

**HOUSE BILL No. 2166**

By Committee on Judiciary

1-30

1 AN ACT concerning real and personal property; relating to the medical  
2 assistance recovery program; amending K.S.A. 39-702, 58-3957, 58a-  
3 818, 59-617, 59-618, 59-619, 59-1501, 59-2239 and 59-2250 and  
4 K.S.A. 2012 Supp. 39-709, 59-618a, 59-1507b, 59-2222 and 59-2247  
5 and repealing the existing sections.

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

8 Section 1. K.S.A. 39-702 is hereby amended to read as follows: 39-  
9 702. The following words and phrases when used in this act shall, for the  
10 purposes of this act, have the meanings respectively ascribed to them in  
11 this section:

12 (a) "Secretary" means the secretary of social and rehabilitation  
13 services, *unless otherwise specified*.

14 (b) "Applicants" means all persons who, as individuals, or in whose  
15 behalf requests are made of the secretary for aid or assistance.

16 (c) "Social welfare service" may include such functions as giving  
17 assistance, the prevention of public dependency, and promoting the  
18 rehabilitation of dependent persons or those who are approaching public  
19 dependency.

20 (d) "Assistance" includes such items or functions as the giving or  
21 providing of money, food stamps or coupons, food, clothing, shelter,  
22 medicine or other materials, the giving of any service, including  
23 instructive or scientific, and the providing of institutional care, which may  
24 be necessary or helpful to the recipient in providing the necessities of life  
25 for the recipient and the recipient's dependents. The definitions of social  
26 welfare service and assistance in this section shall be deemed as partially  
27 descriptive and not limiting.

28 (e) "Aid to families with dependent children" means financial  
29 assistance with respect to or on behalf of a dependent child or dependent  
30 children and includes financial assistance for any month to meet the needs  
31 of the relative with whom any dependent child is living.

32 (f) "Medical assistance" means the payment of all or part of the cost  
33 of necessary: (1) Medical, remedial, rehabilitative or preventive care and  
34 services which are within the scope of services to be provided under a  
35 medical care plan developed by the secretary pursuant to this act and  
36 furnished by health care providers who have a current approved provider

1 agreement with the secretary; and (2) transportation to obtain care and  
2 services which are within the scope of services to be provided under a  
3 medical care plan developed by the secretary pursuant to this act.

4 (g) "Dependent children" means needy children under the age of 18,  
5 or who are under the age of 19 and are full-time students in secondary  
6 schools or the equivalent educational program or are full-time students in a  
7 program of vocational or technical training if they may be reasonably  
8 expected to complete the training before attaining age 19, who have been  
9 deprived of parental or guardian support or care by reasons of the death,  
10 continued absence from the home, or physical or mental incapacity of a  
11 parent or guardian, and who are living with any blood relative, including  
12 those of the half-blood, and including first cousins, uncles, aunts, and  
13 persons of preceding generations are denoted by prefixes of grand, great,  
14 or great-great, and including the spouses or former spouses of any persons  
15 named in the above groups, in a place of residence maintained by one or  
16 more of such relatives as their own home. The secretary may adopt rules  
17 and regulations which extend the deprivation requirement under this  
18 definition to include being deprived of parental or guardian support or care  
19 by reason of the unemployment of a parent or guardian. The term  
20 "dependent children" also includes children who would meet the foregoing  
21 requirements except for their removal from the home of a relative as a  
22 result of judicial determination to the effect that continuation therein  
23 would be contrary to the welfare of such children, for whose placement  
24 and care the secretary is responsible, who have been placed in a foster  
25 family home or child care institution as a result of such determination and  
26 who received aid to dependent children in or for the month in which court  
27 proceedings leading to such determination were initiated, or would have  
28 received such aid in or for such month if application had been made  
29 therefor, or in the case of a child who had been living with a relative  
30 specified above within six months prior to the month in which such  
31 proceedings were initiated, would have received such aid in or for such  
32 month if in such month such child had been living with and removed from  
33 the home of such a relative and application had been made therefor.

34 (h) "The blind" means not only those who are totally and permanently  
35 devoid of vision, but also those persons whose vision is so defective as to  
36 prevent the performance of ordinary activities for which eyesight is  
37 essential.

38 (i) "General assistance" means financial assistance in which the cost  
39 of such financial assistance is not participated in by the federal  
40 government. General assistance may be limited to transitional assistance in  
41 some instances as specified by rules and regulations adopted by the  
42 secretary.

43 (j) "Recipient" means a person who has received assistance under the

1 terms of this act.

2 (k) "Intake office" means the place where the secretary shall maintain  
3 an office for receiving applications.

4 (l) "Adequate consideration" means consideration equal, or  
5 reasonably proportioned to the value of that for which it is given.

6 (m) "Transitional assistance" means a form of general assistance in  
7 which as little financial assistance as one payment may be made during  
8 each period of 12 consecutive calendar months to an eligible and needy  
9 person and all other persons for whom such person is legally responsible.

10 (n) "Title IV-D" means part D of title IV of the federal social security  
11 act (42 U.S.C. § 651; et seq.), ~~or acts amendatory thereof or supplemental~~  
12 ~~thereto~~ as in effect on May 1, 1997.

13 Sec. 2. K.S.A. 2011 Supp. 39-709 is hereby amended to read as  
14 follows: 39-709. (a) *General eligibility requirements for assistance for*  
15 *which federal moneys are expended.* Subject to the additional requirements  
16 below, assistance in accordance with plans under which federal moneys  
17 are expended may be granted to any needy person who:

18 (1) Has insufficient income or resources to provide a reasonable  
19 subsistence compatible with decency and health. Where a husband and  
20 wife are living together, the combined income or resources of both shall be  
21 considered in determining the eligibility of either or both for such  
22 assistance unless otherwise prohibited by law. The secretary, in  
23 determining need of any applicant for or recipient of assistance shall not  
24 take into account the financial responsibility of any individual for any  
25 applicant or recipient of assistance unless such applicant or recipient is  
26 such individual's spouse or such individual's minor child or minor  
27 stepchild if the stepchild is living with such individual. The secretary in  
28 determining need of an individual may provide such income and resource  
29 exemptions as may be permitted by federal law. For purposes of eligibility  
30 for aid for families with dependent children, for food stamp assistance and  
31 for any other assistance provided through the department of social and  
32 rehabilitation services under which federal moneys are expended, the  
33 secretary of social and rehabilitation services shall consider one motor  
34 vehicle owned by the applicant for assistance, regardless of the value of  
35 such vehicle, as exempt personal property and shall consider any equity in  
36 any additional motor vehicle owned by the applicant for assistance to be a  
37 nonexempt resource of the applicant for assistance.

38 (2) Is a citizen of the United States or is an alien lawfully admitted to  
39 the United States and who is residing in the state of Kansas.

