

Substitute for HOUSE BILL No. 2166

By Committee on Judiciary

3-13

1 AN ACT concerning social welfare; relating to the medical assistance
2 recovery program; amending K.S.A. 39-702 and 58-3957 and K.S.A.
3 2012 Supp. 28-115 and 39-709 and repealing the existing sections.

4

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

6 Section 1. K.S.A. 2012 Supp. 28-115 is hereby amended to read as
7 follows: 28-115. (a) The register of deeds of each county shall charge and
8 collect the following fees:

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10 For recording deeds, mortgages or other instruments	
11 of writing, for first page, not to exceed legal size	
12 page—8 ½" x 14".....	\$6.00
13 For second page and each additional page or fraction	
14 thereof.....	2.00
15 Recording town plats, for each page.....	20.00
16 Recording release or assignment of real estate mortgage.....	5.00
17 Certificate, certifying any instrument on record.....	1.00
18 Acknowledgment of a signature.....	.50
19 For filing notices of tax liens under the internal revenue	
20 laws of the United States.....	5.00
21 For filing releases of tax liens, certificates of discharge,	
22 under the internal revenue laws of the United States	
23 or the revenue laws of the state of Kansas.....	5.00
24 For filing liens for materials and services under	
25 K.S.A. 58-201, and amendments thereto.....	5.00

26

27 (b) In addition to the fees required to be charged and collected
28 pursuant to subsection (a), the register of deeds shall charge and collect an
29 additional fee of \$2 per page for recording:

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31 (1) The first page of any deeds, mortgages or other instruments of

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33 writing, not to exceed legal size—8 ½" x 14";

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35 (2) the second page and each additional page or fraction of any deeds,

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37 mortgages or instruments of writing; and

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39 (3) a release or assignment of real estate mortgage.

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41 Any fees collected pursuant to this subsection shall be paid by the

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43 register of deeds to the county treasurer. The county treasurer shall deposit

1 such funds in the register of deeds technology fund as provided by K.S.A.
2 2012 Supp. 28-115a, and amendments thereto.

3 (c) For any filing or service provided for in the uniform commercial
4 code, the amount therein provided, shall be charged and collected. *No fee*
5 *shall be charged or collected for any filing made by the secretary of health*
6 *and environment or the secretary's designee pursuant to K.S.A 39-709,*
7 *and amendments thereto.*

8 (d) If the name or names of the signer or signers or any notary public
9 to any instrument to be recorded are not plainly typed or printed under the
10 signatures affixed to the instrument, the register of deeds shall charge and
11 collect a fee of \$1 in addition to all other fees provided in this section.

12 (e) If sufficient space is not provided for the necessary recording
13 information and certification on a document, such recording information
14 shall be placed on an added sheet and such sheet shall be counted as a
15 page. The document shall be of sufficient legibility so as to produce a clear
16 and legible reproduction thereof. If a document is judged not to be of
17 sufficient legibility so as to produce a clear and legible reproduction, such
18 document shall be accompanied by an exact copy thereof which shall be of
19 sufficient legibility so as to produce a clear and legible reproduction
20 thereof and which shall be recorded contemporaneously with the document
21 and shall be counted as additional pages. The register of deeds may reject
22 any document which is not of sufficient legibility so as to produce a clear
23 and legible reproduction thereof.

24 (f) Any document which was filed on or after January 1, 1989, which
25 was of a size print or type smaller than 8-point type but which otherwise
26 was properly filed shall be deemed to be validly filed.

27 (g) All fees required to be collected pursuant to this section, except
28 those charged for the filing of liens and releases of tax liens under the
29 internal revenue laws of the United States, shall be due and payable before
30 the register of deeds shall be required to do the work. If the register of
31 deeds fails to collect any of the fees provided in this section, the amount of
32 the fees at the end of each quarter shall be deducted from the register's
33 salary.

34 (h) Except as otherwise provided by subsection (b), all fees required
35 to be collected pursuant to this section shall be paid by the register of
36 deeds to the county treasurer and deposited into the general fund of the
37 county.

