

SENATE BILL No. 447

By Committee on Federal and State Affairs

3-20

1 AN ACT concerning weapons; relating to the regulation and possession of
2 firearms and knives; amending K.S.A. 2013 Supp. 12-16,124, 12-
3 16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 22-2512, 32-1047, 75-
4 7c04 and 75-7c20 and repealing the existing sections; also repealing
5 K.S.A. 2013 Supp. 21-6307 and 75-7c12.

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

8 New Section 1. (a) No city or county shall expend any funds derived
9 from the proceeds of any tax levied by such city or county or any political
10 subdivision thereof, for the purpose of implementing, administering or
11 otherwise operating a firearms buyback program.

12 (b) For purposes of this section:

13 (1) "Firearm" shall have the same meaning as that term is defined in
14 K.S.A. 2013 Supp. 21-5111, and amendments thereto.

15 (2) "Firearms buyback program" means any program wherein
16 individuals are offered the opportunity to gift, sell or otherwise transfer
17 ownership of such individual's firearm to a city or county.

18 New Sec. 2. (a) No employee of a municipality shall be required to
19 disclose to such person's employer the fact that such employee possesses a
20 valid license to carry a concealed handgun. No employee shall be
21 terminated, demoted, disciplined or otherwise discriminated against due to
22 such employee's refusal to disclose the fact that the employee possesses a
23 valid license to carry a concealed handgun. No municipality shall create or
24 maintain a record of an employee's possession of a valid license to carry a
25 concealed handgun, or that an employee has disclosed the fact that such
26 employee possesses a valid license to carry a concealed handgun. Any
27 such record created and maintained by a municipality on or before June
28 30, 2014, shall be destroyed by such municipality on or before July 31,
29 2014.

30 (b) For purposes of this section, the term "municipality" has the same
31 meaning as that term is defined in K.S.A. 75-6102, and amendments
32 thereto.

33 (c) This section shall be a part of and supplemental to the personal
34 and family protection act.

35 New Sec. 3. (a) No municipality shall be liable for any wrongful act
36 or omission relating to the actions of any person carrying a firearm,

1 including employees of such municipality, concerning acts or omissions
2 regarding such firearm.

3 (b) For purposes of this section, the term "municipality" has the same
4 meaning as that term is defined in K.S.A. 75-6102, and amendments
5 thereto.

6 New Sec. 4. (a) Provided that the building is conspicuously posted in
7 accordance with rules and regulations adopted by the attorney general as a
8 building where carrying an unconcealed firearm is prohibited, it shall be
9 unlawful to carry an unconcealed firearm into such building.

10 (b) Nothing in this section shall be construed to prohibit a law
11 enforcement officer, as defined in K.S.A. 22-2202, and amendments
12 thereto, from acting within the scope of such officer's duties.

13 (c) It shall be a violation of this section to carry an unconcealed
14 firearm if the building is posted in accordance with rules and regulations
15 adopted by the attorney general pursuant to subsection (d). Any person
16 who violates this section shall not be subject to a criminal penalty but may
17 be subject to denial to such premises or removal from such premises.

18 (d) (1) The attorney general shall adopt rules and regulations
19 prescribing the location, content, size and other characteristics of signs to
20 be posted on a building where carrying an unconcealed firearm is
21 prohibited pursuant to subsection (a). Such regulations shall prescribe, at a
22 minimum, that:

23 (A) The signs be posted at all exterior entrances to the prohibited
24 buildings;

25 (B) the signs be posted at eye level of adults using the entrance and
26 not more than 12 inches to the right or left of such entrance;

27 (C) the signs not be obstructed or altered in any way;

28 (D) signs which become illegible for any reason be immediately
29 replaced; and

30 (E) except as provided in paragraph (2), signs shall include the
31 following, which shall be printed in large, conspicuous print: "The open
32 carrying of firearms in this building is prohibited."

33 (2) Such rules and regulations shall provide that the same signage
34 used to prohibit the carrying of concealed handguns under K.S.A. 75-7c01
35 et seq., and amendments thereto, may be used to also prohibit the carrying
36 of unconcealed firearms.

37 New Sec. 5. (a) Possession of a firearm under the influence is
38 knowingly possessing or carrying a loaded firearm on or about such
39 person, or within such person's immediate access and control while in a
40 vehicle, while under the influence of alcohol or drugs, or both, to such a
41 degree as to render such person incapable of safely operating a firearm.

42 (b) Possession of a firearm under the influence is a class A nonperson
43 misdemeanor.

1 (c) This section shall not apply to:

2 (1) A person who possesses or carries a firearm while in such person's
3 own dwelling or place of business or on land owned or possessed by such
4 person; or

5 (2) the transitory possession or use of a firearm during an act
6 committed in self-defense or in defense of another person or any other act
7 committed if legally justified or excused, provided such possession or use
8 lasts no longer than is immediately necessary.

9 (d) If probable cause exists for a law enforcement officer to believe a
10 person is in possession of a firearm under the influence of alcohol or
11 drugs, or both, such law enforcement officer shall request such person
12 submit to one or more tests of the person's blood, breath, urine or other
13 bodily substance to determine the presence of alcohol or drugs. The
14 selection of the test or tests shall be made by the officer.

15 (e) (1) If a law enforcement officer requests a person to submit to a
16 test of blood under this section, the withdrawal of blood at the direction of
17 the officer may be performed only by:

18 (A) A person licensed to practice medicine and surgery, licensed as a
19 physician's assistant, or a person acting under the direction of any such
20 licensed person;

21 (B) a registered nurse or a licensed practical nurse;

22 (C) any qualified medical technician, including, but not limited to, an
23 emergency medical technician-intermediate, mobile intensive care
24 technician, an emergency medical technician-intermediate/defibrillator, an
25 advanced emergency medical technician or a paramedic, as those terms are
26 defined in K.S.A. 65-6112, and amendments thereto, authorized by
27 medical protocol; or

28 (D) a phlebotomist.

29 (2) A law enforcement officer may direct a medical professional
30 described in this subsection to draw a sample of blood from a person if the
31 person has given consent or upon meeting the requirements of subsection
32 (d).

33 (3) When so directed by a law enforcement officer through a written
34 statement, the medical professional shall withdraw the sample as soon as
35 practical and shall deliver the sample to the law enforcement officer or
36 another law enforcement officer as directed by the requesting law
37 enforcement officer as soon as practical, provided the collection of the
38 sample does not jeopardize the person's life, cause serious injury to the
39 person or seriously impede the person's medical assessment, care or
40 treatment. The medical professional authorized herein to withdraw the
41 blood and the medical care facility where the blood is drawn may act on
42 good faith that the requirements have been met for directing the
43 withdrawing of blood once presented with the written statement provided

1 for under this subsection. The medical professional shall not require the
2 person to sign any additional consent or waiver form. In such a case, the
3 person authorized to withdraw blood and the medical care facility shall not
4 be liable in any action alleging lack of consent or lack of informed
5 consent.