40 (b) *Assistance to families with dependent children.* Assistance may be  
41 granted under this act to any dependent child, or relative, subject to the  
42 general eligibility requirements as set out in subsection (a), who resides in  
43 the state of Kansas or whose parent or other relative with whom the child

1 is living resides in the state of Kansas. Such assistance shall be known as  
2 aid to families with dependent children. Where husband and wife are  
3 living together both shall register for work under the program  
4 requirements for aid to families with dependent children in accordance  
5 with criteria and guidelines prescribed by rules and regulations of the  
6 secretary.

7 (c) *Aid to families with dependent children; assignment of support*  
8 *rights and limited power of attorney.* By applying for or receiving aid to  
9 families with dependent children such applicant or recipient shall be  
10 deemed to have assigned to the secretary on behalf of the state any  
11 accrued, present or future rights to support from any other person such  
12 applicant may have in such person's own behalf or in behalf of any other  
13 family member for whom the applicant is applying for or receiving aid. In  
14 any case in which an order for child support has been established and the  
15 legal custodian and obligee under the order surrenders physical custody of  
16 the child to a caretaker relative without obtaining a modification of legal  
17 custody and support rights on behalf of the child are assigned pursuant to  
18 this section, the surrender of physical custody and the assignment shall  
19 transfer, by operation of law, the child's support rights under the order to  
20 the secretary on behalf of the state. Such assignment shall be of all  
21 accrued, present or future rights to support of the child surrendered to the  
22 caretaker relative. The assignment of support rights shall automatically  
23 become effective upon the date of approval for or receipt of such aid  
24 without the requirement that any document be signed by the applicant,  
25 recipient or obligee. By applying for or receiving aid to families with  
26 dependent children, or by surrendering physical custody of a child to a  
27 caretaker relative who is an applicant or recipient of such assistance on the  
28 child's behalf, the applicant, recipient or obligee is also deemed to have  
29 appointed the secretary, or the secretary's designee, as an attorney in fact to  
30 perform the specific act of negotiating and endorsing all drafts, checks,  
31 money orders or other negotiable instruments representing support  
32 payments received by the secretary in behalf of any person applying for,  
33 receiving or having received such assistance. This limited power of  
34 attorney shall be effective from the date the secretary approves the  
35 application for aid and shall remain in effect until the assignment of  
36 support rights has been terminated in full.

37 (d) *Eligibility requirements for general assistance, the cost of which*  
38 *is not shared by the federal government.* (1) General assistance may be  
39 granted to eligible persons who do not qualify for financial assistance in a  
40 program in which the federal government participates and who satisfy the  
41 additional requirements prescribed by or under this subsection (d).

42 (A) To qualify for general assistance in any form a needy person must  
43 have insufficient income or resources to provide a reasonable subsistence

1 compatible with decency and health and, except as provided for  
2 transitional assistance, be a member of a family in which a minor child or  
3 a pregnant woman resides or be unable to engage in employment. The  
4 secretary shall adopt rules and regulations prescribing criteria for  
5 establishing when a minor child may be considered to be living with a  
6 family and whether a person is able to engage in employment, including  
7 such factors as age or physical or mental condition. Eligibility for general  
8 assistance, other than transitional assistance, is limited to families in which  
9 a minor child or a pregnant woman resides or to an adult or family in  
10 which all legally responsible family members are unable to engage in  
11 employment. Where a husband and wife are living together the combined  
12 income or resources of both shall be considered in determining the  
13 eligibility of either or both for such assistance unless otherwise prohibited  
14 by law. The secretary in determining need of any applicant for or recipient  
15 of general assistance shall not take into account the financial responsibility  
16 of any individual for any applicant or recipient of general assistance unless  
17 such applicant or recipient is such individual's spouse or such individual's  
18 minor child or a minor stepchild if the stepchild is living with such  
19 individual. In determining the need of an individual, the secretary may  
20 provide for income and resource exemptions.

21 (B) To qualify for general assistance in any form a needy person must  
22 be a citizen of the United States or an alien lawfully admitted to the United  
23 States and must be residing in the state of Kansas.

24 (2) General assistance in the form of transitional assistance may be  
25 granted to eligible persons who do not qualify for financial assistance in a  
26 program in which the federal government participates and who satisfy the  
27 additional requirements prescribed by or under this subsection (d), but who  
28 do not meet the criteria prescribed by rules and regulations of the secretary  
29 relating to inability to engage in employment or are not a member of a  
30 family in which a minor or a pregnant woman resides.

31 (3) In addition to the other requirements prescribed under this  
32 subsection (d), the secretary shall adopt rules and regulations which  
33 establish community work experience program requirements for eligibility  
34 for the receipt of general assistance in any form and which establish  
35 penalties to be imposed when a work assignment under a community work  
36 experience program requirement is not completed without good cause. The  
37 secretary may adopt rules and regulations establishing exemptions from  
38 any such community work experience program requirements. A first time  
39 failure to complete such a work assignment requirement shall result in  
40 ineligibility to receive general assistance for a period fixed by such rules  
41 and regulations of not more than three calendar months. A subsequent  
42 failure to complete such a work assignment requirement shall result in a  
43 period fixed by such rules and regulations of ineligibility of not more than

1 six calendar months.

2 (4) If any person is found guilty of the crime of theft under the  
3 provisions of K.S.A. 39-720, and amendments thereto, such person shall  
4 thereby become forever ineligible to receive any form of general  
5 assistance under the provisions of this subsection (d) unless the conviction  
6 is the person's first conviction under the provisions of K.S.A. 39-720, and  
7 amendments thereto, or the law of any other state concerning welfare  
8 fraud. First time offenders convicted of a misdemeanor under the  
9 provisions of such statute shall become ineligible to receive any form of  
10 general assistance for a period of 12 calendar months from the date of  
11 conviction. First time offenders convicted of a felony under the provisions  
12 of such statute shall become ineligible to receive any form of general  
13 assistance for a period of 60 calendar months from the date of conviction.  
14 If any person is found guilty by a court of competent jurisdiction of any  
15 state other than the state of Kansas of a crime involving welfare fraud,  
16 such person shall thereby become forever ineligible to receive any form of  
17 general assistance under the provisions of this subsection (d) unless the  
18 conviction is the person's first conviction under the law of any other state  
19 concerning welfare fraud. First time offenders convicted of a misdemeanor  
20 under the law of any other state concerning welfare fraud shall become  
21 ineligible to receive any form of general assistance for a period of 12  
22 calendar months from the date of conviction. First time offenders  
23 convicted of a felony under the law of any other state concerning welfare  
24 fraud shall become ineligible to receive any form of general assistance for  
25 a period of 60 calendar months from the date of conviction.

26 (e) *Requirements for medical assistance for which federal moneys or*  
27 *state moneys or both are expended.* (1) When the secretary has adopted a  
28 medical care plan under which federal moneys or state moneys or both are  
29 expended, medical assistance in accordance with such plan shall be  
30 granted to any person who is a citizen of the United States or who is an  
31 alien lawfully admitted to the United States and who is residing in the state  
32 of Kansas, whose resources and income do not exceed the levels  
33 prescribed by the secretary. In determining the need of an individual, the  
34 secretary may provide for income and resource exemptions and protected  
35 income and resource levels. Resources from inheritance shall be counted.  
36 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and  
37 amendments thereto, shall constitute a transfer of resources. The secretary  
38 shall exempt principal and interest held in irrevocable trust pursuant to  
39 subsection (c) of K.S.A. 16-303, and amendments thereto, from the  
40 eligibility requirements of applicants for and recipients of medical  
41 assistance. Such assistance shall be known as medical assistance.

