

## SENATE BILL No. 22

By Committee on Judiciary

1-14

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1 AN ACT concerning courts; relating to municipal court; amending K.S.A.  
2 2014 Supp. 12-4516, 21-6614, 22-2410 and 22-3609 and repealing the  
3 existing sections; also repealing K.S.A. 2014 Supp. 12-4516b and 21-  
4 6614e.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2014 Supp. 12-4516 is hereby amended to read as  
8 follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d), (e)  
9 and (f), any person who has been convicted of a violation of a city  
10 ordinance of this state may petition the convicting court for the  
11 expungement of such conviction and related arrest records if three or more  
12 years have elapsed since the person:

13 (A) Satisfied the sentence imposed; or

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

15 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any  
16 person who has fulfilled the terms of a diversion agreement based on a  
17 violation of a city ordinance of this state may petition the court for the  
18 expungement of such diversion agreement and related arrest records if  
19 three or more years have elapsed since the terms of the diversion  
20 agreement were fulfilled.

21 (b) Any person convicted of a violation of any ordinance that is  
22 prohibited by either ~~subsection (a) or (b)~~ of K.S.A. 2014 Supp. 12-  
23 16,134(a) or (b), and amendments thereto, and which was adopted prior to  
24 July 1, 2014, or who entered into a diversion agreement in lieu of further  
25 criminal proceedings for such violation, may petition the convicting court  
26 for the expungement of such conviction or diversion agreement and related  
27 arrest records.

28 (c) Any person convicted of the violation of a city ordinance which  
29 would also constitute a violation of K.S.A. 21-3512, prior to its repeal, or a  
30 violation of K.S.A. 2014 Supp. 21-6419, and amendments thereto, or who  
31 entered into a diversion agreement in lieu of further criminal proceedings  
32 for such violation, may petition the convicting court for the expungement  
33 of such conviction or diversion agreement and related arrest records if:

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

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

7 (d) No person may petition for expungement until five or more years  
8 have elapsed since the person satisfied the sentence imposed or the terms  
9 of a diversion agreement or was discharged from probation, parole,  
10 conditional release or a suspended sentence, if such person was convicted  
11 of the violation of a city ordinance which would also constitute:

12 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its  
13 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

42 (A) Defendant's full name;

43 (B) full name of the defendant at the time of arrest, conviction or

- 1 diversion, if different than the defendant's current name;
- 2 (C) defendant's sex, race and date of birth;
- 3 (D) crime for which the defendant was arrested, convicted or  
4 diverted;
- 5 (E) date of the defendant's arrest, conviction or diversion; and
- 6 (F) identity of the convicting court, arresting law enforcement agency  
7 or diverting authority.
- 8 (2) A municipal court may prescribe a fee to be charged as costs for a  
9 person petitioning for an order of expungement pursuant to this section.
- 10 (3) Any person who may have relevant information about the  
11 petitioner may testify at the hearing. The court may inquire into the  
12 background of the petitioner and shall have access to any reports or  
13 records relating to the petitioner that are on file with the secretary of  
14 corrections or the prisoner review board.
- 15 (h) At the hearing on the petition, the court shall order the petitioner's  
16 arrest record, conviction or diversion expunged if the court finds that:
- 17 (1) The petitioner has not been convicted of a felony in the past two  
18 years and no proceeding involving any such crime is presently pending or  
19 being instituted against the petitioner;
- 20 (2) the circumstances and behavior of the petitioner warrant the  
21 expungement; and
- 22 (3) the expungement is consistent with the public welfare.
- 23 (i) When the court has ordered an arrest record, conviction or  
24 diversion expunged, the order of expungement shall state the information  
25 required to be contained in the petition. The clerk of the court shall send a  
26 certified copy of the order of expungement to the Kansas bureau of  
27 investigation which shall notify the federal bureau of investigation, the  
28 secretary of corrections and any other criminal justice agency which may  
29 have a record of the arrest, conviction or diversion. *If the case was*  
30 *appealed from municipal court, the clerk of the district court shall send a*  
31 *certified copy of the order of expungement to the municipal court. The*  
32 *municipal court shall order the case expunged once the certified copy of*  
33 *the order of expungement is received.* After the order of expungement is  
34 entered, the petitioner shall be treated as not having been arrested,  
35 convicted or diverted of the crime, except that:
- 36 (1) Upon conviction for any subsequent crime, the conviction that  
37 was expunged may be considered as a prior conviction in determining the  
38 sentence to be imposed;
- 39 (2) the petitioner shall disclose that the arrest, conviction or diversion  
40 occurred if asked about previous arrests, convictions or diversions:
- 41 (A) In any application for employment as a detective with a private  
42 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
43 as security personnel with a private patrol operator, as defined by K.S.A.