6 (4) Such sample or samples shall be an independent sample and not
7 be a portion of a sample collected for medical purposes. The person
8 collecting the blood sample shall complete the collection portion of a
9 document provided by law enforcement.

10 (5) If a sample is to be taken under authority of a search warrant, and
11 the person must be restrained to collect the sample pursuant to this section,
12 law enforcement shall be responsible for applying any such restraint
13 utilizing acceptable law enforcement restraint practices. The restraint shall
14 be effective in controlling the person in a manner not to jeopardize the
15 person's safety or that of the medical professional or attending medical or
16 health care staff during the drawing of the sample and without interfering
17 with medical treatment.

18 (6) A law enforcement officer may request a urine sample upon
19 meeting the requirements of subsection (d).

20 (7) If a law enforcement officer requests a person to submit to a test
21 of urine under this section, the collection of the urine sample shall be
22 supervised by:

23 (A) A person licensed to practice medicine and surgery, licensed as a
24 physician's assistant, or a person acting under the direction of any such
25 licensed person;

26 (B) a registered nurse or a licensed practical nurse; or

27 (C) a law enforcement officer of the same sex as the person being
28 tested.

29 The collection of the urine sample shall be conducted out of the view of
30 any person other than the persons supervising the collection of the sample
31 and the person being tested, unless the right to privacy is waived by the
32 person being tested. When possible, the supervising person shall be a law
33 enforcement officer. The results of qualitative testing for drug presence
34 shall be admissible in evidence and questions of accuracy or reliability
35 shall go to the weight rather than the admissibility of the evidence. If the
36 person is medically unable to provide a urine sample in such manner due
37 to the injuries or treatment of the injuries, the same authorization and
38 procedure as used for the collection of blood in paragraphs (2) and (3)
39 shall apply to the collection of a urine sample.

40 (8) The person performing or assisting in the performance of any
41 such test and the law enforcement officer requesting any such test who is
42 acting in accordance with this section shall not be liable in any civil and
43 criminal proceeding involving the action.

1 (f) (1) The person's refusal shall be admissible in evidence against the
2 person at any trial on a charge arising out of possession of a firearm under
3 the influence of alcohol or drugs, or both.

4 (2) Failure of a person to provide an adequate breath sample or
5 samples as directed shall constitute a refusal unless the person shows that
6 the failure was due to physical inability caused by a medical condition
7 unrelated to any ingested alcohol or drugs.

8 (3) In any criminal prosecution for a violation of this section, if the
9 court finds that a person refused to submit to testing when requested
10 pursuant to this section, the county or district attorney, upon petition to the
11 court, may recover on behalf of the state, in addition to the criminal
12 penalties provided in this section, a civil penalty not exceeding \$1,000 for
13 each violation.

14 (g) If a person who holds a valid license to carry a concealed handgun
15 issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments
16 thereto, is convicted of a violation of this section, such person's license to
17 carry a concealed handgun shall be revoked for a minimum of one year for
18 a first offense and three years for a second or subsequent offense.

19 (h) In any criminal prosecution for possession of a firearm under the
20 influence of alcohol or drugs, or both, evidence of the concentration of
21 alcohol or drugs in the defendant's blood, urine, breath or other bodily
22 substance may be admitted and shall give rise to the following:

23 (1) If the alcohol concentration is less than .08, that fact may be
24 considered with other competent evidence to determine if the defendant
25 was under the influence of alcohol or drugs, or both.

26 (2) If the alcohol concentration is .08 or more, it shall be prima facie
27 evidence that the defendant was under the influence of alcohol.

28 (3) If there was present in the defendant's bodily substance any
29 narcotic, hypnotic, somnifacient, stimulating or other drug which has the
30 capacity to render the defendant incapacitated, that fact may be considered
31 to determine if the defendant was under the influence of alcohol or drugs,
32 or both.

33 (i) The provisions of subsection (h) shall not be construed as limiting
34 the introduction of any other competent evidence bearing upon the
35 question of whether or not the defendant was under the influence of
36 alcohol or drugs, or both.

37 (j) Upon the request of any person submitting to testing under this
38 section, a report of the results of the testing shall be made available to such
39 person.

40 Sec. 6. K.S.A. 2013 Supp. 12-16,124 is hereby amended to read as
41 follows: 12-16,124.(a) No city or county shall adopt *or enforce* any
42 ordinance, resolution or regulation, and no agent of any city or county
43 shall take any administrative action, governing the purchase, transfer,

1 ownership, storage, *carrying* or transporting of firearms or ammunition, or
2 any component or combination thereof. ~~Except as provided in subsection~~
3 ~~(b) of this section and subsection (b) of K.S.A. 2013 Supp. 75-7e10, and~~
4 ~~amendments thereto, any such ordinance, resolution or regulation adopted~~
5 ~~prior to the effective date of this 2007 act shall be null and void.~~

6 (b) *No city or county shall adopt or enforce any ordinance, resolution*
7 *or regulation relating to the sale of a firearm by an individual, who holds*
8 *a federal firearms license, that is more restrictive than any ordinance,*
9 *resolution or regulation relating to the sale of any other commercial good.*

10 (c) *Any ordinance, resolution or regulation prohibited by either*
11 *subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null*
12 *and void.*

13 (d) Nothing in this section shall:

14 (1) *Prohibit a city or county from adopting and enforcing any*
15 *ordinance, resolution or regulation relating to the personnel policies of*
16 *such city or county and the carrying of firearms by employees of such city*
17 *or county, except that any such ordinance, resolution or regulation shall*
18 *comply with the provisions of K.S.A. 2013 Supp. 75-7c01 et seq., and*
19 *amendments thereto;*

20 (2) *prohibit a city or county from adopting any ordinance, resolution*
21 *or regulation pursuant to K.S.A. 2013 Supp. 75-7c20, and amendments*
22 *thereto; or*

23 (3) *prohibit a law enforcement officer, as defined in K.S.A. 22-2202,*
24 *and amendments thereto, from acting within the scope of such officer's*
25 *duties;*

26 ~~(2) prohibit a city or county from regulating the manner of openly~~
27 ~~carrying a loaded firearm on one's person; or in the immediate control of a~~
28 ~~person, not licensed or recognized under the personal and family~~
29 ~~protection act while on property open to the public;~~

30 ~~(3) prohibit a city or county from regulating in any manner the~~
31 ~~carrying of any firearm in any jail, juvenile detention facility, prison,~~
32 ~~courthouse, courtroom or city hall; or~~

33 ~~(4) prohibit a city or county from adopting an ordinance, resolution or~~
34 ~~regulation requiring a firearm transported in any air, land or water vehicle~~
35 ~~to be unloaded and encased in a container which completely encloses the~~
36 ~~firearm or any less restrictive provision governing the transporting of~~
37 ~~firearms, provided such ordinance, resolution or regulation shall not apply~~
38 ~~to persons licensed or recognized under the personal and family protection~~
39 ~~act.~~

40 (e) ~~Except as provided in subsection (b) of this section and subsection~~
41 ~~(b) of K.S.A. 2013 Supp. 75-7e10, and amendments thereto, no person~~
42 ~~shall be prosecuted or convicted of a violation of any ordinance, resolution~~
43 ~~or regulation of a city or county which regulates the storage or~~

1 transportation of a firearm if such person: (1) Is storing or transporting the
2 firearm without violating any provision of the Kansas criminal code; or (2)
3 is otherwise transporting the firearm in a lawful manner.

