

## HOUSE BILL No. 2515

AN ACT concerning public health and social services; relating to powers, duties and functions transferred to the Kansas department for aging and disability services from the Kansas department for children and families and the department of health and environment; updating references and corresponding changes due to Executive Reorganization Order No. 41, published in chapter 185 of the 2012 Session Laws of Kansas; amending K.S.A. 12-736, 12-4808, 16-304, 16-311, 17-2264, 17-5829, 22-3723, 22a-243, 22a-244, 38-134, 38-320, 38-1808, 38-1817, 38-1819, 38-1820, 38-1821, 38-1822, 38-1901, 39-110, 39-111, 39-708c, 39-708d, 39-711a, 39-718b, 39-740, 39-744, 39-751, 39-753, 39-755, 39-758, 39-782, 39-783, 39-786, 39-787, 39-788, 39-7,100, 39-7,100a, 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-7,109, 39-7,122, 39-7,123, 39-7,125, 39-7,127, 39-7,128, 39-7,130, 39-7,131, 39-7,139, 39-960, 39-1208, 39-1209, 39-1302, 39-1410, 39-1434, 39-1435, 39-1501, 39-1602, 39-1603, 39-1604, 39-1612, 39-1613, 39-1703, 39-1704, 39-1804, 40-2d02, 40-2256, 40-22a05, 40-3227, 59-2006, 59-2006b, 59-2006c, 59-2130, 59-2135, 59-2801, 59-2803, 59-2963, 59-2968, 59-2981, 59-29b57, 59-29b60, 59-29b63, 59-29b78, 59-29b81, 59-3065, 59-3067, 59-3070, 59-3080, 59-3094, 60-2204, 60-2310, 60-2401, 65-116i, 65-116j, 65-116k, 65-116l, 65-116m, 65-1,108, 65-1,120, 65-1,159, 65-1,162, 65-1,165, 65-507, 65-513, 65-2422b, 65-3507, 65-4432, 65-5101, 65-5902, 72-1046, 72-3608, 72-4311, 72-4314a, 72-4316, 72-8239, 72-8243, 72-89a02, 72-89b03, 74-5502, 74-5505, 74-6901, 74-6904, 74-7801, 75-2935c, 75-3303, 75-3303a, 75-3304, 75-3304a, 75-3307, 75-3315, 75-3323, 75-3328, 75-3337, 75-3338, 75-3339a, 75-3340, 75-3343a, 75-3347, 75-3354, 75-3728a, 75-5308e, 75-5309a, 75-5310, 75-5310a, 75-5313, 75-5316a, 75-5319, 75-5320, 75-5321, 75-5326, 75-5328a, 75-5343, 75-5344, 75-5345, 75-5365, 75-5371, 75-5375, 75-5376, 75-5381, 75-5382, 75-5383, 75-5386, 75-5391, 75-5393, 75-53,100, 75-5902, 75-5923, 75-5925, 75-5940, 75-5946, 75-5947, 75-5949, 75-5952, 75-5956, 76-170, 76-175, 76-317, 76-1237, 76-12a16, 76-12a17, 76-12a22, 76-12a30, 76-1528, 76-17a10, 76-17c07, 76-1936 and 78-101 and K.S.A. 2013 Supp. 8-255, 8-1008, 8-1567, 9-1216, 12-4509, 12-4516, 12-4516a, 16-312, 17-1762, 19-4001, 19-4007, 20-378, 20-380, 21-5413, 21-5914, 21-5927, as amended by section 2 of 2014 Senate Bill No. 271, 21-6602, 21-6702, 21-6708, 22-2410, as amended by section 24 of 2014 Senate Substitute for House Bill No. 2338, 22-4612, 23-2202, 23-2203, 23-2204, 23-2209, 23-2212, 23-2213, 23-2219, 23-3102, 23-3109, 23-3113, 23-3114, 23-3121, 23-3210, 23-36,201, 23-36,310, 32-906, 32-918, 32-930, 38-143, 38-144, 38-2212, 38-2222, 38-2223, 38-2226, 38-2247, 38-2261, 38-2282, as amended by section 1 of 2014 House Bill No. 2577, 38-2286, 38-2304, 38-2310, 38-2319, 38-2326, 38-2335, 38-2350, 38-2356, 38-2361, 39-717, 39-754, 39-756, 39-757, 39-760, 39-784, 39-785, 39-7,108, 39-7,129, 39-7,132, 39-7,134, 39-7,135, 39-7,138, 39-7,151, 39-7,155, 39-7,156, 39-7,157, 39-7,158, 39-7,159, 39-924, 39-926, 39-930, 39-935, 39-936, 39-938, 39-940, 39-944, 39-945, 39-946, 39-947, 39-947a, 39-948, 39-950, 39-951, 39-952, 39-953a, 39-954, 39-958, 39-961, 39-963, 39-965, 39-968, 39-969, 39-970, 39-971, 39-1002, 39-1202, 39-1402, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1411, 39-1430, 39-1431, 39-1432, 39-1433, 39-1436, 39-1443, 39-1803, 40-2,111, 40-2,134, 40-4704, 41-2622, 44-508, 44-575, 44-577, 46-922, 46-2801, 59-2122, 59-2123, 59-2132, 59-2946, 59-2972, 59-2978, 59-29a02, 59-29a07, 59-29a11, 59-29a22, 59-29b46, 59-29b66, 59-3069, 60-1501, 60-2308, 65-1,246, 65-445, 65-503, 65-504, 65-506, 65-508, 65-516, 65-1456, 65-1673, 65-2409a, 65-2422d, 65-2895, 65-3503, 65-3504, 65-3506, 65-4024a, 65-4024b, 65-4412, 65-6205, 65-6207, 65-6210, 65-6214, 65-6217, 65-6218, 65-6220, 65-6501, 65-6502, 65-6503, 65-6610, 72-962, 72-973, 72-997, 72-1113, 72-53,106, 72-8187, 72-8223, 74-32,151, 74-32,160, 74-32,161, 74-4902, 74-4911f, 74-4927, 74-5602, 74-6703, 74-8917, 74-9501, 75-723, 75-725, 75-2935, 75-3306, 75-3307b, 75-3329, 75-3339, 75-37,121, 75-4265, 75-4266, 75-4375, 75-4376, 75-4378, 75-5268, 75-5301, 75-5366, 75-5367, 75-5397a, 75-5399, 75-53,105, 75-53,112, 75-5674, 75-5675, 75-5741, 75-5742, 75-5743, 75-5903, 75-5908, 75-5910, 75-5914, 75-5928, 75-5933, 75-5945, 75-5951, 75-5958, 75-5961, 75-6202, 75-6506, 75-6508, 75-7023, 75-7302, 75-7306, 75-7310, 75-7311, 75-7405, 76-375, 76-381, 76-12a01, 76-12a08, 76-12a10, 76-12b01, 76-1305, 76-1306, 76-1307, 76-17c08, 79-3221g, 79-3234, 79-32,200 and 79-4805 and repealing the existing sections; and also repealing K.S.A. 2013 Supp. 21-6614d and 38-2312c.