42 (2) For the purposes of medical assistance eligibility determinations  
43 on or after July 1, 2004, if an applicant or recipient owns property in joint

1 tenancy with some other party and the applicant or recipient of medical  
2 assistance has restricted or conditioned their interest in such property to a  
3 specific and discrete property interest less than 100%, then such  
4 designation will cause the full value of the property to be considered an  
5 available resource to the applicant or recipient.

6 (3) (A) Resources from trusts shall be considered when determining  
7 eligibility of a trust beneficiary for medical assistance. Medical assistance  
8 is to be secondary to all resources, including trusts, that may be available  
9 to an applicant or recipient of medical assistance.

10 (B) If a trust has discretionary language, the trust shall be considered  
11 to be an available resource to the extent, using the full extent of discretion,  
12 the trustee may make any of the income or principal available to the  
13 applicant or recipient of medical assistance. Any such discretionary trust  
14 shall be considered an available resource unless: (i) At the time of creation  
15 or amendment of the trust, the trust states a clear intent that the trust is  
16 supplemental to public assistance; and (ii) the trust: (a) Is funded from  
17 resources of a person who, at the time of such funding, owed no duty of  
18 support to the applicant or recipient of medical assistance; or (b) is funded  
19 not more than nominally from resources of a person while that person  
20 owed a duty of support to the applicant or recipient of medical assistance.

21 (C) For the purposes of this paragraph, "public assistance" includes,  
22 but is not limited to, medicaid, medical assistance or title XIX of the social  
23 security act.

24 (4) (A) When an applicant or recipient of medical assistance is a party  
25 to a contract, agreement or accord for personal services being provided by  
26 a nonlicensed individual or provider and such contract, agreement or  
27 accord involves health and welfare monitoring, pharmacy assistance, case  
28 management, communication with medical, health or other professionals,  
29 or other activities related to home health care, long term care, medical  
30 assistance benefits, or other related issues, any moneys paid under such  
31 contract, agreement or accord shall be considered to be an available  
32 resource unless the following restrictions are met: (i) The contract,  
33 agreement or accord must be in writing and executed prior to any services  
34 being provided; (ii) the moneys paid are in direct relationship with the fair  
35 market value of such services being provided by similarly situated and  
36 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed  
37 individuals or situations can be found, the value of services will be based  
38 on federal hourly minimum wage standards; (iv) such individual providing  
39 the services will report all receipts of moneys as income to the appropriate  
40 state and federal governmental revenue agencies; (v) any amounts due  
41 under such contract, agreement or accord shall be paid after the services  
42 are rendered; (vi) the applicant or recipient shall have the power to revoke  
43 the contract, agreement or accord; and (vii) upon the death of the applicant

1 or recipient, the contract, agreement or accord ceases.

2 (B) When an applicant or recipient of medical assistance is a party to  
3 a written contract for personal services being provided by a licensed health  
4 professional or facility and such contract involves health and welfare  
5 monitoring, pharmacy assistance, case management, communication with  
6 medical, health or other professionals, or other activities related to home  
7 health care, long term care, medical assistance benefits or other related  
8 issues, any moneys paid in advance of receipt of services for such  
9 contracts shall be considered to be an available resource.

10 (5) Any trust may be amended if such amendment is permitted by the  
11 Kansas uniform trust code.

12 (f) *Eligibility for medical assistance of resident receiving medical*  
13 *care outside state.* A person who is receiving medical care including long-  
14 term care outside of Kansas whose health would be endangered by the  
15 postponement of medical care until return to the state or by travel to return  
16 to Kansas, may be determined eligible for medical assistance if such  
17 individual is a resident of Kansas and all other eligibility factors are met.  
18 Persons who are receiving medical care on an ongoing basis in a long-term  
19 medical care facility in a state other than Kansas and who do not return to  
20 a care facility in Kansas when they are able to do so, shall no longer be  
21 eligible to receive assistance in Kansas unless such medical care is not  
22 available in a comparable facility or program providing such medical care  
23 in Kansas. For persons who are minors or who are under guardianship, the  
24 actions of the parent or guardian shall be deemed to be the actions of the  
25 child or ward in determining whether or not the person is remaining  
26 outside the state voluntarily.

27 (g) *Medical assistance; assignment of rights to medical support and*  
28 *limited power of attorney; recovery from estates of deceased recipients.* (1)  
29 Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
30 amendments thereto, or as otherwise authorized ~~on and after September~~  
31 ~~30, 1989,~~ under section 303 ~~and amendments thereto~~ of the federal  
32 medicare catastrophic coverage act of 1988, whichever is applicable, by  
33 applying for or receiving medical assistance under a medical care plan in  
34 which federal funds are expended, any accrued, present or future rights to  
35 support and any rights to payment for medical care from a third party of an  
36 applicant or recipient and any other family member for whom the  
37 applicant is applying shall be deemed to have been assigned to the  
38 secretary on behalf of the state. The assignment shall automatically  
39 become effective upon the date of approval for such assistance without the  
40 requirement that any document be signed by the applicant or recipient. By  
41 applying for or receiving medical assistance the applicant or recipient is  
42 also deemed to have appointed the secretary, or the secretary's designee, as  
43 an attorney in fact to perform the specific act of negotiating and endorsing



1 all drafts, checks, money orders or other negotiable instruments,  
2 representing payments received by the secretary in behalf of any person  
3 applying for, receiving or having received such assistance. This limited  
4 power of attorney shall be effective from the date the secretary approves  
5 the application for assistance and shall remain in effect until the  
6 assignment has been terminated in full. The assignment of any rights to  
7 payment for medical care from a third party under this subsection shall not  
8 prohibit a health care provider from directly billing an insurance carrier for  
9 services rendered if the provider has not submitted a claim covering such  
10 services to the secretary for payment. Support amounts collected on behalf  
11 of persons whose rights to support are assigned to the secretary only under  
12 this subsection and no other shall be distributed pursuant to subsection (d)  
13 of K.S.A. 39-756, and amendments thereto, except that any amounts  
14 designated as medical support shall be retained by the secretary for  
15 repayment of the unreimbursed portion of assistance. Amounts collected  
16 pursuant to the assignment of rights to payment for medical care from a  
17 third party shall also be retained by the secretary for repayment of the  
18 unreimbursed portion of assistance.

