied by a statement that the  
22 request is being made to aid in determining qualifications for executive  
23 director of the commission, for employment with the commission, for  
24 work in sensitive areas in parimutuel racing as deemed appropriate by  
25 the executive director of the commission or for licensure, renewal of  
26 licensure or continued licensure by the commission;

27 (10) the Kansas sentencing commission;

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

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

39 (13) the Kansas law enforcement training commission and the re-  
40 quest is accompanied by a statement that the request is being made to  
41 aid in determining certification eligibility as a law enforcement officer  
42 pursuant to K.S.A. 74-5601 et seq., and amendments thereto; ~~or~~

43 (14) a law enforcement agency and the request is accompanied by a

1 statement that the request is being made to aid in determining eligibility  
2 for employment as a law enforcement officer as defined by K.S.A. 22-  
3 2202, and amendments thereto; *or*

4 *(15) the attorney general and the request is accompanied by a state-*  
5 *ment that the request is being made to aid in determining qualifications*  
6 *for a license to carry a concealed weapon pursuant to the personal and*  
7 *family protection act.*

8 Sec. 22. K.S.A. 2005 Supp. 12-4516, 21-4201 and 21-4619 are hereby  
9 repealed.

10 Sec. 23. This act shall take effect and be in force from and after its  
11 publication in the statute book.