4 ~~(d) No person shall be prosecuted under any ordinance, resolution or~~
5 ~~regulation for transporting a firearm in any air, land or water vehicle if the~~
6 ~~firearm is unloaded and encased in a container which completely encloses~~
7 ~~the firearm.~~

8 Sec. 7. K.S.A. 2013 Supp. 12-16,134 is hereby amended to read as
9 follows: 12-16,134. (a) A municipality shall not enact *or enforce* any
10 ordinance, resolution, ~~rule~~ *regulation* or tax relating to the transportation,
11 possession, carrying, sale, transfer, purchase, gift, devise, licensing,
12 registration or use of a knife or knife making components.

13 (b) A municipality shall not enact *or enforce* any ordinance,
14 resolution or ~~rule~~ *regulation* relating to the manufacture of a knife that is
15 more restrictive than any such ordinance, resolution or ~~rule~~ *regulation*
16 relating to the manufacture of any other commercial goods.

17 (c) *Any ordinance, resolution or regulation prohibited by either*
18 *subsection (a) or (b) that was adopted prior to July 1, 2014, shall be null*
19 *and void.*

20 (d) *No action shall be commenced or prosecuted against any*
21 *individual for a violation of any ordinance, resolution or regulation that is*
22 *prohibited by either subsection (a) or (b) and which was adopted prior to*
23 *July 1, 2014, if such violation occurred on or after July 1, 2013.*

24 ~~(e)~~ (e) As used in this section:

25 (1) "Knife" means a cutting instrument and includes a sharpened or
26 pointed blade.

27 (2) "Municipality" has the same meaning as defined in K.S.A. 75-
28 6102, and amendments thereto, but shall not include *unified* school
29 districts, jails, as defined in K.S.A. 38-2302, and amendments thereto, ~~and~~
30 *or* juvenile correctional facilities, as defined in K.S.A. 38-2302, and
31 amendments thereto.

32 Sec. 8. K.S.A. 2013 Supp. 12-4516 is hereby amended to read as
33 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d)
34 ~~and~~, (e) *and* (f), any person who has been convicted of a violation of a city
35 ordinance of this state may petition the convicting court for the
36 expungement of such conviction and related arrest records if three or more
37 years have elapsed since the person:

38 (A) Satisfied the sentence imposed; or

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

40 (2) Except as provided in subsections (b), (c), (d) ~~and~~, (e) *and* (f), any
41 person who has fulfilled the terms of a diversion agreement based on a
42 violation of a city ordinance of this state may petition the court for the
43 expungement of such diversion agreement and related arrest records if

1 three or more years have elapsed since the terms of the diversion
2 agreement were fulfilled.

3 *(b) Any person convicted of a violation of any ordinance that is*
4 *prohibited by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134,*
5 *and amendments thereto, and which was adopted prior to July 1, 2014, or*
6 *who entered into a diversion agreement in lieu of further criminal*
7 *proceedings for such violation, may petition the convicting court for the*
8 *expungement of such conviction or diversion agreement and related arrest*
9 *records.*

10 ~~(b)~~ (c) Any person convicted of the violation of a city ordinance
11 which would also constitute a violation of K.S.A. 21-3512, prior to its
12 repeal, or a violation of K.S.A. 2013 Supp. 21-6419, and amendments
13 thereto, or who entered into a diversion agreement in lieu of further
14 criminal proceedings for such violation, may petition the convicting court
15 for the expungement of such conviction or diversion agreement and related
16 arrest records if:

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

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

26 ~~(c)~~ (d) No person may petition for expungement until five or more
27 years have elapsed since the person satisfied the sentence imposed or the
28 terms of a diversion agreement or was discharged from probation, parole,
29 conditional release or a suspended sentence, if such person was convicted
30 of the violation of a city ordinance which would also constitute:

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

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

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

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

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

42 (6) failing to stop at the scene of an accident and perform the duties
43 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and

1 amendments thereto;

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

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

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

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

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

18 (A) Defendant's full name;

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

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

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

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

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

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

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

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

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

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

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

43 ~~(h)~~ (i) When the court has ordered an arrest record, conviction or

1 diversion expunged, the order of expungement shall state the information
2 required to be contained in the petition. The clerk of the court shall send a
3 certified copy of the order of expungement to the Kansas bureau of
4 investigation which shall notify the federal bureau of investigation, the
5 secretary of corrections and any other criminal justice agency which may
6 have a record of the arrest, conviction or diversion. After the order of
7 expungement is entered, the petitioner shall be treated as not having been
8 arrested, convicted or diverted of the crime, except that:

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

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

14 (A) In any application for employment as a detective with a private
15 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
16 as security personnel with a private patrol operator, as defined by K.S.A.
17 75-7b01, and amendments thereto; or with an institution, as defined in
18 K.S.A. 76-12a01, and amendments thereto, of the department for children
19 and families;

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

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

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

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

37 (F) upon application for a commercial driver's license under K.S.A.
38 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

33 (1) The person whose record was expunged;

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

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

40 (4) the secretary of the department for children and families, or a
41 designee of the secretary, for the purpose of obtaining information relating
42 to employment in an institution, as defined in K.S.A. 76-12a01, and
43 amendments thereto, of the department for children and families of any

1 person whose record has been expunged;

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

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

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

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

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

26 (10) the Kansas racing and gaming commission, or a designee of the
27 commission, and the request is accompanied by a statement that the
28 request is being made to aid in determining qualifications of the following
29 under the Kansas expanded lottery act: (A) Lottery gaming facility
30 managers and prospective managers, racetrack gaming facility managers
31 and prospective managers, licensees and certificate holders; and (B) their
32 officers, directors, employees, owners, agents and contractors;

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

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

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

5 (14) the Kansas sentencing commission;

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

10 (16) a law enforcement agency and the request is accompanied by a
11 statement that the request is being made to aid in determining eligibility
12 for employment as a law enforcement officer as defined by K.S.A. 22-
13 2202, and amendments thereto.