1 75-7b01, and amendments thereto; or with an institution, as defined in  
2 K.S.A. 76-12a01, and amendments thereto, of the ~~department for children~~  
3 ~~and families~~ *Kansas department for aging and disability services*;

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

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

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

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

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

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

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

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

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

33 (K) for applications received on and after July 1, 2006, to aid in  
34 determining the petitioner's qualifications for a license to carry a concealed  
35 weapon pursuant to the personal and family protection act, K.S.A. 2014  
36 Supp. 75-7c01 et seq., and amendments thereto;

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

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

43 (j) Whenever a person is convicted of an ordinance violation, pleads

1 guilty and pays a fine for such a violation, is placed on parole or probation  
2 or is granted a suspended sentence for such a violation, the person shall be  
3 informed of the ability to expunge the arrest records or conviction.  
4 Whenever a person enters into a diversion agreement, the person shall be  
5 informed of the ability to expunge the diversion.

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

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

16 (1) The person whose record was expunged;

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

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

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

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

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

35 (7) the supreme court, the clerk or disciplinary administrator thereof,  
36 the state board for admission of attorneys or the state board for discipline  
37 of attorneys, and the request is accompanied by a statement that the  
38 request is being made in conjunction with an application for admission, or  
39 for an order of reinstatement, to the practice of law in this state by the  
40 person whose record has been expunged;

41 (8) the Kansas lottery, and the request is accompanied by a statement  
42 that the request is being made to aid in determining qualifications for  
43 employment with the Kansas lottery or for work in sensitive areas within

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

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

10 (10) the Kansas racing and gaming commission, or a designee of the  
11 commission, and the request is accompanied by a statement that the  
12 request is being made to aid in determining qualifications of the following  
13 under the Kansas expanded lottery act: (A) Lottery gaming facility  
14 managers and prospective managers, racetrack gaming facility managers  
15 and prospective managers, licensees and certificate holders; and (B) their  
16 officers, directors, employees, owners, agents and contractors;

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

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

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

32 (14) the Kansas sentencing commission;

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

37 (16) a law enforcement agency and the request is accompanied by a  
38 statement that the request is being made to aid in determining eligibility  
39 for employment as a law enforcement officer as defined by K.S.A. 22-  
40 2202, and amendments thereto.

41 Sec. 2. K.S.A. 2014 Supp. 21-6614 is hereby amended to read as  
42 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d),  
43 (e) and (f), any person convicted in this state of a traffic infraction,

1 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or  
2 for crimes committed on or after July 1, 1993, nondrug crimes ranked in  
3 severity levels 6 through 10, or for crimes committed on or after July 1,  
4 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the  
5 drug grid, or for crimes committed on or after July 1, 2012, any felony  
6 ranked in severity level 5 of the drug grid may petition the convicting  
7 court for the expungement of such conviction or related arrest records if  
8 three or more years have elapsed since the person: (A) Satisfied the  
9 sentence imposed; or (B) was discharged from probation, a community  
10 correctional services program, parole, postrelease supervision, conditional  
11 release or a suspended sentence.

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

17 (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
18 3512, prior to its repeal, convicted of a violation of K.S.A. 2014 Supp. 21-  
19 6419, and amendments thereto, or who entered into a diversion agreement  
20 in lieu of further criminal proceedings for such violation, may petition the  
21 convicting court for the expungement of such conviction or diversion  
22 agreement and related arrest records if:

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

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

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

1 levels 1 through 4 of the drug grid, or:

2 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
3 repeal, or K.S.A. 2014 Supp. 21-5406, and amendments thereto, or as  
4 prohibited by any law of another state which is in substantial conformity  
5 with that statute;

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

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

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

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

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

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

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

27 (d) No person may petition for expungement until seven or more  
28 years have elapsed since the person satisfied the sentence imposed or the  
29 terms of a diversion agreement or was discharged from probation, a  
30 community correctional services program, parole, postrelease supervision,  
31 conditional release or a suspended sentence, if such person was convicted  
32 of a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and  
33 amendments thereto, including any diversion for such violation.