38 Sec. 2. K.S.A. 39-702 is hereby amended to read as follows: 39-702.
39 The following words and phrases when used in this act shall, for the
40 purposes of this act, have the meanings respectively ascribed to them in
41 this section:

42 (a) "Secretary" means the secretary ~~of social and rehabilitation~~
43 ~~services for children and families, unless otherwise specified.~~

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

3 (c) "Social welfare service" may include such functions as giving
4 assistance, the prevention of public dependency, and promoting the
5 rehabilitation of dependent persons or those who are approaching public
6 dependency.

7 (d) "Assistance" includes such items or functions as the giving or
8 providing of money, food stamps or coupons, food, clothing, shelter,
9 medicine or other materials, the giving of any service, including
10 instructive or scientific, and the providing of institutional care, which may
11 be necessary or helpful to the recipient in providing the necessities of life
12 for the recipient and the recipient's dependents. The definitions of social
13 welfare service and assistance in this section shall be deemed as partially
14 descriptive and not limiting.

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

19 (f) "Medical assistance" means the payment of all or part of the cost
20 of necessary: (1) Medical, remedial, rehabilitative or preventive care and
21 services which are within the scope of services to be provided under a
22 medical care plan developed by the secretary pursuant to this act and
23 furnished by health care providers who have a current approved provider
24 agreement with the secretary; and (2) transportation to obtain care and
25 services which are within the scope of services to be provided under a
26 medical care plan developed by the secretary pursuant to this act.

27 (g) "Dependent children" means needy children under the age of 18,
28 or who are under the age of 19 and are full-time students in secondary
29 schools or the equivalent educational program or are full-time students in a
30 program of vocational or technical training if they may be reasonably
31 expected to complete the training before attaining age 19, who have been
32 deprived of parental or guardian support or care by reasons of the death,
33 continued absence from the home, or physical or mental incapacity of a
34 parent or guardian, and who are living with any blood relative, including
35 those of the half-blood, and including first cousins, uncles, aunts, and
36 persons of preceding generations are denoted by prefixes of grand, great,
37 or great-great, and including the spouses or former spouses of any persons
38 named in the above groups, in a place of residence maintained by one or
39 more of such relatives as their own home. The secretary may adopt rules
40 and regulations which extend the deprivation requirement under this
41 definition to include being deprived of parental or guardian support or care
42 by reason of the unemployment of a parent or guardian. The term
43 "dependent children" also includes children who would meet the foregoing

1 requirements except for their removal from the home of a relative as
2 result of judicial determination to the effect that continuation therein
3 would be contrary to the welfare of such children, for whose placement
4 and care the secretary is responsible, who have been placed in a foster
5 family home or child care institution as a result of such determination and
6 who received aid to dependent children in or for the month in which court
7 proceedings leading to such determination were initiated, or would have
8 received such aid in or for such month if application had been made
9 therefor, or in the case of a child who had been living with a relative
10 specified above within six months prior to the month in which such
11 proceedings were initiated, would have received such aid in or for such
12 month if in such month such child had been living with and removed from
13 the home of such a relative and application had been made therefor.

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

18 (i) "General assistance" means financial assistance in which the cost
19 of such financial assistance is not participated in by the federal
20 government. General assistance may be limited to transitional assistance in
21 some instances as specified by rules and regulations adopted by the
22 secretary.

23 (j) "Recipient" means a person who has received assistance under the
24 terms of this act.

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

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

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

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

36 Sec. 3. K.S.A. 2012 Supp. 39-709 is hereby amended to read as
37 follows: 39-709. (a) *General eligibility requirements for assistance for*
38 *which federal moneys are expended.* Subject to the additional requirements
39 below, assistance in accordance with plans under which federal moneys
40 are expended may be granted to any needy person who:

41 (1) Has insufficient income or resources to provide a reasonable
42 subsistence compatible with decency and health. Where a husband and
43 wife are living together, the combined income or resources of both shall be

1 considered in determining the eligibility of either or both for such
2 assistance unless otherwise prohibited by law. The secretary, in
3 determining need of any applicant for or recipient of assistance shall not
4 take into account the financial responsibility of any individual for any
5 applicant or recipient of assistance unless such applicant or recipient is
6 such individual's spouse or such individual's minor child or minor
7 stepchild if the stepchild is living with such individual. The secretary in
8 determining need of an individual may provide such income and resource
9 exemptions as may be permitted by federal law. For purposes of eligibility
10 for aid for families with dependent children, for food stamp assistance and
11 for any other assistance provided through the ~~department of social and~~
12 ~~rehabilitation services~~ *Kansas department for children and families* under
13 which federal moneys are expended, the secretary ~~of social and~~
14 ~~rehabilitation services~~ *for children and families* shall consider one motor
15 vehicle owned by the applicant for assistance, regardless of the value of
16 such vehicle, as exempt personal property and shall consider any equity in
17 any additional motor vehicle owned by the applicant for assistance to be a
18 nonexempt resource of the applicant for assistance.