14 Sec. 9. K.S.A. 2013 Supp. 12-4516a is hereby amended to read as
15 follows: 12-4516a.(a) Any person who has been arrested on a violation of
16 a city ordinance of this state may petition the court for the expungement of
17 such arrest record.

18 (b) When a petition for expungement is filed, the court shall set a date
19 for hearing on such petition and shall cause notice of such hearing to be
20 given to the prosecuting attorney and the arresting law enforcement
21 agency. When a petition for expungement is filed, the official court file
22 shall be separated from the other records of the court, and shall be
23 disclosed only to a judge of the court and members of the staff of the court
24 designated by a judge of the district court, the prosecuting attorney, the
25 arresting law enforcement agency, or any other person when authorized by
26 a court order, subject to any conditions imposed by the order. The petition
27 shall state:

28 (1) The petitioner's full name;

29 (2) the full name of the petitioner at the time of arrest, if different
30 than the petitioner's current name;

31 (3) the petitioner's sex, race and date of birth;

32 (4) the crime for which the petitioner was arrested;

33 (5) the date of the petitioner's arrest; and

34 (6) the identity of the arresting law enforcement agency.

35 A municipal court may prescribe a fee to be charged as costs for a
36 person petitioning for an order of expungement pursuant to this section,
37 except that no fee shall be charged to a person who was arrested as a result
38 of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal,
39 or K.S.A. 2013 Supp. 21-6107, and amendments thereto. Any person who
40 may have relevant information about the petitioner may testify at the
41 hearing. The court may inquire into the background of the petitioner.

42 (c) At the hearing on a petition for expungement, the court shall order
43 the arrest record and subsequent court proceedings, if any, expunged upon

1 finding:

2 (1) The arrest occurred because of mistaken identity;

3 (2) a court has found that there was no probable cause for the arrest;

4 (3) the petitioner was found not guilty in court proceedings;

5 (4) *the arrest was for a violation of any ordinance that is prohibited*
6 *by either subsection (a) or (b) of K.S.A. 2013 Supp. 12-16,134, and*
7 *amendments thereto, and which was adopted prior to July 1, 2014; or*

8 ~~(4)~~ (5) the expungement would be in the best interests of justice and:

9 (A) Charges have been dismissed; or (B) no charges have been or are
10 likely to be filed.

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

20 (e) If the ground for expungement is as provided in subsection ~~(e)~~~~(4)~~
21 *(c)**(5)*, the court shall determine whether, in the interest of public welfare,
22 the records should be available for any of the following purposes:

23 (1) In any application for employment as a detective with a private
24 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;
25 as security personnel with a private patrol operator, as defined by K.S.A.
26 75-7b01, and amendments thereto; or with an institution, as defined in
27 K.S.A. 76-12a01, and amendments thereto, of the department of social and
28 rehabilitation services;

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

31 (3) to aid in determining the petitioner's qualifications for
32 employment with the Kansas lottery or for work in sensitive areas within
33 the Kansas lottery as deemed appropriate by the executive director of the
34 Kansas lottery;

35 (4) to aid in determining the petitioner's qualifications for executive
36 director of the Kansas racing commission, for employment with the
37 commission or for work in sensitive areas in parimutuel racing as deemed
38 appropriate by the executive director of the commission, or to aid in
39 determining qualifications for licensure or renewal of licensure by the
40 commission;

41 (5) in any application for a commercial driver's license under K.S.A.
42 8-2,125 through 8-2,142, and amendments thereto;

43 (6) to aid in determining the petitioner's qualifications to be an

1 employee of the state gaming agency;

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

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

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

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

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

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

20 (h) Whenever a petitioner's arrest records have been expunged as
21 provided in this section, the custodian of the records of arrest,
22 incarceration due to arrest or court proceedings related to the arrest, shall
23 not disclose the arrest or any information related to the arrest, except as
24 directed by the order of expungement or when requested by the person
25 whose arrest record was expunged.

26 Sec. 10. K.S.A. 2013 Supp. 21-6301 is hereby amended to read as
27 follows: 21-6301. (a) Criminal use of weapons is knowingly:

28 (1) Selling, manufacturing, purchasing or possessing any bludgeon,
29 sand club, metal knuckles or throwing star;

30 (2) possessing with intent to use the same unlawfully against another,
31 *a dagger, dirk, a billy, blackjack, slungshot, dangerous knife, straight-*
32 *edged razor, stiletto* or any other dangerous or deadly weapon or
33 instrument of like character;

34 (3) setting a spring gun;

35 (4) possessing any device or attachment of any kind designed, used or
36 intended for use in suppressing the report of any firearm;

37 (5) selling, manufacturing, purchasing or possessing a shotgun with a
38 barrel less than 18 inches in length, or any firearm designed to discharge or
39 capable of discharging automatically more than once by a single function
40 of the trigger, whether the person knows or has reason to know the length
41 of the barrel or that the firearm is designed or capable of discharging
42 automatically;

43 (6) possessing, manufacturing, causing to be manufactured, selling,

1 offering for sale, lending, purchasing or giving away any cartridge which
 2 can be fired by a handgun and which has a plastic-coated bullet that has a
 3 core of less than 60% lead by weight, whether the person knows or has
 4 reason to know that the plastic-coated bullet has a core of less than 60%
 5 lead by weight;

6 (7) selling, giving or otherwise transferring any firearm with a barrel
 7 less than 12 inches long to any person under 18 years of age whether the
 8 person knows or has reason to know the length of the barrel;

9 (8) selling, giving or otherwise transferring any firearms to any
 10 person who is both addicted to and an unlawful user of a controlled
 11 substance;

12 (9) selling, giving or otherwise transferring any firearm to any person
 13 who is or has been a mentally ill person subject to involuntary
 14 commitment for care and treatment, as defined in K.S.A. 59-2946, and
 15 amendments thereto, or a person with an alcohol or substance abuse
 16 problem subject to involuntary commitment for care and treatment as
 17 defined in K.S.A. 59-29b46, and amendments thereto;

18 (10) ~~possession of~~ *possessing* any firearm by a person who is both
 19 addicted to and an unlawful user of a controlled substance;

20 (11) ~~possession of~~ *possessing* any firearm by any person, other than a
 21 law enforcement officer, in or on any school property or grounds upon
 22 which is located a building or structure used by a unified school district or
 23 an accredited nonpublic school for student instruction or attendance or
 24 extracurricular activities of pupils enrolled in kindergarten or any of the
 25 grades ~~+~~ *one* through 12 or at any regularly scheduled school sponsored
 26 activity or event whether the person knows or has reason to know that such
 27 person was in or on any such property or grounds;