19 (2) The amount of any medical assistance paid after June 30, 1992,  
20 under the provisions of subsection (e) is (A) a claim against the property or  
21 any interest therein belonging to and a part of the estate of any deceased  
22 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
23 shall be charged for such medical assistance paid to either or both, and (B)  
24 a claim against any funds of such recipient or spouse in any account under  
25 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and  
26 amendments thereto. There shall be no recovery of medical assistance  
27 correctly paid to or on behalf of an individual under subsection (e) except  
28 after the death of the surviving spouse of the individual, if any, and only at  
29 a time when the individual has no surviving child who is under 21 years of  
30 age or is blind or permanently and totally disabled. Transfers of real or  
31 personal property by recipients of medical assistance without adequate  
32 consideration are voidable and may be set aside. Except where there is a  
33 surviving spouse, or a surviving child who is under 21 years of age or is  
34 blind or permanently and totally disabled, the amount of any medical  
35 assistance paid under subsection (e) is a claim against the estate in any  
36 guardianship or conservatorship proceeding. The monetary value of any  
37 benefits received by the recipient of such medical assistance under long-  
38 term care insurance, as defined by K.S.A. 40-2227, and amendments  
39 thereto, shall be a credit against the amount of the claim provided for such  
40 medical assistance under this subsection (g). The secretary *of health and*  
41 *environment* is authorized to enforce each claim provided for under this  
42 subsection (g). The secretary *of health and environment* shall not be  
43 required to pursue every claim, but is granted discretion to determine

1 which claims to pursue. All moneys received by the secretary *of health*  
2 *and environment* from claims under this subsection (g) shall be deposited  
3 in the social welfare fund. The secretary *of health and environment* may  
4 adopt rules and regulations for the implementation and administration of  
5 the medical assistance recovery program under ~~this~~ subsection (g).

6 (3) By applying for or receiving medical assistance under the  
7 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, such  
8 individual or such individual's agent, fiduciary, guardian, conservator,  
9 representative payee or other person acting on behalf of the individual  
10 consents to the following definitions of estate and the results therefrom:

11 (A) If an individual receives any medical assistance before July 1,  
12 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
13 *and amendments thereto*, which forms the basis for a claim under  
14 subsection (g)(2), such claim is limited to the individual's probatable estate  
15 as defined by applicable law; and

16 (B) if an individual receives any medical assistance on or after July 1,  
17 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
18 which forms the basis for a claim under subsection (g)(2), such claim shall  
19 apply to the individual's medical assistance estate. The medical assistance  
20 estate is defined as including all real and personal property and other  
21 assets in which the deceased individual had any legal title or interest  
22 immediately before or at the time of death to the extent of that interest or  
23 title. The medical assistance estate includes, without limitation assets  
24 conveyed to a survivor, heir or assign of the deceased recipient through  
25 joint tenancy, tenancy in common, survivorship, transfer-on-death deed,  
26 payable-on-death contract, life estate, trust, annuities or similar  
27 arrangement.

28 (4) The secretary of ~~social and rehabilitation services~~ *health and*  
29 *environment* or the secretary's designee is authorized to file and enforce a  
30 lien against the real property of a recipient of medical assistance in certain  
31 situations, subject to all prior liens of record. The lien must be filed in the  
32 office of the register of deeds of the county where the real property is  
33 located and must contain the legal description of all real property in the  
34 county subject to the lien. This lien is for payments of medical assistance  
35 made by the department of ~~social and rehabilitation services~~ *health and*  
36 *environment* to the recipient who is an inpatient in a nursing home or other  
37 medical institution. Such lien may be filed only after notice and an  
38 opportunity for a hearing has been given. Such lien may be enforced only  
39 upon competent medical testimony that the recipient cannot reasonably be  
40 expected to be discharged and returned home. A six-month period of  
41 compensated inpatient care at a nursing home, ~~nursing homes~~ or other  
42 medical institution shall constitute a determination by the department of  
43 ~~social and rehabilitation services~~ *health and environment* that the recipient

1 cannot reasonably be expected to be discharged and returned home. To  
2 return home means the recipient leaves the nursing or medical facility and  
3 resides in the home on which the lien has been placed for a *continuous*  
4 period of at least 90 days without being readmitted as an inpatient to a  
5 nursing or medical facility. The amount of the lien shall be for the amount  
6 of assistance paid by the department of ~~social and rehabilitation services~~  
7 ~~after the expiration of six months from the date the recipient became~~  
8 ~~eligible for compensated inpatient care at a nursing home, nursing homes~~  
9 ~~or other medical institution~~ *health and environment* until the time of the  
10 filing of the lien and for any amount paid thereafter for such medical  
11 assistance to the recipient.

12 (5) The lien filed by the secretary *of health and environment* or the  
13 secretary's designee for medical assistance correctly received may be  
14 enforced before or after the death of the recipient by the filing of an action  
15 to foreclose such lien in the Kansas district court or through an estate  
16 probate court action in the county where the real property of the recipient  
17 is located. However, it may be enforced only:

18 (A) After the death of the surviving spouse of the recipient;

19 (B) when there is no child of the recipient, natural or adopted, who is  
20 20 years of age or less residing in the home;

21 (C) when there is no adult child of the recipient, natural or adopted,  
22 who is blind or disabled residing in the home; or

23 (D) when no brother or sister of the recipient is lawfully residing in  
24 the home, who has resided there for at least one year immediately before  
25 the date of the recipient's admission to the nursing or medical facility, and  
26 has resided there on a continuous basis since that time.

27 (6) The lien remains on the property even after a transfer of the title  
28 by conveyance, sale, succession, inheritance or will unless one of the  
29 following events occur:

30 (A) The lien is satisfied. The recipient, the heirs, personal  
31 representative or assigns of the recipient may discharge such lien at any  
32 time by paying the amount of the lien to the secretary *of health and*  
33 *environment* or the secretary's designee;

34 (B) the lien is terminated by foreclosure of prior lien of record or  
35 settlement action taken in lieu of foreclosure;

36 (C) the value of the real property is consumed by the lien, at which  
37 time the secretary *of health and environment* or the secretary's designee  
38 may force the sale for the real property to satisfy the lien; or

39 (D) after a lien is filed against the real property, it will be dissolved if  
40 the recipient leaves the nursing or medical facility and resides in the  
41 property to which the lien is attached for a *continuous* period of more than  
42 90 days without being readmitted as an inpatient to a nursing or medical  
43 facility, even though there may have been no reasonable expectation that

1 this would occur. If the recipient is readmitted to a nursing or medical  
2 facility during this period, and does return home after being released,  
3 another *continuous period of at least 90 days* must be completed before  
4 the lien can be dissolved.

5 (7) If the secretary of ~~social and rehabilitation services~~ *health and*  
6 *environment* or the secretary's designee has not filed an action to foreclose  
7 the lien in the Kansas district court in the county where the real property is  
8 located within 10 years from the date of the filing of the lien, then the lien  
9 shall become dormant, and shall cease to operate as a lien on the real estate  
10 of the recipient. Such dormant lien may be revived in the same manner as  
11 a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and  
12 amendments thereto.