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

21 (b) *Assistance to families with dependent children.* Assistance may be
22 granted under this act to any dependent child, or relative, subject to the
23 general eligibility requirements as set out in subsection (a), who resides in
24 the state of Kansas or whose parent or other relative with whom the child
25 is living resides in the state of Kansas. Such assistance shall be known as
26 aid to families with dependent children. Where husband and wife are
27 living together both shall register for work under the program
28 requirements for aid to families with dependent children in accordance
29 with criteria and guidelines prescribed by rules and regulations of the
30 secretary.

31 (c) *Aid to families with dependent children; assignment of support*
32 *rights and limited power of attorney.* By applying for or receiving aid to
33 families with dependent children such applicant or recipient shall be
34 deemed to have assigned to the secretary on behalf of the state any
35 accrued, present or future rights to support from any other person such
36 applicant may have in such person's own behalf or in behalf of any other
37 family member for whom the applicant is applying for or receiving aid. In
38 any case in which an order for child support has been established and the
39 legal custodian and obligee under the order surrenders physical custody of
40 the child to a caretaker relative without obtaining a modification of legal
41 custody and support rights on behalf of the child are assigned pursuant to
42 this section, the surrender of physical custody and the assignment shall
43 transfer, by operation of law, the child's support rights under the order to

1 the secretary on behalf of the state. Such assignment shall be of all
2 accrued, present or future rights to support of the child surrendered to the
3 caretaker relative. The assignment of support rights shall automatically
4 become effective upon the date of approval for or receipt of such aid
5 without the requirement that any document be signed by the applicant,
6 recipient or obligee. By applying for or receiving aid to families with
7 dependent children, or by surrendering physical custody of a child to a
8 caretaker relative who is an applicant or recipient of such assistance on the
9 child's behalf, the applicant, recipient or obligee is also deemed to have
10 appointed the secretary, or the secretary's designee, as an attorney in fact to
11 perform the specific act of negotiating and endorsing all drafts, checks,
12 money orders or other negotiable instruments representing support
13 payments received by the secretary in behalf of any person applying for,
14 receiving or having received such assistance. This limited power of
15 attorney shall be effective from the date the secretary approves the
16 application for aid and shall remain in effect until the assignment of
17 support rights has been terminated in full.

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

23 (A) To qualify for general assistance in any form a needy person must
24 have insufficient income or resources to provide a reasonable subsistence
25 compatible with decency and health and, except as provided for
26 transitional assistance, be a member of a family in which a minor child or
27 a pregnant woman resides or be unable to engage in employment. The
28 secretary shall adopt rules and regulations prescribing criteria for
29 establishing when a minor child may be considered to be living with a
30 family and whether a person is able to engage in employment, including
31 such factors as age or physical or mental condition. Eligibility for general
32 assistance, other than transitional assistance, is limited to families in which
33 a minor child or a pregnant woman resides or to an adult or family in
34 which all legally responsible family members are unable to engage in
35 employment. Where a husband and wife are living together the combined
36 income or resources of both shall be considered in determining the
37 eligibility of either or both for such assistance unless otherwise prohibited
38 by law. The secretary in determining need of any applicant for or recipient
39 of general assistance shall not take into account the financial responsibility
40 of any individual for any applicant or recipient of general assistance unless
41 such applicant or recipient is such individual's spouse or such individual's
42 minor child or a minor stepchild if the stepchild is living with such
43 individual. In determining the need of an individual, the secretary may

1 provide for income and resource exemptions.