28 (12) ~~refusal~~ *refusing* to surrender or immediately remove from school
 29 property or grounds or at any regularly scheduled school sponsored
 30 activity or event any firearm in the possession of any person, other than a
 31 law enforcement officer, when so requested or directed by any duly
 32 authorized school employee or any law enforcement officer;

33 (13) ~~possession of~~ *possessing* any firearm by a person who is or has
 34 been a mentally ill person subject to involuntary commitment for care and
 35 treatment, as defined in K.S.A. 59-2946, and amendments thereto, or
 36 persons with an alcohol or substance abuse problem subject to involuntary
 37 commitment for care and treatment as defined in K.S.A. 59-29b46, and
 38 amendments thereto; or

39 (14) possessing a firearm with a barrel less than 12 inches long by
 40 any person less than 18 years of age ~~whether the person knows or has~~
 41 ~~reason to know the length of the barrel.~~

42 (b) Criminal use of weapons as defined in:

43 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9) or (a)(12) is a

1 class A nonperson misdemeanor;

2 (2) subsection (a)(4), (a)(5) or (a)(6) is a severity level 9, nonperson
3 felony;

4 (3) subsection (a)(10) or (a)(11) is a class B nonperson select
5 misdemeanor;

6 (4) subsection (a)(13) is a severity level 8, nonperson felony; and

7 (5) subsection (a)(14) is a:

8 (A) Class A nonperson misdemeanor except as provided in subsection
9 (b)(5)(B);

10 (B) severity level 8, nonperson felony upon a second or subsequent
11 conviction.

12 (c) Subsections (a)(1), (a)(2) and (a)(5) shall not apply to:

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

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

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

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

26 (d) Subsections (a)(4) and (a)(5) shall not apply to any person who
27 sells, purchases, possesses or carries a firearm, device or attachment which
28 has been rendered unserviceable by steel weld in the chamber and
29 marriage weld of the barrel to the receiver and which has been registered
30 in the national firearms registration and transfer record in compliance with
31 26 U.S.C. § 5841 et seq. in the name of such person and, if such person
32 transfers such firearm, device or attachment to another person, has been so
33 registered in the transferee's name by the transferor.

34 (e) Subsection (a)(6) shall not apply to a governmental laboratory or
35 solid plastic bullets.

36 (f) Subsection (a)(4) shall not apply to a law enforcement officer who
37 is:

38 (1) Assigned by the head of such officer's law enforcement agency to
39 a tactical unit which receives specialized, regular training;

40 (2) designated by the head of such officer's law enforcement agency
41 to possess devices described in subsection (a)(4); and

42 (3) in possession of commercially manufactured devices which are:

43 (A) Owned by the law enforcement agency;

1 (B) in such officer's possession only during specific operations; and
2 (C) approved by the bureau of alcohol, tobacco, firearms and
3 explosives of the United States department of justice.

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

11 (h) Subsections (a)(4) and (a)(5) shall not apply to or affect any
12 person or entity in compliance with the national firearms act, 26 U.S.C. §
13 5801 et seq.

14 (i) Subsection (a)(11) shall not apply to:

15 (1) Possession of any firearm in connection with a firearms safety
16 course of instruction or firearms education course approved and authorized
17 by the school;

18 (2) ~~any~~ possession of any firearm specifically authorized in writing
19 by the superintendent of any unified school district or the chief
20 administrator of any accredited nonpublic school;

21 (3) possession of a firearm secured in a motor vehicle by a parent,
22 guardian, custodian or someone authorized to act in such person's behalf
23 who is delivering or collecting a student;

24 (4) possession of a firearm secured in a motor vehicle by a registered
25 voter who is on the school grounds, which contain a polling place for the
26 purpose of voting during polling hours on an election day; or

27 (5) possession of a handgun by an individual who is licensed by the
28 attorney general to carry a concealed handgun under K.S.A. 2013 Supp.
29 75-7c01 et seq., and amendments thereto.

30 (j) Subsections (a)(9) and (a)(13) shall not apply to a person who has
31 received a certificate of restoration pursuant to K.S.A. 2013 Supp. 75-
32 7c26, and amendments thereto.

33 (k) Subsection (a)(14) shall not apply if such person, less than 18
34 years of age, was:

35 (1) In attendance at a hunter's safety course or a firearms safety
36 course;

37 (2) engaging in practice in the use of such firearm or target shooting
38 at an established range authorized by the governing body of the
39 jurisdiction in which such range is located, *or at another private range*
40 *with permission of such person's parent or legal guardian;*

41 (3) engaging in an organized competition involving the use of such
42 firearm, or participating in or practicing for a performance by an
43 organization exempt from federal income tax pursuant to section 501(c)(3)

1 of the internal revenue code of 1986 which uses firearms as a part of such
2 performance;

3 (4) hunting or trapping pursuant to a valid license issued to such
4 person pursuant to article 9 of chapter 32 of the Kansas Statutes
5 Annotated, and amendments thereto;

6 (5) traveling with any such firearm in such person's possession being
7 unloaded to or from any activity described in subsections (k)(1) through
8 (k)(4), only if such firearm is secured, unloaded and outside the immediate
9 access of such person;

10 (6) on real property under the control of such person's parent, legal
11 guardian or grandparent and who has the permission of such parent, legal
12 guardian or grandparent to possess such firearm; or

13 (7) at such person's residence and who, with the permission of such
14 person's parent or legal guardian, possesses such firearm for the purpose of
15 exercising the rights contained in K.S.A. 2013 Supp. 21-5222, 21-5223 or
16 21-5225, and amendments thereto.

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

22 Sec. 11. K.S.A. 2013 Supp. 21-6304 is hereby amended to read as
23 follows: 21-6304. (a) Criminal possession of a ~~firearm~~ *weapon* by a
24 convicted felon is possession of any ~~firearm~~ *weapon* by a person who:

25 (1) Has been convicted of a person felony or a violation of article 57
26 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,
27 *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer*; or
28 any violation of any provision of the uniform controlled substances act
29 prior to July 1, 2009, or a crime under a law of another jurisdiction which
30 is substantially the same as such felony or violation, or was adjudicated a
31 juvenile offender because of the commission of an act which if done by an
32 adult would constitute the commission of a person felony or a violation of
33 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
34 thereto, *K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their*
35 *transfer*; or any violation of any provision of the uniform controlled
36 substances act prior to July 1, 2009, and was found to have been in
37 possession of a firearm at the time of the commission of the crime;

38 (2) within the preceding five years has been convicted of a felony,
39 other than those specified in subsection (a)(3)(A), under the laws of
40 Kansas or a crime under a law of another jurisdiction which is
41 substantially the same as such felony, has been released from
42 imprisonment for a felony or was adjudicated as a juvenile offender
43 because of the commission of an act which if done by an adult would

1 constitute the commission of a felony, and was not found to have been in
2 possession of a firearm at the time of the commission of the crime; or