34 (e) There shall be no expungement of convictions for the following  
35 offenses or of convictions for an attempt to commit any of the following  
36 offenses:

37 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
38 2014 Supp. 21-5503, and amendments thereto;

39 (2) indecent liberties with a child or aggravated indecent liberties  
40 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
41 or K.S.A. 2014 Supp. 21-5506, and amendments thereto;

42 (3) criminal sodomy, as defined in ~~subsection (a)(2) or (a)(3) of~~  
43 K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or ~~subsection (a)(3) or~~



1 ~~(a)(4)~~ of K.S.A. 2014 Supp. 21-5504(a)(3) or (a)(4), and amendments  
2 thereto;

3 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
4 to its repeal, or K.S.A. 2014 Supp. 21-5504, and amendments thereto;

5 (5) indecent solicitation of a child or aggravated indecent solicitation  
6 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
7 or K.S.A. 2014 Supp. 21-5508, and amendments thereto;

8 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
9 to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;

10 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
11 repeal, or K.S.A. 2014 Supp. 21-5604, and amendments thereto;

12 (8) endangering a child or aggravated endangering a child, as defined  
13 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2014 Supp.  
14 21-5601, and amendments thereto;

15 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
16 or K.S.A. 2014 Supp. 21-5602, and amendments thereto;

17 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
18 or K.S.A. 2014 Supp. 21-5401, and amendments thereto;

19 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
20 its repeal, or K.S.A. 2014 Supp. 21-5402, and amendments thereto;

21 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior  
22 to its repeal, or K.S.A. 2014 Supp. 21-5403, and amendments thereto;

23 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to  
24 its repeal, or K.S.A. 2014 Supp. 21-5404, and amendments thereto;

25 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to  
26 its repeal, or K.S.A. 2014 Supp. 21-5405, and amendments thereto;

27 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,  
28 or K.S.A. 2014 Supp. 21-5505, and amendments thereto, when the victim  
29 was less than 18 years of age at the time the crime was committed;

30 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to  
31 its repeal, or K.S.A. 2014 Supp. 21-5505, and amendments thereto;

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

34 (18) any conviction for any offense in effect at any time prior to July  
35 1, 2011, that is comparable to any offense as provided in this subsection.

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

42 (g) (1) When a petition for expungement is filed, the court shall set a  
43 date for a hearing of such petition and shall cause notice of such hearing to

1 be given to the prosecutor and the arresting law enforcement agency. The  
2 petition shall state the:

3 (A) Defendant's full name;

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

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

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

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

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

12 (2) Except as otherwise provided by law, a petition for expungement  
13 shall be accompanied by a docket fee in the amount of ~~of \$100~~ \$176. On and  
14 after July 1, 2013, through July 1, 2015, the supreme court may impose a  
15 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
16 personnel. The charge established in this section shall be the only fee  
17 collected or moneys in the nature of a fee collected for the case. Such  
18 charge shall only be established by an act of the legislature and no other  
19 authority is established by law or otherwise to collect a fee.

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

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

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

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

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

34 (i) When the court has ordered an arrest record, conviction or  
35 diversion expunged, the order of expungement shall state the information  
36 required to be contained in the petition. The clerk of the court shall send a  
37 certified copy of the order of expungement to the Kansas bureau of  
38 investigation which shall notify the federal bureau of investigation, the  
39 secretary of corrections and any other criminal justice agency which may  
40 have a record of the arrest, conviction or diversion. *If the case was*  
41 *appealed from municipal court, the clerk of the district court shall send a*  
42 *certified copy of the order of expungement to the municipal court. The*  
43 *municipal court shall order the case expunged once the certified copy of*

1 *the order of expungement is received.* After the order of expungement is  
2 entered, the petitioner shall be treated as not having been arrested,  
3 convicted or diverted of the crime, except that:

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

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

9 (A) In any application for licensure as a private detective, private  
10 detective agency, certification as a firearms trainer pursuant to K.S.A.  
11 2014 Supp. 75-7b21, and amendments thereto, or employment as a  
12 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
13 and amendments thereto; as security personnel with a private patrol  
14 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with  
15 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
16 the Kansas department for aging and disability services;

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

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

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

34 (F) upon application for a commercial driver's license under K.S.A. 8-  
35 2,125 through 8-2,142, and amendments thereto;

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

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

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

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

3 (K) for applications received on and after July 1, 2006, to aid in  
4 determining the petitioner's qualifications for a license to carry a concealed  
5 weapon pursuant to the personal and family protection act, K.S.A. 2014  
6 Supp. 75-7c01 et seq., and amendments thereto;

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

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

12 (5) upon commitment to the custody of the secretary of corrections,  
13 any previously expunged record in the possession of the secretary of  
14 corrections may be reinstated and the expungement disregarded, and the  
15 record continued for the purpose of the new commitment.