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

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

12 (3) In addition to the other requirements prescribed under this
13 subsection (d), the secretary shall adopt rules and regulations which
14 establish community work experience program requirements for eligibility
15 for the receipt of general assistance in any form and which establish
16 penalties to be imposed when a work assignment under a community work
17 experience program requirement is not completed without good cause. The
18 secretary may adopt rules and regulations establishing exemptions from
19 any such community work experience program requirements. A first time
20 failure to complete such a work assignment requirement shall result in
21 ineligibility to receive general assistance for a period fixed by such rules
22 and regulations of not more than three calendar months. A subsequent
23 failure to complete such a work assignment requirement shall result in a
24 period fixed by such rules and regulations of ineligibility of not more than
25 six calendar months.

26 (4) If any person is found guilty of the crime of theft under the
27 provisions of K.S.A. 39-720, and amendments thereto, such person shall
28 thereby become forever ineligible to receive any form of general
29 assistance under the provisions of this subsection (d) unless the conviction
30 is the person's first conviction under the provisions of K.S.A. 39-720, and
31 amendments thereto, or the law of any other state concerning welfare
32 fraud. First time offenders convicted of a misdemeanor under the
33 provisions of such statute shall become ineligible to receive any form of
34 general assistance for a period of 12 calendar months from the date of
35 conviction. First time offenders convicted of a felony under the provisions
36 of such statute shall become ineligible to receive any form of general
37 assistance for a period of 60 calendar months from the date of conviction.
38 If any person is found guilty by a court of competent jurisdiction of any
39 state other than the state of Kansas of a crime involving welfare fraud,
40 such person shall thereby become forever ineligible to receive any form of
41 general assistance under the provisions of this subsection (d) unless the
42 conviction is the person's first conviction under the law of any other state
43 concerning welfare fraud. First time offenders convicted of a misdemeanor

1 under the law of any other state concerning welfare fraud shall become
2 ineligible to receive any form of general assistance for a period of 12
3 calendar months from the date of conviction. First time offenders
4 convicted of a felony under the law of any other state concerning welfare
5 fraud shall become ineligible to receive any form of general assistance for
6 a period of 60 calendar months from the date of conviction.

7 (e) *Requirements for medical assistance for which federal moneys or*
8 *state moneys or both are expended.* (1) When the secretary has adopted a
9 medical care plan under which federal moneys or state moneys or both are
10 expended, medical assistance in accordance with such plan shall be
11 granted to any person who is a citizen of the United States or who is an
12 alien lawfully admitted to the United States and who is residing in the state
13 of Kansas, whose resources and income do not exceed the levels
14 prescribed by the secretary. In determining the need of an individual, the
15 secretary may provide for income and resource exemptions and protected
16 income and resource levels. Resources from inheritance shall be counted.
17 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
18 amendments thereto, shall constitute a transfer of resources. The secretary
19 shall exempt principal and interest held in irrevocable trust pursuant to
20 subsection (c) of K.S.A. 16-303, and amendments thereto, from the
21 eligibility requirements of applicants for and recipients of medical
22 assistance. Such assistance shall be known as medical assistance.

23 (2) For the purposes of medical assistance eligibility determinations
24 on or after July 1, 2004, if an applicant or recipient owns property in joint
25 tenancy with some other party and the applicant or recipient of medical
26 assistance has restricted or conditioned their interest in such property to a
27 specific and discrete property interest less than 100%, then such
28 designation will cause the full value of the property to be considered an
29 available resource to the applicant or recipient.

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

34 (B) If a trust has discretionary language, the trust shall be considered
35 to be an available resource to the extent, using the full extent of discretion,
36 the trustee may make any of the income or principal available to the
37 applicant or recipient of medical assistance. Any such discretionary trust
38 shall be considered an available resource unless: (i) At the time of creation
39 or amendment of the trust, the trust states a clear intent that the trust is
40 supplemental to public assistance; and (ii) the trust: (a) Is funded from
41 resources of a person who, at the time of such funding, owed no duty of
42 support to the applicant or recipient of medical assistance; or (b) is funded
43 not more than nominally from resources of a person while that person

1 owed a duty of support to the applicant or recipient of medical assistance.