3 (3) within the preceding 10 years, has been convicted of a:

4 (A) Felony under K.S.A. 2013 Supp. 21-5402, 21-5403, 21-5404, 21-
5 5405, 21-5408, subsection (b) or (d) of 21-5412, subsection (b) or (d) of
6 21-5413, subsection (a) of 21-5415, subsection (b) of 21-5420, 21-5503,
7 subsection (b) of 21-5504, subsection (b) of 21-5505, and subsection (b) of
8 21-5807, and amendments thereto; article 57 of chapter 21 of the Kansas
9 Statutes Annotated, and amendments thereto; K.S.A. 21-3401, 21-3402,
10 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-
11 3420, 21-3421, 21-3427, 21-3442, 21-3502, 21-3506, 21-3518, 21-3716,
12 65-4127a, 65-4127b, 65-4159 through 65-4165 or 65-7006, prior to their
13 repeal; an attempt, conspiracy or criminal solicitation as defined in K.S.A.
14 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2013 Supp.
15 21-5301, 21-5302 or 21-5303, and amendments thereto, of any such
16 felony; or a crime under a law of another jurisdiction which is
17 substantially the same as such felony, has been released from
18 imprisonment for such felony, or was adjudicated as a juvenile offender
19 because of the commission of an act which if done by an adult would
20 constitute the commission of such felony, was not found to have been in
21 possession of a firearm at the time of the commission of the crime, and has
22 not had the conviction of such crime expunged or been pardoned for such
23 crime. The provisions of subsection (j)(2) of K.S.A. 2013 Supp. 21-6614,
24 and amendments thereto, shall not apply to an individual who has had a
25 conviction under this paragraph expunged; or

26 (B) nonperson felony under the laws of Kansas or a crime under the
27 laws of another jurisdiction which is substantially the same as such
28 nonperson felony, has been released from imprisonment for such
29 nonperson felony or was adjudicated as a juvenile offender because of the
30 commission of an act which if done by an adult would constitute the
31 commission of a nonperson felony, and was found to have been in
32 possession of a firearm at the time of the commission of the crime.

33 (b) Criminal possession of a ~~firearm~~ *weapon* by a convicted felon is a
34 severity level 8, nonperson felony.

35 (c) *As used in this section:*

36 (1) "*Knife*" means a dagger, dirk, switchblade, stiletto, straight-edged
37 razor or any other dangerous or deadly cutting instrument of like
38 character; and

39 (2) "*weapon*" means a firearm or a knife.

40 Sec. 12. K.S.A. 2013 Supp. 22-2512 is hereby amended to read as
41 follows: 22-2512. (†) (a) Property seized under a search warrant or validly
42 seized without a warrant shall be safely kept by the officer seizing the
43 same unless otherwise directed by the magistrate, and shall be so kept as

1 long as necessary for the purpose of being produced as evidence on any
2 trial. The property seized may not be taken from the officer having it in
3 custody so long as it is or may be required as evidence in any trial. The
4 officer seizing the property shall give a receipt to the person detained or
5 arrested particularly describing each article of property being held and
6 shall file a copy of such receipt with the magistrate before whom the
7 person detained or arrested is taken. Where seized property is no longer
8 required as evidence in the prosecution of any indictment or information,
9 the court which has jurisdiction of such property may transfer the same to
10 the jurisdiction of any other court, including courts of another state or
11 federal courts, where it is shown to the satisfaction of the court that such
12 property is required as evidence in any prosecution in such other court.

13 ~~(2)~~ ~~(a)~~ ~~(b)~~ ~~(1)~~ Notwithstanding the provisions of subsection ~~(1)~~ ~~(a)~~
14 and with the approval of the affected court, any law enforcement officer
15 who seizes hazardous materials as evidence related to a criminal
16 investigation may collect representative samples of such hazardous
17 materials, and lawfully destroy or dispose of, or direct another person to
18 lawfully destroy or dispose of the remaining quantity of such hazardous
19 materials.

20 ~~(b)~~ ~~(2)~~ In any prosecution, representative samples of hazardous
21 materials accompanied by photographs, videotapes, laboratory analysis
22 reports or other means used to verify and document the identity and
23 quantity of the material shall be deemed competent evidence of such
24 hazardous materials and shall be admissible in any proceeding, hearing or
25 trial as if such materials had been introduced as evidence.

26 ~~(e)~~ ~~(3)~~ As used in this section, the term "hazardous materials" means
27 any substance which is capable of posing an unreasonable risk to health,
28 safety and property. It shall include any substance which by its nature is
29 explosive, flammable, corrosive, poisonous, radioactive, a biological
30 hazard or a material which may cause spontaneous combustion. It shall
31 include, but not be limited to, substances listed in the table of hazardous
32 materials contained in the code of federal regulations title 49 and national
33 fire protection association's fire protection guide on hazardous materials.

34 ~~(d)~~ ~~(4)~~ The provisions of this subsection shall not apply to
35 ammunition and components thereof.

36 ~~(3)~~ ~~(c)~~ When property seized is no longer required as evidence, it
37 shall be disposed of as follows:

38 ~~(a)~~ ~~(1)~~ Property stolen, embezzled, obtained by false pretenses, or
39 otherwise obtained unlawfully from the rightful owner thereof shall be
40 restored to the owner;

41 ~~(b)~~ ~~(2)~~ money shall be restored to the owner unless it was contained
42 in a slot machine or otherwise used in unlawful gambling or lotteries, in
43 which case it shall be forfeited, and shall be paid to the state treasurer

1 pursuant to K.S.A. 20-2801, and amendments thereto;

2 (e) (3) property which is unclaimed or the ownership of which is
3 unknown shall be sold at public auction to be held by the sheriff and the
4 proceeds, less the cost of sale and any storage charges incurred in
5 preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-
6 2801, and amendments thereto;

7 (d) (4) articles of contraband shall be destroyed, except that any such
8 articles the disposition of which is otherwise provided by law shall be
9 dealt with as so provided and any such articles the disposition of which is
10 not otherwise provided by law and which may be capable of innocent use
11 may in the discretion of the court be sold and the proceeds disposed of as
12 provided in subsection ~~(2)(b)~~ (c)(3);

13 (e) (5) ~~firearms, ammunition, explosives, bombs and like devices,~~
14 which have been used in the commission of crime, may be returned to the
15 rightful owner, or in the discretion of the court having jurisdiction of the
16 property, destroyed or forfeited to the Kansas bureau of investigation ~~as~~
17 ~~provided in K.S.A. 2013 Supp. 21-6307, and amendments thereto;~~

18 (6) (A) *except as provided in subsections (c)(6)(B) and (d), any*
19 *weapon or ammunition, in the discretion of the court having jurisdiction of*
20 *the property, shall be:*