16 (j) Whenever a person is convicted of a crime, pleads guilty and pays  
17 a fine for a crime, is placed on parole, postrelease supervision or  
18 probation, is assigned to a community correctional services program, is  
19 granted a suspended sentence or is released on conditional release, the  
20 person shall be informed of the ability to expunge the arrest records or  
21 conviction. Whenever a person enters into a diversion agreement, the  
22 person shall be informed of the ability to expunge the diversion.

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

28 (2) Notwithstanding the provisions of subsection (k)(1), and except as  
29 provided in ~~subsection (a)(3)(A)~~ of K.S.A. 2014 Supp. 21-6304(a)(3)(A),  
30 and amendments thereto, the expungement of a prior felony conviction  
31 does not relieve the individual of complying with any state or federal law  
32 relating to the use, shipment, transportation, receipt or possession of  
33 firearms by persons previously convicted of a felony.

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

39 (1) The person whose record was expunged;

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

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

3 (4) the secretary for aging and disability services, or a designee of the  
4 secretary, for the purpose of obtaining information relating to employment  
5 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,  
6 of the Kansas department for aging and disability services of any person  
7 whose record has been expunged;

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

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

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

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

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

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

38 (11) the Kansas sentencing commission;

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

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

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

11 (15) a law enforcement agency and the request is accompanied by a  
12 statement that the request is being made to aid in determining eligibility  
13 for employment as a law enforcement officer as defined by K.S.A. 22-  
14 2202, and amendments thereto;

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

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

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

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

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

28 Sec. 3. K.S.A. 2014 Supp. 22-2410 is hereby amended to read as  
29 follows: 22-2410. (a) Any person who has been arrested in this state may  
30 petition the district court for the expungement of such arrest record.

31 (b) When a petition for expungement is filed, the court shall set a date  
32 for hearing on such petition and shall cause notice of such hearing to be  
33 given to the prosecuting attorney and the arresting law enforcement  
34 agency. When a petition for expungement is filed, the official court file  
35 shall be separated from the other records of the court, and shall be  
36 disclosed only to a judge of the court and members of the staff of the court  
37 designated by a judge of the district court, the prosecuting attorney, the  
38 arresting law enforcement agency, or any other person when authorized by  
39 a court order, subject to any conditions imposed by the order. Except as  
40 otherwise provided by law, a petition for expungement shall be  
41 accompanied by a docket fee in the amount of \$176. Except as provided  
42 further, the docket fee established in this section shall be the only fee  
43 collected or moneys in the nature of a fee collected for the docket fee.

1 Such fee shall only be established by an act of the legislature and no other  
2 authority is established by law or otherwise to collect a fee. On and after  
3 July 1, 2013, through July 1, 2015, the supreme court may impose an  
4 additional charge, not to exceed \$19 per docket fee, to fund the costs of  
5 non-judicial personnel. The petition shall state:

- 6 (1) The petitioner's full name;
- 7 (2) the full name of the petitioner at the time of arrest, if different  
8 than the petitioner's current name;
- 9 (3) the petitioner's sex, race and date of birth;
- 10 (4) the crime for which the petitioner was arrested;
- 11 (5) the date of the petitioner's arrest; and
- 12 (6) the identity of the arresting law enforcement agency.

13 No surcharge or fee shall be imposed to any person filing a petition  
14 pursuant to this section, who was arrested as a result of being a victim of  
15 identity theft under K.S.A. 21-4018, prior to its repeal, or ~~subsection (a) of~~  
16 K.S.A. 2014 Supp. 21-6107(a), and amendments thereto, or who has had  
17 criminal charges dismissed because a court has found that there was no  
18 probable cause for the arrest, the petitioner was found not guilty in court  
19 proceedings or the charges have been dismissed. Any person who may  
20 have relevant information about the petitioner may testify at the hearing.  
21 The court may inquire into the background of the petitioner.

22 (c) At the hearing on a petition for expungement, the court shall order  
23 the arrest record and subsequent court proceedings, if any, expunged upon  
24 finding: (1) The arrest occurred because of mistaken identity;

- 25 (2) a court has found that there was no probable cause for the arrest;
- 26 (3) the petitioner was found not guilty in court proceedings; or
- 27 (4) the expungement would be in the best interests of justice and: (A)  
28 Charges have been dismissed; or (B) no charges have been or are likely to  
29 be filed.