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

5 (4) (A) When an applicant or recipient of medical assistance is a party
6 to a contract, agreement or accord for personal services being provided by
7 a nonlicensed individual or provider and such contract, agreement or
8 accord involves health and welfare monitoring, pharmacy assistance, case
9 management, communication with medical, health or other professionals,
10 or other activities related to home health care, long term care, medical
11 assistance benefits, or other related issues, any moneys paid under such
12 contract, agreement or accord shall be considered to be an available
13 resource unless the following restrictions are met: (i) The contract,
14 agreement or accord must be in writing and executed prior to any services
15 being provided; (ii) the moneys paid are in direct relationship with the fair
16 market value of such services being provided by similarly situated and
17 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
18 individuals or situations can be found, the value of services will be based
19 on federal hourly minimum wage standards; (iv) such individual providing
20 the services will report all receipts of moneys as income to the appropriate
21 state and federal governmental revenue agencies; (v) any amounts due
22 under such contract, agreement or accord shall be paid after the services
23 are rendered; (vi) the applicant or recipient shall have the power to revoke
24 the contract, agreement or accord; and (vii) upon the death of the applicant
25 or recipient, the contract, agreement or accord ceases.

26 (B) When an applicant or recipient of medical assistance is a party to
27 a written contract for personal services being provided by a licensed health
28 professional or facility and such contract involves health and welfare
29 monitoring, pharmacy assistance, case management, communication with
30 medical, health or other professionals, or other activities related to home
31 health care, long term care, medical assistance benefits or other related
32 issues, any moneys paid in advance of receipt of services for such
33 contracts shall be considered to be an available resource.

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

36 (f) *Eligibility for medical assistance of resident receiving medical*
37 *care outside state.* A person who is receiving medical care including long-
38 term care outside of Kansas whose health would be endangered by the
39 postponement of medical care until return to the state or by travel to return
40 to Kansas, may be determined eligible for medical assistance if such
41 individual is a resident of Kansas and all other eligibility factors are met.
42 Persons who are receiving medical care on an ongoing basis in a long-term
43 medical care facility in a state other than Kansas and who do not return to

1 a care facility in Kansas when they are able to do so, shall no longer be
2 eligible to receive assistance in Kansas unless such medical care is not
3 available in a comparable facility or program providing such medical care
4 in Kansas. For persons who are minors or who are under guardianship, the
5 actions of the parent or guardian shall be deemed to be the actions of the
6 child or ward in determining whether or not the person is remaining
7 outside the state voluntarily.

8 (g) *Medical assistance; assignment of rights to medical support and*
9 *limited power of attorney; recovery from estates of deceased recipients.* (1)

10 Except as otherwise provided in K.S.A. 39-786 and 39-787, and
11 amendments thereto, or as otherwise authorized on and after September
12 30, 1989, under section 303, ~~and amendments thereto~~, of the federal
13 medicare catastrophic coverage act of 1988, whichever is applicable, by
14 applying for or receiving medical assistance under a medical care plan in
15 which federal funds are expended, any accrued, present or future rights to
16 support and any rights to payment for medical care from a third party of an
17 applicant or recipient and any other family member for whom the
18 applicant is applying shall be deemed to have been assigned to the
19 secretary on behalf of the state. The assignment shall automatically
20 become effective upon the date of approval for such assistance without the
21 requirement that any document be signed by the applicant or recipient. By
22 applying for or receiving medical assistance the applicant or recipient is
23 also deemed to have appointed the secretary, or the secretary's designee, as
24 an attorney in fact to perform the specific act of negotiating and endorsing
25 all drafts, checks, money orders or other negotiable instruments,
26 representing payments received by the secretary in behalf of any person
27 applying for, receiving or having received such assistance. This limited
28 power of attorney shall be effective from the date the secretary approves
29 the application for assistance and shall remain in effect until the
30 assignment has been terminated in full. The assignment of any rights to
31 payment for medical care from a third party under this subsection shall not
32 prohibit a health care provider from directly billing an insurance carrier for
33 services rendered if the provider has not submitted a claim covering such
34 services to the secretary for payment. Support amounts collected on behalf
35 of persons whose rights to support are assigned to the secretary only under
36 this subsection and no other shall be distributed pursuant to subsection (d)
37 of K.S.A. 39-756, and amendments thereto, except that any amounts
38 designated as medical support shall be retained by the secretary for
39 repayment of the unreimbursed portion of assistance. Amounts collected
40 pursuant to the assignment of rights to payment for medical care from a
41 third party shall also be retained by the secretary for repayment of the
42 unreimbursed portion of assistance.