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

Section 1. K.S.A. 2013 Supp. 8-255 is hereby amended to read as follows: 8-255. (a) The division is authorized to restrict, suspend or revoke a person's driving privileges upon a showing by its records or other sufficient evidence the person:

(1) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(2) has been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period;

(3) is incompetent to drive a motor vehicle;

(4) has been convicted of a moving traffic violation, committed at a time when the person's driving privileges were restricted, suspended or revoked; or

(5) is a member of the armed forces of the United States stationed at a military installation located in the state of Kansas, and the authorities of the military establishment certify that such person's on-base driving privileges have been suspended, by action of the proper military authorities, for violating the rules and regulations of the military installation governing the movement of vehicular traffic or for any other reason re-

lating to the person's inability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) (1) The division shall:

(A) Suspend a person's driving privileges:

(i) When required by K.S.A. 8-262, 8-1014 or 41-727, and amendments thereto;

(ii) upon a person's second conviction of theft, as defined in subsection (a)(5) of K.S.A. 2013 Supp. 21-5801, and amendments thereto, for six months; and

(iii) upon a person's third or subsequent conviction of theft, as defined in subsection (a)(5) of K.S.A. 2013 Supp. 21-5801, and amendments thereto, for one year;

(B) disqualify a person's privilege to drive commercial motor vehicles when required by K.S.A. 8-2,142, and amendments thereto; and

(C) restrict a person's driving privileges when required by K.S.A. 2013 Supp. 39-7,155, and amendments thereto.