30 (d) When the court has ordered expungement of an arrest record and  
31 subsequent court proceedings, if any, the order shall state the information  
32 required to be stated in the petition and shall state the grounds for  
33 expungement under subsection (c). The clerk of the court shall send a  
34 certified copy of the order to the Kansas bureau of investigation which  
35 shall notify the federal bureau of investigation, the secretary of corrections  
36 and any other criminal justice agency which may have a record of the  
37 arrest. *If the case was appealed from municipal court, the clerk of the*  
38 *district court shall send a certified copy of the order of expungement to the*  
39 *municipal court. The municipal court shall order the case expunged once*  
40 *the certified copy of the order of expungement is received.* If an order of  
41 expungement is entered, the petitioner shall be treated as not having been  
42 arrested.

43 (e) If the ground for expungement is as provided in subsection (c)(4),

1 the court shall determine whether, in the interests of public welfare, the  
2 records should be available for any of the following purposes: (1) In any  
3 application for employment as a detective with a private detective agency,  
4 as defined in K.S.A. 75-7b01, and amendments thereto; as security  
5 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,  
6 and amendments thereto; or with an institution, as defined in K.S.A. 76-  
7 12a01, and amendments thereto, of the Kansas department for aging and  
8 disability services;

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

11 (3) to aid in determining the petitioner's qualifications for  
12 employment with the Kansas lottery or for work in sensitive areas within  
13 the Kansas lottery as deemed appropriate by the executive director of the  
14 Kansas lottery;

15 (4) to aid in determining the petitioner's qualifications for executive  
16 director of the Kansas racing commission, for employment with the  
17 commission or for work in sensitive areas in parimutuel racing as deemed  
18 appropriate by the executive director of the commission, or to aid in  
19 determining qualifications for licensure or renewal of licensure by the  
20 commission;

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

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

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

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

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

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

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

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

43 (h) Whenever a petitioner's arrest records have been expunged as



1 provided in this section, the custodian of the records of arrest,  
2 incarceration due to arrest or court proceedings related to the arrest, shall  
3 not disclose the arrest or any information related to the arrest, except as  
4 directed by the order of expungement or when requested by the person  
5 whose arrest record was expunged.

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

9 Sec. 4. K.S.A. 2014 Supp. 22-3609 is hereby amended to read as  
10 follows: 22-3609. ~~(+)~~ (a) The defendant shall have the right to appeal to  
11 the district court of the county from any judgment of a municipal court  
12 which adjudges the defendant guilty of a violation of the ordinances of any  
13 municipality of Kansas or any findings of contempt. The appeal shall be  
14 assigned by the chief judge to a district judge. The appeal shall stay all  
15 further proceedings upon the judgment appealed from.

16 ~~(2)~~ (b) An appeal to the district court shall be taken by filing, in the  
17 district court of the county in which the municipal court is located, a notice  
18 of appeal and any appearance bond required by the municipal court.  
19 Municipal court clerks are hereby authorized to accept notices of appeal  
20 and appearance bonds under this subsection and shall forward such notices  
21 and bonds to the district court. No appeal shall be filed until after the  
22 sentence has been imposed. No appeal shall be taken more than 14 days  
23 after the date the sentence is imposed.

24 ~~(3)~~ (c) The notice of appeal shall designate the judgment or part of the  
25 judgment appealed from. The defendant shall cause notice of the appeal to  
26 be served upon the city attorney prosecuting the case. The judge whose  
27 judgment is appealed from or the clerk of the court, if there is one, shall  
28 certify the complaint and warrant to the district court of the county, but  
29 failure to do so shall not affect the validity of the appeal.

30 ~~(4)~~ (d) Except as provided herein, the trial of municipal appeal cases  
31 shall be to the court unless a jury trial is requested in writing by the  
32 defendant not later than seven days after first notice of trial assignment is  
33 given to the defendant or such defendant's counsel. The time requirement  
34 provided in this subsection regarding when a jury trial shall be requested  
35 may be waived in the discretion of the court upon a finding that imposing  
36 such time requirement would cause undue hardship or prejudice to the  
37 defendant. A jury in a municipal appeal case shall consist of six members.  
38 All appeals taken by a defendant from a municipal judge in contempt  
39 findings, cigarette or tobacco infraction or traffic infraction cases shall be  
40 tried by the court.

41 ~~(5)~~ (e) Notwithstanding the other provisions of this section, appeal  
42 from a conviction rendered pursuant to ~~subsection (b)~~ of K.S.A. 12-  
43 4416(b), and amendments thereto, shall be conducted only on the record of

1 the stipulation of facts relating to the complaint.

2 *(f) At the conclusion of the case, the district court shall send notice of*  
3 *dismissal, conviction or acquittal to the municipal court clerk.*

4 Sec. 5. K.S.A. 2014 Supp. 12-4516, 12-4516b, 21-6614, 21-6614e,  
5 22-2410 and 22-3609 are hereby repealed.

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