43 (2) The amount of any medical assistance paid after June 30, 1992,

1 under the provisions of subsection (e) is (A) a claim against the property or
2 any interest therein belonging to and a part of the estate of any deceased
3 recipient or, if there is no estate, the estate of the surviving spouse, if any,
4 shall be charged for such medical assistance paid to either or both, and (B)
5 a claim against any funds of such recipient or spouse in any account under
6 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and
7 amendments thereto. There shall be no recovery of medical assistance
8 correctly paid to or on behalf of an individual under subsection (e) except
9 after the death of the surviving spouse of the individual, if any, and only at
10 a time when the individual has no surviving child who is under 21 years of
11 age or is blind or permanently and totally disabled. Transfers of real or
12 personal property by recipients of medical assistance without adequate
13 consideration are voidable and may be set aside. Except where there is a
14 surviving spouse, or a surviving child who is under 21 years of age or is
15 blind or permanently and totally disabled, the amount of any medical
16 assistance paid under subsection (e) is a claim against the estate in any
17 guardianship or conservatorship proceeding. The monetary value of any
18 benefits received by the recipient of such medical assistance under long-
19 term care insurance, as defined by K.S.A. 40-2227, and amendments
20 thereto, shall be a credit against the amount of the claim provided for such
21 medical assistance under this subsection (g). The secretary is authorized to
22 enforce each claim provided for under this subsection (g). The secretary
23 shall not be required to pursue every claim, but is granted discretion to
24 determine which claims to pursue. All moneys received by the secretary
25 from claims under this subsection (g) shall be deposited in the social
26 welfare fund. The secretary may adopt rules and regulations for the
27 implementation and administration of the medical assistance recovery
28 program under this subsection (g).

29 (3) By applying for or receiving medical assistance under the
30 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, *and*
31 *amendments thereto*, such individual or such individual's agent, fiduciary,
32 guardian, conservator, representative payee or other person acting on
33 behalf of the individual consents to the following definitions of estate and
34 the results therefrom:

35 (A) If an individual receives any medical assistance before July 1,
36 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
37 *and amendments thereto*, which forms the basis for a claim under
38 subsection (g)(2), such claim is limited to the individual's probatable estate
39 as defined by applicable law; and

40 (B) if an individual receives any medical assistance on or after July 1,
41 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
42 *and amendments thereto*, which forms the basis for a claim under
43 subsection (g)(2), such claim shall apply to the individual's medical

1 assistance estate. The medical assistance estate is defined as including all
2 real and personal property and other assets in which the deceased
3 individual had any legal title or interest immediately before or at the time
4 of death to the extent of that interest or title. The medical assistance estate
5 includes, without limitation assets conveyed to a survivor, heir or assign of
6 the deceased recipient through joint tenancy, tenancy in common,
7 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
8 trust, annuities or similar arrangement.

9 (4) ~~The secretary of social and rehabilitation services of health and~~
10 ~~environment~~ or the secretary's designee is authorized to file and enforce a
11 lien against the real property of a recipient of medical assistance in certain
12 situations, subject to all prior liens of record. The lien must be filed in the
13 office of the register of deeds of the county where the real property is
14 located and must contain the legal description of all real property in the
15 county subject to the lien. ~~This lien is for payments of medical assistance~~
16 ~~made by the department of social and rehabilitation services to the~~
17 ~~recipient who is an inpatient in a nursing home or other medical~~
18 ~~institution.~~

19 (A) *After the death of a recipient of medical assistance, the secretary*
20 *of health and environment or the secretary's designee may place a lien on*
21 *any interest in real property owned by such recipient.*