13 (8) *The secretary of health and environment shall adopt by rules and*  
14 *regulations the value of expressly created life estates or other interests in*  
15 *real or personal property or other assets measured or valued by a life*  
16 *span. Such property interests shall be measured or valued at the time of*  
17 *death, irrespective of the actual life span of the measured or valued life,*  
18 *and shall be the only evidence considered for the purpose of recovery from*  
19 *deceased recipients of medical assistance under this subsection.*

20 (h) *Placement under the revised Kansas code for care of children or*  
21 *revised Kansas juvenile justice code; assignment of support rights and*  
22 *limited power of attorney.* In any case in which the secretary of social and  
23 rehabilitation services pays for the expenses of care and custody of a child  
24 pursuant to K.S.A. 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and  
25 amendments thereto, including the expenses of any foster care placement,  
26 an assignment of all past, present and future support rights of the child in  
27 custody possessed by either parent or other person entitled to receive  
28 support payments for the child is, by operation of law, conveyed to the  
29 secretary. Such assignment shall become effective upon placement of a  
30 child in the custody of the secretary or upon payment of the expenses of  
31 care and custody of a child by the secretary without the requirement that  
32 any document be signed by the parent or other person entitled to receive  
33 support payments for the child. When the secretary pays for the expenses  
34 of care and custody of a child or a child is placed in the custody of the  
35 secretary, the parent or other person entitled to receive support payments  
36 for the child is also deemed to have appointed the secretary, or the  
37 secretary's designee, as attorney in fact to perform the specific act of  
38 negotiating and endorsing all drafts, checks, money orders or other  
39 negotiable instruments representing support payments received by the  
40 secretary on behalf of the child. This limited power of attorney shall be  
41 effective from the date the assignment to support rights becomes effective  
42 and shall remain in effect until the assignment of support rights has been  
43 terminated in full.

1 (i) No person who voluntarily quits employment or who is fired from  
2 employment due to gross misconduct as defined by rules and regulations  
3 of the secretary or who is a fugitive from justice by reason of a felony  
4 conviction or charge shall be eligible to receive public assistance benefits  
5 in this state. Any recipient of public assistance who fails to timely comply  
6 with monthly reporting requirements under criteria and guidelines  
7 prescribed by rules and regulations of the secretary shall be subject to a  
8 penalty established by the secretary by rules and regulations.

9 (j) If the applicant or recipient of aid to families with dependent  
10 children is a mother of the dependent child, as a condition of the mother's  
11 eligibility for aid to families with dependent children the mother shall  
12 identify by name and, if known, by current address the father of the  
13 dependent child except that the secretary may adopt by rules and  
14 regulations exceptions to this requirement in cases of undue hardship. Any  
15 recipient of aid to families with dependent children who fails to cooperate  
16 with requirements relating to child support enforcement under criteria and  
17 guidelines prescribed by rules and regulations of the secretary shall be  
18 subject to a penalty established by the secretary by rules and regulations  
19 which penalty shall progress to ineligibility for the family after three  
20 months of noncooperation.

21 (k) By applying for or receiving child care benefits or food stamps,  
22 the applicant or recipient shall be deemed to have assigned, pursuant to  
23 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the  
24 state only accrued, present or future rights to support from any other  
25 person such applicant may have in such person's own behalf or in behalf of  
26 any other family member for whom the applicant is applying for or  
27 receiving aid. The assignment of support rights shall automatically become  
28 effective upon the date of approval for or receipt of such aid without the  
29 requirement that any document be signed by the applicant or recipient. By  
30 applying for or receiving child care benefits or food stamps, the applicant  
31 or recipient is also deemed to have appointed the secretary, or the  
32 secretary's designee, as an attorney in fact to perform the specific act of  
33 negotiating and endorsing all drafts, checks, money orders or other  
34 negotiable instruments representing support payments received by the  
35 secretary in behalf of any person applying for, receiving or having  
36 received such assistance. This limited power of attorney shall be effective  
37 from the date the secretary approves the application for aid and shall  
38 remain in effect until the assignment of support rights has been terminated  
39 in full. An applicant or recipient who has assigned support rights to the  
40 secretary pursuant to this subsection shall cooperate in establishing and  
41 enforcing support obligations to the same extent required of applicants for  
42 or recipients of aid to families with dependent children.

43 Sec. 3. K.S.A. 58-3957 is hereby amended to read as follows: 58-

1 3957. (a) (1) A person, excluding another state, claiming an interest in any  
2 property paid or delivered to the administrator may file with the  
3 administrator a claim on a form prescribed by the administrator and  
4 verified by the claimant.

5 (2) *The department of health and environment may claim an interest*  
6 *in any property paid or delivered to the administrator if the deceased*  
7 *owner of such property received medical assistance under K.S.A. 39-709,*  
8 *and amendments thereto, except that such claim shall not exceed the*  
9 *amount of medical assistance received by the deceased owner.*

10 (3) The administrator may hold a hearing on the claim in accordance  
11 with the provisions of the Kansas administrative procedure act. The  
12 decision resulting from any hearing shall be a public record.

13 (b) The administrator shall consider each claim within 90 days after it  
14 is filed and give written notice to the claimant if the claim is denied in  
15 whole or in part. The notice may be given by mailing it to the last address,  
16 if any, stated in the claim as the address to which notices are to be sent. If  
17 no address for notices is stated in the claim, the notice may be mailed to  
18 the last address, if any, of the claimant as stated in the claim. No notice of  
19 denial need be given if the claim fails to state either the last address to  
20 which notices are to be sent or the address of the claimant.

21 (c) If a claim is allowed, the administrator shall pay over or deliver to  
22 the claimant the property or the amount the administrator actually received  
23 or the net proceeds if it has been sold by the administrator, together with  
24 any additional amount required by K.S.A. 58-3954, and amendments  
25 thereto. Interest reported under the previous disposition of unclaimed  
26 property act shall not be computed, paid or delivered to the claimant after  
27 enactment of this act. If the claim is for property presumed abandoned  
28 under K.S.A. 58-3943, and amendments thereto, which was sold by the  
29 administrator within three years after the date of delivery, the amount  
30 payable for that claim is the value of the property at the time the claim was  
31 made or the net proceeds of sale, whichever is greater.

32 (d) Any holder who pays the owner for property that has been  
33 delivered to the state and which, if claimed from the administrator, would  
34 be subject to subsection (c) shall add any additional amount as provided in  
35 K.S.A. 58-3954, and amendments thereto. The additional amount shall be  
36 repaid to the holder by the administrator in the same manner as the  
37 principal.

38 Sec. 4. K.S.A. 58a-818 is hereby amended to read as follows: 58a-  
39 818. (†) (a) Any trustee who has a duty or power to pay the debts of a  
40 deceased settlor may give notice to creditors thereof. Such notice shall be  
41 published once a week for three consecutive weeks in a newspaper,  
42 authorized by law to publish legal notices, of the county in which the  
43 deceased settlor was a resident. The publication notice to creditors shall be

1 to all persons concerned. It shall state the name and address of the trustee,  
2 the name of the deceased settlor, the name of the trust from which the  
3 debts of the decedent may be paid upon receipt of proper proof thereof,  
4 and shall notify the creditors to present such claims to the trustee within  
5 the later of:

6 ~~(a)~~ (1) Four months from the date of the first published notice; or

7 ~~(b)~~ (2) thirty days after receipt of the actual notice directed by *this*  
8 subsection ~~(2)~~, or be forever barred as against the trustee and the trust  
9 property.