21 (i) *Forfeited to the law enforcement agency seizing the weapon for*
22 *use within such agency, for sale to a properly licensed federal firearms*
23 *dealer, for trading to a properly licensed federal firearms dealer for other*
24 *new or used firearms or accessories for use within such agency or for*
25 *trading to another law enforcement agency for that agency's use;*

26 (ii) *forfeited to the Kansas bureau of investigation for law*
27 *enforcement, testing or comparison by the Kansas bureau of investigation*
28 *forensic laboratory;*

29 (iii) *forfeited to a county regional forensic science center, or other*
30 *county forensic laboratory for testing, comparison or other forensic*
31 *science purposes; or*

32 (iv) *forfeited to the Kansas department of wildlife, parks and tourism*
33 *for use pursuant to the conditions set forth in K.S.A. 32-1047, and*
34 *amendments thereto.*

35 (B) *Except as provided in subsection (d), any weapon which cannot*
36 *be forfeited pursuant to subsection (c)(6)(A) due to the condition of the*
37 *weapon, and any weapon which was used in the commission of a felony as*
38 *described in K.S.A. 2013 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or*
39 *21-5405, and amendments thereto, shall be destroyed.*

40 (f) (7) controlled substances forfeited for violations of K.S.A. 2013
41 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt
42 with as provided under K.S.A. 60-4101 through 60-4126, and amendments
43 thereto;

1 ~~(g)~~ (8) unless otherwise provided by law, all other property shall be
2 disposed of in such manner as the court in its sound discretion shall direct.

3 (d) *If a weapon is seized from an individual and the individual is not*
4 *convicted of or adjudicated as a juvenile offender for the violation for*
5 *which the weapon was seized, then within 30 days after the declination or*
6 *conclusion of prosecution of the case against the individual, including any*
7 *period of appeal, the law enforcement agency that seized the weapon shall*
8 *verify that the weapon is not stolen, and upon such verification shall notify*
9 *the person from whom it was seized that the weapon may be retrieved.*
10 *Such notification shall include the location where such weapon may be*
11 *retrieved.*

12 (e) *If weapons are sold as authorized by subsection (c)(6)(A), the*
13 *proceeds of the sale shall be credited to the asset seizure and forfeiture*
14 *fund of the seizing agency.*

15 (f) *For purposes of this section, the term "weapon" means a weapon*
16 *described in K.S.A. 2013 Supp. 21-6301, and amendments thereto.*

17 Sec. 13. K.S.A. 2013 Supp. 32-1047 is hereby amended to read as
18 follows: 32-1047. The department is hereby empowered and directed to
19 seize and possess any wildlife which is taken, possessed, sold or
20 transported unlawfully, and any steel trap, snare or other device or
21 equipment used in taking or transporting wildlife unlawfully or during
22 closed season. The department is hereby authorized and directed to:

23 (a) Sell the seized item, including wildlife parts with a dollar value,
24 and remit the proceeds to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. If the seized item
26 is a firearm that has been forfeited pursuant to K.S.A. ~~2013 Supp. 21-6307~~
27 ~~22-2512~~, and amendments thereto, then it may be sold unless: (1) The
28 firearm is significantly altered in any manner; or (2) the sale and public
29 possession of such firearm is otherwise prohibited by law. Upon receipt of
30 each such remittance, the state treasurer shall deposit the entire amount in
31 the state treasury to the credit of the wildlife fee fund; or

32 (b) retain the seized item for educational, scientific or department
33 operational purposes.

34 Sec. 14. K.S.A. 2013 Supp. 75-7c04 is hereby amended to read as
35 follows: 75-7c04. (a) The attorney general shall not issue a license
36 pursuant to this act if the applicant:

37 (1) Is not a resident of the county where application for licensure is
38 made or is not a resident of the state;

39 (2) is prohibited from shipping, transporting, possessing or receiving
40 a firearm or ammunition under 18 U.S.C. § 922(g) or (n), and amendments
41 thereto, or K.S.A. 21-4204, prior to its repeal, or subsections (a)(10)
42 through (a)(13) of K.S.A. 2013 Supp. 21-6301 or subsections (a)(1)
43 through (a)(3) of K.S.A. 2013 Supp. 21-6304, and amendments thereto; ~~or~~

1 (3) *has been convicted of or was adjudicated a juvenile offender*
2 *because of the commission of an act which if done by an adult would*
3 *constitute the commission of any of the offenses described in subsections*
4 *(a)(1) and (a)(3)(A) of K.S.A. 2013 Supp. 21-6304, and amendments*
5 *thereto; or*

6 (4) is less than 21 years of age.

7 (b) (1) The attorney general shall adopt rules and regulations
8 establishing procedures and standards as authorized by this act for an
9 eight-hour handgun safety and training course required by this section.
10 Such standards shall include: (A) A requirement that trainees receive
11 training in the safe storage of handguns, actual firing of handguns and
12 instruction in the laws of this state governing the carrying of concealed
13 handguns and the use of deadly force; (B) general guidelines for courses
14 which are compatible with the industry standard for basic handgun training
15 for civilians; (C) qualifications of instructors; and (D) a requirement that
16 the course be: (i) A handgun course certified or sponsored by the attorney
17 general; or (ii) a handgun course certified or sponsored by the national
18 rifle association or by a law enforcement agency, college, private or public
19 institution or organization or handgun training school, if the attorney
20 general determines that such course meets or exceeds the standards
21 required by rules and regulations adopted by the attorney general and is
22 taught by instructors certified by the attorney general or by the national
23 rifle association, if the attorney general determines that the requirements
24 for certification of instructors by such association meet or exceed the
25 standards required by rules and regulations adopted by the attorney
26 general. Any person wanting to be certified by the attorney general as an
27 instructor shall submit to the attorney general an application in the form
28 required by the attorney general and a fee not to exceed \$150.

29 (2) The cost of the handgun safety and training course required by
30 this section shall be paid by the applicant. The following shall constitute
31 satisfactory evidence of satisfactory completion of an approved handgun
32 safety and training course:

33 (A) Evidence of completion of the course, in the form provided by
34 rules and regulations adopted by the attorney general;

35 (B) an affidavit from the instructor, school, club, organization or
36 group that conducted or taught such course attesting to the completion of
37 the course by the applicant; or

38 (C) a determination by the attorney general pursuant to subsection (d)
39 of K.S.A. 2013 Supp. 75-7c03, and amendments thereto.

40 Sec. 15. K.S.A. 2013 Supp. 75-7c20 is hereby amended to read as
41 follows: 75-7c20. (a) The carrying of a concealed handgun as authorized
42 by the personal and family protection act shall not be prohibited in any
43 state or municipal building unless such building has adequate security

1 measures to ensure that no weapons are permitted to be carried into such
2 building and the building is conspicuously posted in accordance with
3 K.S.A. 2013 Supp. 75-7c10, and amendments thereto.