22 (B) *The secretary of health and environment or the secretary's*
23 *designee may place a lien on any interest in real property owned by a*
24 *recipient of medical assistance during the lifetime of such recipient. Such*
25 *lien may be filed only after notice and an opportunity for a hearing has*
26 *been given. Such lien may be enforced only upon competent medical*
27 *testimony that the recipient cannot reasonably be expected to be*
28 *discharged and returned home. A six-month period of compensated*
29 *inpatient care at a nursing home, ~~nursing homes~~ or other medical*
30 *institution shall constitute a determination by the ~~department of social and~~*
31 *~~rehabilitation services~~ Kansas department of health and environment that*
32 *the recipient cannot reasonably be expected to be discharged and returned*
33 *home. To return home means the recipient leaves the nursing or medical*
34 *facility and resides in the home on which the lien has been placed for a*
35 *continuous period of at least 90 days without being readmitted as an*
36 *inpatient to a nursing or medical facility. The amount of the lien shall be*
37 *for the amount of assistance paid by the ~~department of social and~~*
38 *~~rehabilitation services~~ after the expiration of six months from the date the*
39 *recipient became eligible for compensated inpatient care at a ~~nursing~~*
40 *~~home, nursing homes or other medical institution~~ Kansas department of*
41 *health and environment until the time of the filing of the lien and for any*
42 *amount paid thereafter for such medical assistance to the recipient. After*
43 *the lien is filed against any real property owned by the recipient, such lien*

1 *will be dissolved if the recipient is discharged, returns home and resides*
2 *upon the real property to which the lien is attached for a continuous*
3 *period of at least 90 days without being readmitted as an inpatient to a*
4 *nursing or medical facility. If the recipient is readmitted as an inpatient to*
5 *a nursing or medical facility for a continuous period of less than 90 days,*
6 *another continuous period of at least 90 days shall be completed prior to*
7 *dissolution of the lien.*

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

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

15 (B) when there is no child of the recipient, natural or adopted, who is
16 20 years of age or less residing in the home;

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

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

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

26 (A) The lien is satisfied. The recipient, the heirs, personal
27 representative or assigns of the recipient may discharge such lien at any
28 time by paying the amount of the lien to the secretary or the secretary's
29 designee;

30 (B) the lien is terminated by foreclosure of prior lien of record or
31 settlement action taken in lieu of foreclosure; *or*

32 (C) the value of the real property is consumed by the lien, at which
33 time the secretary or the secretary's designee may force the sale for the real
34 property to satisfy the lien; ~~or~~

35 ~~(D) after a lien is filed against the real property, it will be dissolved if~~
36 ~~the recipient leaves the nursing or medical facility and resides in the~~
37 ~~property to which the lien is attached for a period of more than 90 days~~
38 ~~without being readmitted as an inpatient to a nursing or medical facility,~~
39 ~~even though there may have been no reasonable expectation that this~~
40 ~~would occur. If the recipient is readmitted to a nursing or medical facility~~
41 ~~during this period, and does return home after being released, another 90~~
42 ~~days must be completed before the lien can be dissolved.~~

43 (7) ~~If the secretary of social and rehabilitation services for aging and~~

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

9 *(8) Within seven days of receipt of notice by the secretary for children*
10 *and families or the secretary's designee of the death of a recipient of*
11 *medical assistance under this subsection, the secretary for children and*
12 *families or the secretary's designee shall give notice of such recipient's*
13 *death to the secretary of health and environment or the secretary's*
14 *designee.*

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

39 *(i) No person who voluntarily quits employment or who is fired from*
40 *employment due to gross misconduct as defined by rules and regulations*
41 *of the secretary or who is a fugitive from justice by reason of a felony*
42 *conviction or charge shall be eligible to receive public assistance benefits*
43 *in this state. Any recipient of public assistance who fails to timely comply*

1 with monthly reporting requirements under criteria and guidelines
2 prescribed by rules and regulations of the secretary shall be subject to a
3 penalty established by the secretary by rules and regulations.

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

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

38 Sec. 4. K.S.A. 58-3957 is hereby amended to read as follows: 58-
39 3957. (a) (1) A person, excluding another state, claiming an interest in any
40 property paid or delivered to the administrator may file with the
41 administrator a claim on a form prescribed by the administrator and
42 verified by the claimant.

43 (2) *The department of health and environment may claim an interest*

1 *in any property paid or delivered to the administrator if the deceased*
2 *owner of such property received medical assistance under K.S.A. 39-709,*
3 *and amendments thereto, except that such claim shall not exceed the*
4 *amount of medical assistance received by the deceased owner.*

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

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

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

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

33 Sec. 5. K.S.A. 39-702 and 58-3957 and K.S.A. 2012 Supp. 28-115
34 and 39-709 are hereby repealed.

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