10 ~~(2)~~ Any trustee publishing a notice to creditors under the provisions  
11 of *this* subsection ~~(1)~~ shall also give actual notice to known or reasonably  
12 ascertainable creditors prior to the expiration of the period described in  
13 *this* subsection ~~(1)~~~~(a)~~.

14 *(b) Any trustee who has a duty or power to pay the debts of a*  
15 *deceased settlor shall give notice to the department of health and*  
16 *environment if the deceased settlor or a deceased trust beneficiary of such*  
17 *settlor received medical assistance under K.S.A. 39-709, and amendments*  
18 *thereto. Such notice shall be provided to the department of health and*  
19 *environment within 90 days after the death of the settlor or trust*  
20 *beneficiary of the settlor. If the deceased settlor or deceased beneficiary of*  
21 *such settlor received medical assistance under K.S.A. 39-709, and*  
22 *amendments thereto, the department of health and environment shall*  
23 *recover upon any claim against such trust in which the deceased settlor or*  
24 *deceased beneficiary of such settlor had any legal title or interest*  
25 *immediately before or at the time of death, to the extent of such legal title*  
26 *or interest.*

27 ~~(3)~~ (c) The claim of a creditor of a deceased settlor *under subsection*  
28 (a) shall be forever barred as against the trustee and the trust property  
29 unless the claim is presented to the trustee within the later of:

30 ~~(a)~~ (1) Four months from the date of the first publication of the notice  
31 under subsection ~~(1)~~ (a); or

32 ~~(b)~~ (2) if the creditor is known or reasonably ascertainable, 30 days  
33 after actual notice was given.

34 ~~(4)~~ (d) Nothing in this section shall affect or prevent the enforcement  
35 of a claim arising out of tort against the decedent within the period of the  
36 statute of limitations provided for an action on such claim. any recovery by  
37 the claimant in such action shall not affect the distribution of the assets of  
38 the trust unless a claim was presented to the trustee within the time  
39 allowed for filing claims under subsection ~~(1)~~ (a). The action may be filed  
40 in any court of competent jurisdiction and the rules of pleading and  
41 procedure in the action shall be the same as apply in civil actions. The trust  
42 may be terminated and the trustee promptly discharged when the statute of  
43 limitations for filing such actions has expired and no action has been filed

1 or upon conclusion of any action filed.

2 ~~(e)~~ (e) This section shall be part of and supplemental to the Kansas  
3 uniform trust code.

4 Sec. 5. K.S.A. 59-617 is hereby amended to read as follows: 59-617.  
5 No will of a testator who died while a resident of this state shall be  
6 effectual to pass property unless a petition is filed for the probate of such  
7 will within ~~six months~~ *one year* after the death of the testator, except as  
8 hereinafter provided.

9 Sec. 6. K.S.A. 59-618 is hereby amended to read as follows: 59-618.  
10 Any person who has possession of the will of a testator dying a resident of  
11 this state, or has knowledge of such will and access to it for the purpose of  
12 probate, and knowingly withholds it from the district court having  
13 jurisdiction to probate it for more than ~~six months~~ *one year* after the death  
14 of the testator shall be liable for reasonable attorney fees, costs and all  
15 damages sustained by beneficiaries under the will who do not have  
16 possession of the will and are without knowledge of it and access to it.  
17 Such will may be admitted to probate as to any innocent beneficiary on  
18 petition for probate by any such beneficiary, if such petition is filed within  
19 90 days after such beneficiary has knowledge of such will and access to it,  
20 except that the title of any purchaser in good faith, without knowledge of  
21 such will, to any property derived from the fiduciary, heirs, devisees or  
22 legatees of the decedent, shall not be defeated by the production of the will  
23 of such decedent and the petition for probate of the will after the expiration  
24 of ~~six months~~ *one year* from the death of the decedent.

25 The provisions of this section as amended by this act shall apply  
26 retroactively to the withholding of a will of a testator.

27 Sec. 7. K.S.A. 2012 Supp. 59-618a is hereby amended to read as  
28 follows: 59-618a. (a) Any person possessing a decedent's will may file in  
29 the district court of the county of the decedent's last residence the  
30 decedent's will and an affidavit which complies with subsection (b) if the  
31 decedent's probate estate contains no known real or personal property or  
32 the value of the known real and personal property in the decedent's probate  
33 estate is less than the total of all known demands enumerated in K.S.A. 59-  
34 1301, and amendments thereto.

35 (b) An affidavit filed pursuant to this section shall state: (1) The  
36 name, residence address and date and place of death of the decedent; (2)  
37 the names, addresses and relationships of all the decedent's heirs, legatees  
38 and devisees which are known to the affiant after a diligent search and  
39 inquiry; (3) the name and address of any trustee of any trust established  
40 under the will; (4) the property left by the decedent and its approximate  
41 valuation; (5) the approximate amount and nature of any demands  
42 enumerated in K.S.A. 59-1301, and amendments thereto, which were  
43 outstanding against the decedent's estate upon the decedent's death; (6) that



1 the will is being filed with the district court for the purpose of preserving it  
2 for record in the event that probate proceedings are later required; and (7)  
3 that a copy of the affidavit and will has been mailed to each heir, legatee  
4 and devisee named in the affidavit.

5 (c) Any will filed pursuant to this section within a period of ~~six~~  
6 ~~months~~ *one year* after the death of the testator may be admitted to probate  
7 after such ~~six-month~~ *one-year* period.

8 Sec. 8. K.S.A. 59-619 is hereby amended to read as follows: 59-619.  
9 No oral will of a testator who died while a resident of this state shall be  
10 admitted to probate unless an application is made therefor within ~~six~~  
11 ~~months~~ *one year* after the death of the testator, except as provided by  
12 K.S.A. 59-2229 and 59-2230, and amendments thereto.

13 Sec. 9. K.S.A. 59-1501 is hereby amended to read as follows: 59-  
14 1501. (a) Every executor and administrator shall have nine (9) months  
15 from the date of ~~his or her~~ *such* appointment for the settlement of the  
16 estate. An administrator de bonis non shall have such time, not exceeding  
17 nine (9) months as the court may determine. For cause shown the period  
18 herein limited may be extended by the court, not exceeding nine (9)  
19 months at a time. The executor or administrator shall not be disqualified  
20 thereafter in any way, unless removed, but ~~he or she~~ *such executor or*  
21 *administrator* shall not be relieved from any loss, liability, or penalty  
22 incurred by failure to settle the estate within the time limited.

