

Substitute for SENATE BILL No. 513

AN ACT concerning recipients of medicaid; after death requiring certain moneys to be recouped and repaid to the secretary of social and rehabilitation services; amending K.S.A. 16-301 and K.S.A. 2001 Supp. 16-304 and repealing the existing sections.

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

Section 1. K.S.A. 16-301 is hereby amended to read as follows: 16-301. Any agreement, contract or plan requiring the payment of money in a lump sum or installments which is made or entered into with any person, association, partnership, firm or corporation for the final disposition of a dead human body, or for funeral or burial services, or for the furnishing of personal property or funeral or burial merchandise, wherein the delivery of the personal property or the funeral or burial merchandise or the furnishing of services is not immediately required, is hereby declared to be against public policy and void, unless all money paid thereunder shall be deposited in a bank or savings and loan association which is authorized to do business in this state and insured by a federal agency, or invested in a credit union which is insured with an insurer or guarantee corporation as required under K.S.A. 17-2246, and amendments thereto, all as herein provided, and subject to the terms of an agreement for the benefit of the purchaser of the agreement, contract or plan. For the purposes of this act, personal property or funeral or burial merchandise shall include caskets, vaults and all other articles of merchandise incidental to a funeral service, but shall not include grave lots, grave spaces, grave memorials, tombstones, crypts, niches and mausoleums. *This act shall not prohibit the funding of a prearranged funeral agreement with insurance proceeds derived from a policy issued by an insurance company authorized to conduct business in this state.*

Sec. 2. K.S.A. 2001 Supp. 16-304 is hereby amended to read as follows: 16-304. If any balance remains in the account upon the death of the person for whose services the funds were paid, the same shall not be paid by such bank, credit union or savings and loan association to the person, association, partnership, firm or corporation until the expiration of at least five days after the date of death of the person for whose services such funds were paid. The funds shall not be paid by the bank, credit union or savings and loan association until a certified copy of the death certificate of such person, a verification of death form or other acceptable proof of death shall have been furnished to the bank, credit union or savings and loan association, together with a verified statement setting forth that all of the terms and conditions of such agreement have been fully performed by the person, association, partnership, firm or corporation. If any balance remains in the fund after disposition of the fund in accordance with the terms of the agreement, contract or plan such balance shall inure to the benefit of the estate of the purchaser of the agreement, contract or plan *unless the purchaser was a person who received medical assistance from the department of social and rehabilitation services or a deceased surviving spouse of a recipient of medical assistance, in which case the balance shall be paid to the secretary of social and rehabilitation services or the secretary's designee to the extent of medical assistance expended on the deceased recipient.*

New Sec. 3. (a) Whenever a person, who is or has been a recipient of medical assistance from the department of social and rehabilitation services, enters into a prearranged funeral agreement, contract or plan pursuant to K.S.A. 16-301, and amendments thereto, or a prearranged funeral agreement, contract or plan funded by insurance proceeds, such person shall inform the secretary of social and rehabilitation services or the secretary's designee of the existence of such an agreement, contract or plan and shall inform the funeral establishment that such person is or has been a recipient of medical assistance.

(b) If any balance remains after payment for the final disposition of a dead human body, or for funeral or burial services, or funeral or burial merchandise, and the purchaser of the agreement contract, or plan is or has been a recipient of medical assistance or a deceased surviving spouse of a recipient of medical assistance, any remaining balance shall be paid according to K.S.A. 16-304, and amendments thereto, or if said agreement, contract or plan was funded by insurance, any remaining balance shall be paid by the insurance company or the person, association, partnership, firm or corporation providing the services or merchandise to the

secretary of social and rehabilitation services or the secretary's designee, to the extent of medical assistance expended on the deceased recipient.

(c) Payments to the secretary of social and rehabilitation services under subsection (b) and K.S.A. 16-304, and amendments thereto, shall be governed by subsection (g)(2) of K.S.A. 39-709, and amendments thereto.

Sec. 4. K.S.A. 16-301 and K.S.A. 2001 Supp. 16-304 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*