4 (b) Any state or municipal building which contains both public access
5 entrances and restricted access entrances shall provide adequate security
6 measures at the public access entrances in order to prohibit the carrying of
7 any weapons into such building.

8 (c) No state agency or municipality shall prohibit an employee who is
9 licensed to carry a concealed handgun under the provisions of the personal
10 and family protection act from carrying such concealed handgun at the
11 employee's work place unless the building has adequate security measures
12 and the building is conspicuously posted in accordance with K.S.A. 2013
13 Supp. 75-7c10, and amendments thereto.

14 (d) It shall not be a violation of the personal and family protection act
15 for a person to carry a concealed handgun into a state or municipal
16 building so long as that person is licensed to carry a concealed handgun
17 under the provisions of the personal and family protection act and has
18 authority to enter through a restricted access entrance into such building
19 which provides adequate security measures and the building is
20 conspicuously posted in accordance with K.S.A. 2013 Supp. 75-7c10, and
21 amendments thereto.

22 (e) A state agency or municipality which provides adequate security
23 measures in a state or municipal building and which conspicuously posts
24 signage in accordance with K.S.A. 2013 Supp. 75-7c10, and amendments
25 thereto, prohibiting the carrying of a concealed handgun in such building,
26 as authorized by the personal and family protection act, such state agency
27 or municipality shall not be liable for any wrongful act or omission
28 relating to actions of persons licensed to carry a concealed handgun
29 concerning acts or omissions regarding such handguns.

30 (f) A state agency or municipality which does not provide adequate
31 security measures in a state or municipal building and which allows the
32 carrying of a concealed handgun as authorized by the personal and family
33 protection act shall not be liable for any wrongful act or omission relating
34 to actions of persons licensed to carry a concealed handgun concerning
35 acts or omissions regarding such handguns.

36 (g) Nothing in this act shall limit the ability of a corrections facility, a
37 jail facility or a law enforcement agency to prohibit the carrying of a
38 handgun or other firearm concealed or unconcealed by any person into any
39 secure area of a building located on such premises, except those areas of
40 such building outside of a secure area and readily accessible to the public
41 shall be subject to the provisions of subsection (b).

42 (h) Nothing in this section shall limit the ability of the chief judge of
43 each judicial district to prohibit the carrying of a concealed handgun by

1 any person into courtrooms or ancillary courtrooms within the district
2 provided that other means of security are employed such as armed law
3 enforcement or armed security officers.

4 (i) The governing body or the chief administrative officer, if no
5 governing body exists, of a state or municipal building, may exempt the
6 building from this section until January 1, 2014, by notifying the Kansas
7 attorney general and the law enforcement agency of the local jurisdiction
8 by letter of such exemption. Thereafter, such governing body or chief
9 administrative officer may exempt a state or municipal building for a
10 period of only four years by adopting a resolution, or drafting a letter,
11 listing the legal description of such building, listing the reasons for such
12 exemption, and including the following statement: "A security plan has
13 been developed for the building being exempted which supplies adequate
14 security to the occupants of the building and merits the prohibition of the
15 carrying of a concealed handgun as authorized by the personal and family
16 protection act." A copy of the security plan for the building shall be
17 maintained on file and shall be made available, upon request, to the
18 Kansas attorney general and the law enforcement agency of local
19 jurisdiction. Notice of this exemption, together with the resolution adopted
20 or the letter drafted, shall be sent to the Kansas attorney general and to the
21 law enforcement agency of local jurisdiction. The security plan shall not
22 be subject to disclosure under the Kansas open records act.

23 (j) The governing body or the chief administrative officer, if no
24 governing body exists, of any of the following institutions may exempt
25 any building of such institution from this section for a period of four years
26 only by stating the reasons for such exemption and sending notice of such
27 exemption to the Kansas attorney general:

28 (1) A state or municipal-owned medical care facility, as defined in
29 K.S.A. 65-425, and amendments thereto;

30 (2) a state or municipal-owned adult care home, as defined in K.S.A.
31 39-923, and amendments thereto;

32 (3) a community mental health center organized pursuant to K.S.A.
33 19-4001 et seq., and amendments thereto;

34 (4) an indigent health care clinic, as defined by K.S.A. 2013 Supp.
35 65-7402, and amendments thereto; or

36 (5) a postsecondary educational institution, as defined in K.S.A. 74-
37 3201b, and amendments thereto, including any buildings located on the
38 grounds of such institution and any buildings leased by such institution.

39 (k) The provisions of this section shall not apply to any building
40 located on the grounds of the Kansas state school for the deaf or the
41 Kansas state school for the blind.

42 (l) For purposes of this section:

43 (1) "Adequate security measures" means the use of electronic

1 equipment and personnel at public entrances to detect and restrict the
2 carrying of any weapons into the state or municipal building, including,
3 but not limited to, metal detectors, metal detector wands or any other
4 equipment used for similar purposes to ensure that weapons are not
5 permitted to be carried into such building by members of the public.
6 Adequate security measures for storing and securing lawfully carried
7 weapons, including, but not limited to, the use of gun lockers or other
8 similar storage options may be provided at public entrances.

9 (2) The terms "municipality" and "municipal" are interchangeable
10 and have the same meaning as the term "municipality" is defined in K.S.A.
11 75-6102, and amendments thereto, but does not include school districts.

12 (3) "Restricted access entrance" means an entrance that is restricted to
13 the public and requires a key, keycard, code, or similar device to allow
14 entry to authorized personnel.

15 (4) "State" means the same as the term is defined in K.S.A. 75-6102,
16 and amendments thereto.

17 (5) (A) "State or municipal building" means a building owned or
18 leased by such public entity. It does not include a building owned by the
19 state or a municipality which is leased by a private entity whether for
20 profit or not-for-profit or a building held in title by the state or a
21 municipality solely for reasons of revenue bond financing.

22 (B) On and after July 1, 2014, provided that the provisions of K.S.A.
23 2013 Supp. 75-7c21, and amendments thereto, are in full force and effect,
24 the term "state and municipal building" shall not include the state capitol.

25 (6) "Weapon" means a weapon described in K.S.A. 2013 Supp. 21-
26 6301, and amendments thereto, *except the term "weapon" shall not include*
27 *any cutting instrument that has a sharpened or pointed blade.*

28 (m) This section shall be a part of and supplemental to the personal
29 and family protection act.

30 Sec. 16. K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-
31 4516a, 21-6301, 21-6304, 21-6307, 22-2512, 32-1047, 75-7c04, 75-7c12
32 and 75-7c20 are hereby repealed.

33 Sec. 17. This act shall take effect and be in force from and after its
34 publication in the statute book.