23 That in case any executor or administrator shall fail or refuse for a  
24 period of ~~thirty~~ *30* days after the expiration of ~~said~~ *nine (9)* months to  
25 make such settlement, ~~he or she~~ *such executor or administrator* may be  
26 cited by the court for the purpose of making such settlement unless the  
27 time therefor has been extended by the court, and all costs connected with  
28 such citation and the hearing thereon shall be assessed against such  
29 executor or administrator, and not against the estate. ~~Provided~~. In the  
30 event the return of ~~said~~ *such* citation shows that the executor or  
31 administrator is not within the jurisdiction of ~~said~~ *the* court, ~~said~~ *the* estate  
32 may be closed by the order of the court without a publication notice when  
33 there has been no prosecution thereon for a period of five (5) years. ~~Said~~  
34 *Such* estate may be reopened within one (1) year thereafter upon petition  
35 by a direct heir, executor or administrator who shall be charged with the  
36 costs thereof.

37 (b) *Except as provided in subsection (c), every executor or*  
38 *administrator of any estate where the decedent or such decedent's*  
39 *predeceased spouse was 55 or more years of age or a resident of a facility*  
40 *licensed under the adult care home licensure act, K.S.A. 39-923 et seq.,*  
41 *and amendments thereto, shall file with the clerk of the district court*  
42 *exercising probate jurisdiction a release from the department of health*  
43 *and environment before any probate estate may be closed under*

1 subsection (a). Such release shall provide:

2 (1) That the decedent or such decedent's predeceased spouse had not  
3 received medical assistance under K.S.A. 39-709, and amendments  
4 thereto;

5 (2) that the decedent or such decedent's predeceased spouse had  
6 received medical assistance under K.S.A. 39-709, and amendments  
7 thereto, and the department of health and environment has filed a claim  
8 against such decedent's estate; or

9 (3) that the decedent or such decedent's predeceased spouse had  
10 received medical assistance under K.S.A. 39-709, and amendments  
11 thereto, the department of health and environment has waived or settled  
12 any claim against such decedent's estate and no amount remains due  
13 against such decedent's estate.

14 (c) If the release issued by the department of health and environment  
15 pursuant to subsection (b) has not been received by the executor or  
16 administrator within 30 days of the executor's or administrator's request  
17 for the release, such executor's or administrator's filing of notice with the  
18 clerk of the district court pursuant to subsection (e) of K.S.A. 59-2222, and  
19 amendments thereto, shall constitute prima facie evidence that the  
20 decedent or such decedent's predeceased spouse was not a recipient of  
21 medical assistance under K.S.A. 39-709, and amendments thereto.

22 Sec. 10. K.S.A. 2012 Supp. 59-1507b is hereby amended to read as  
23 follows: 59-1507b. When a resident of the state dies, whether testate or  
24 intestate, if the total assets of the estate of the decedent subject to probate  
25 do not exceed \$40,000 in value, any personal property of whatever nature  
26 transferable to the decedent's estate by any entity or person shall be  
27 transferred to the department of health and environment, if such decedent  
28 was a recipient of medical assistance under K.S.A. 39-709, and  
29 amendments thereto, except that such transfer shall not exceed the amount  
30 of medical assistance received by the decedent. The department of health  
31 and environment shall have a claim upon any personal property of the  
32 decedent under this section, upon furnishing the entity or person with an  
33 affidavit from the department of health and environment showing  
34 entitlement thereto. Transfer of such personal property to the department  
35 of health and environment shall be subject to reasonable funeral expenses  
36 of the decedent and constitute a full discharge and release from any  
37 further claim for such transfer to the same extent as if the transfer had  
38 been made to an executor or administrator of the decedent's estate. If such  
39 decedent was not a recipient of medical assistance under K.S.A. 39-709,  
40 and amendments thereto, any personal property of whatever nature  
41 transferable to the decedent's estate by any entity or person shall be  
42 transferred to the successor or successors of the decedent, if entitled  
43 thereto by will or by intestate succession, without having been granted

1 letters of administration or letters testamentary, upon such successor's or  
2 successors' furnishing the entity or person with an affidavit showing  
3 entitlement thereto. Transfer of such personal property to the successor or  
4 successors shall be deemed to be a transfer to the personal representative  
5 of the decedent, and the receipt of the successor or successors shall  
6 constitute a full discharge and release from any further claim for such  
7 transfer to the same extent as if the transfer had been made to an executor  
8 or administrator of the decedent's estate, *subject to the provisions of K.S.A.*  
9 *59-403, and amendments thereto.* The affidavit required herein shall be  
10 deemed sufficient if in substantial compliance with the form set forth by  
11 the judicial council.

12 Sec. 11. K.S.A. 2012 Supp. 59-2222 is hereby amended to read as  
13 follows: 59-2222. (a) When a petition is filed for the probate of a will, for  
14 the determination that the consent of a spouse to a will is a valid and  
15 binding consent, for administration or for refusal to grant letters of  
16 administration, the court shall fix the time and place for the hearing  
17 thereof. Notice of the hearing shall be given pursuant to K.S.A. 59-2209,  
18 and amendments thereto, unless the court makes an order to the contrary.  
19 If notice is by order of the court not required to be given pursuant to  
20 K.S.A. 59-2209, and amendments thereto, the court shall order notice of  
21 the hearing to be given, unless waived, in such manner as the court directs.

22 (b) When the petition seeks simplified administration, the notice shall  
23 advise all persons that under provisions for simplified administration the  
24 court need not supervise administration of the estate, and no notice of any  
25 action of the executor or administrator or other proceedings in the  
26 administration will be given, except for notice of final settlement of  
27 decedent's estate. The notice shall further advise all persons that if written  
28 objections to simplified administration are filed with the court, the court  
29 may order that supervised administration ensue.

30 (c) When a petition has been filed for the refusal of letters of  
31 administration, pursuant to K.S.A. 59-2287, and amendments thereto, the  
32 notice given shall advise all persons that at such hearing exempt property  
33 and a reasonable allowance will be set aside to the surviving spouse and  
34 minor children, or both, and that no further notice of the proceeding will  
35 be given.

36 (d) When the state is a party, the notice shall be served upon the  
37 attorney general and the county or district attorney of the county.

38 (e) *(1)* ~~If the decedent or a predeceased spouse of the decedent~~  
39 ~~received medical assistance payment under subsection (c) of K.S.A. 39-~~  
40 ~~709, and amendments thereto, or the laws of any other state, the state or~~  
41 ~~states providing such payment or payments shall be entitled to notice.~~  
42 ~~Such notice shall be given to the agency or department responsible for the~~  
43 ~~recovery of medical assistance in Kansas or, if a state other than Kansas, to~~

1 ~~the attorney general of such state or states~~. was 55 or more years of age or  
2 a resident of a facility licensed under the adult care home licensure act,  
3 K.S.A. 39-923 et seq., and amendments thereto, the department of health  
4 and environment shall be entitled to notice for the purpose of determining  
5 whether the decedent or predeceased spouse of the decedent received  
6 medical assistance under K.S.A. 39-709, and amendments thereto.

7 (2) Such notice shall provide:

8 (A) The decedent's name, date of birth, marital status and age;

9 (B) the name, date of birth and age of any predeceased spouse of the  
10 decedent; and

11 (C) whether the decedent or such decedent's predeceased spouse had  
12 been a resident of a facility licensed under the adult care home licensure  
13 act, K.S.A. 39-923 et seq., and amendments thereto.

14 (3) A copy of such notice shall be filed with the court within 30 days  
15 after notice is provided to the department of health and environment.

16 (4) If the decedent or predeceased spouse of the decedent received  
17 medical assistance from a program operated by another state or the  
18 District of Columbia under title XIX of the federal social security act, the  
19 attorney general of such other state or the District of Columbia shall be  
20 entitled to notice.

21 Sec. 12. K.S.A. 59-2239 is hereby amended to read as follows: 59-  
22 2239. (1) All demands, including demands of the state, against a decedent's  
23 estate, whether due or to become due, whether absolute or contingent,  
24 including any demand arising from or out of any statutory liability of  
25 decedent or on account of or arising from any liability as surety, guarantor  
26 or indemnitor, and including the individual demands of executors and  
27 administrators, shall be forever barred from payment unless the demand is  
28 presented within the later of: (a) Four months from the date of first  
29 publication of notice under K.S.A. 59-2236, and amendments thereto; or  
30 (b) if the identity of the creditor is known or reasonably ascertainable, 30  
31 days after actual notice was given, except that the provisions of the  
32 testator's will requiring the payment of a demand exhibited later shall  
33 control. No creditor shall have any claim against or lien upon the property  
34 of a decedent other than liens existing at the date of the decedent's death,  
35 unless a petition is filed for the probate of the decedent's will pursuant to  
36 K.S.A. 59-2220, and amendments thereto, or for the administration of the  
37 decedent's estate pursuant to K.S.A. 59-2219, and amendments thereto,  
38 within ~~six months~~ one year after the death of the decedent, and such  
39 creditor has exhibited the creditor's demand in the manner and within the  
40 time prescribed by this section, except as otherwise provided by this  
41 section.

42 (2) Nothing in this section shall affect or prevent the enforcement of a  
43 claim arising out of tort against the personal representative of a decedent

1 within the period of the statute of limitations provided for an action on  
2 such claim. For the purpose of enforcing such claims, the estate of the  
3 decedent may be opened or reopened, a special administrator appointed,  
4 and suit filed against the administrator within the period of the statute of  
5 limitations for such action. Any recovery by the claimant in such action  
6 shall not affect the distribution of the assets of the estate of the decedent  
7 unless a claim was filed in the district court within the time allowed for  
8 filing claims against the estate under subsection (1) or an action  
9 commenced as provided in subsection (2) of K.S.A. 59-2238, and  
10 amendments thereto. The action may be filed in any court of competent  
11 jurisdiction and the rules of pleading and procedure in the action shall be  
12 the same as apply in civil actions. Any such special administration shall be  
13 closed and the special administrator promptly discharged when the statute  
14 of limitations for filing such actions has expired and no action has been  
15 filed or upon conclusion of any action filed. All court costs incurred in a  
16 proceeding under this subsection shall be taxed to the petitioner.

17 Sec. 13. K.S.A. 2012 Supp. 59-2247 is hereby amended to read as  
18 follows: 59-2247. (a) The petition of an executor or an administrator for a  
19 final settlement and accounting, and a determination of the persons entitled  
20 to the estate of a decedent, shall, in addition to other requirements, contain:

21 (1) A statement of the account;  
22 (2) the names, residences, and addresses of the heirs, devisees, and  
23 legatees;

24 (3) a description of the real estate and the interest of the decedent  
25 therein at the time of the decedent's death;

26 (4) the nature and character of the respective claims of the heirs,  
27 devisees, and legatees of the decedent; and

28 ~~(5) a statement that neither the decedent nor a predeceased spouse of~~  
29 ~~the decedent were paid medical assistance under subsection (c) of K.S.A.~~  
30 ~~39-709, and amendments thereto, or the laws of any other state, or, in the~~  
31 ~~event that such assistance was paid for or to the decedent or a predeceased~~  
32 ~~spouse of the decedent under subsection (c) of K.S.A. 39-709, and~~  
33 ~~amendments thereto, or the laws of any other state, that the state making~~  
34 ~~such payments was duly notified of the filing of the petition as required by~~  
35 ~~K.S.A. 59-2222, and amendments thereto.~~

36 (5) (A) a statement that notice was provided to the department of  
37 health and environment pursuant to K.S.A. 59-2222, and amendments  
38 thereto; or

39 (B) a statement that the decedent or such decedent's predeceased  
40 spouse was not 55 or more years of age and had not been a resident of a  
41 facility licensed under the adult care home licensure act, K.S.A. 39-923 et  
42 seq., and amendments thereto; and

43 (6) (A) a copy of the release provided by the department of health

1 *and environment pursuant to K.S.A. 59-1501, and amendments thereto; or*  
2 *(B) a statement that notice was provided to the department of health*  
3 *and environment pursuant to K.S.A. 59-2222, and amendments thereto,*  
4 *and such notice constitutes prima facie evidence pursuant to subsection*  
5 *(c) of K.S.A. 59-1501, and amendments thereto, that the decedent or such*  
6 *decedent's predeceased spouse was not a recipient of medical assistance*  
7 *under K.S.A. 39-709, and amendments thereto.*

8 Notice of the hearing on a petition of an executor or administrator for a  
9 final settlement and accounting in which title to real estate is to be  
10 assigned by the court shall be given pursuant to K.S.A. 59-2209, and  
11 amendments thereto. In all other cases, notice shall be given or waived as  
12 provided in K.S.A. 59-2208, and amendments thereto.

13 Sec. 14. K.S.A. 59-2250 is hereby amended to read as follows: 59-  
14 2250. Whenever any person has been dead for more than ~~six months~~ *one*  
15 *year* and has left property or any interest in property, any person interested  
16 in the estate or claiming an interest in such property may petition the  
17 district court of the county of the decedent's residence, or of any county  
18 where property or any interest in property of the decedent is situated, to  
19 determine its descent under the laws of intestate succession or under the  
20 terms of a valid settlement agreement if:

21 (a) No will has been filed under K.S.A. 59-618a, and amendments  
22 thereto, within ~~six months~~ *one year* after death;

23 (b) no petition has been filed for the probate of a will in this state; and

24 (c) no petition for administration has been filed in this state or  
25 administration has been had without a determination of the descent of the  
26 property.

27 Sec. 15. K.S.A. 39-702, 58-3957, 58a-818, 59-617, 59-618, 59-619,  
28 59-1501, 59-2239 and 59-2250 and K.S.A. 2012 Supp. 39-709, 59-618a,  
29 59-1507b, 59-2222 and 59-2247 are hereby repealed.

30 Sec. 16. This act shall take effect and be in force from and after its  
31 publication in the statute book.