(2) As used in this subsection, "conviction" means a final conviction without regard to whether the sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. "Conviction" includes being convicted of a violation of K.S.A. 21-3765, prior to its repeal, or subsection (a)(5) of K.S.A. 2013 Supp. 21-5801, and amendments thereto.

(c) When the action by the division restricting, suspending, revoking or disqualifying a person's driving privileges is based upon a report of a conviction or convictions from a convicting court, the person may not request a hearing but, within 30 days after notice of restriction, suspension, revocation or disqualification is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted, suspended, revoked or disqualified by the division was not convicted of the offense upon which the restriction, suspension, revocation or disqualification is based. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction, suspension, revocation or disqualification has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(d) Upon restricting, suspending, revoking or disqualifying the driving privileges of any person as authorized by this act, the division shall immediately notify the person in writing. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, and subsections (c) and (g), if the person makes a written request for hearing within 30 days after such notice of restriction, suspension or revocation is mailed, the division shall afford the person an opportunity for a hearing as early as practical not sooner than five days nor more than 30 days after such request is mailed. If the division has not revoked or suspended the person's driving privileges or vehicle registration prior to the hearing, the hearing may be held within not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing shall be held in the person's county of residence or a county adjacent thereto, unless the division and the person agree that the hearing may be held in some other county. Upon the hearing, the director or the director's duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require an examination or reexamination of the person. When the action proposed or taken by the division is authorized but not required, the division, upon the hearing, shall either rescind or affirm its order of restriction, suspension or revocation or, good cause appearing therefor, extend the restriction or suspension of the person's driving privileges, modify the terms of the restriction or suspension or revoke the person's driving privileges. When the action proposed or taken by the division is required, the division, upon the hearing, shall either affirm its order of restriction, suspension, revocation or disqualification, or, good cause appearing therefor, dismiss the administrative action. If the person fails to request a hearing within the time prescribed or if, after a hearing, the order of restriction, suspension, revocation or disqualification is upheld, the per-

son shall surrender to the division, upon proper demand, any driver's license in the person's possession.

(e) In case of failure on the part of any person to comply with any subpoena issued on behalf of the division or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of the division, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the director or the director's duly authorized agent by order or subpoena, other than an officer or employee of the state or of a political subdivision of the state, shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness.

(f) The division, in the interest of traffic and safety, may establish or contract with a private individual, corporation, partnership or association for the services of driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. Any person other than a person issued a commercial driver's license under K.S.A. 8-2,125 et seq., and amendments thereto, desiring to attend a driver improvement clinic shall make application to the division and such application shall be accompanied by the required fee. The secretary of revenue shall adopt rules and regulations prescribing a driver's improvement clinic fee which shall not exceed \$500 and such rules and regulations deemed necessary for carrying out the provisions of this section, including the development of standards and criteria to be utilized by such driver improvement clinics. Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury as prescribed by subsection (f) of K.S.A. 8-267, and amendments thereto.

(g) When the action by the division restricting a person's driving privileges is based upon certification by the ~~secretary of social and rehabilitation services for children and families~~ pursuant to K.S.A. 2013 Supp. 39-7,155, and amendments thereto, the person may not request a hearing but, within 30 days after notice of restriction is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been restricted by the division is not the person certified by the ~~secretary of social and rehabilitation services for children and families~~, did not receive timely notice of the proposed restriction from the ~~secretary of social and rehabilitation services for children and families~~ or has been decertified by the ~~secretary of social and rehabilitation services for children and families~~. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the restriction has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(h) Any person whose driving privileges have been suspended under subsection (b)(1)(A)(ii) or (b)(1)(A)(iii), shall pay a reinstatement fee in the amount of \$100 to the division. The division shall remit all revenues received from such fees, at least monthly, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the state highway fund.

Sec. 2. K.S.A. 2013 Supp. 8-1008 is hereby amended to read as follows: 8-1008. (a) As used in this section, "provider" means: (1) A professional licensed by the behavioral sciences regulatory board to diagnose and treat mental or substance use disorders at the independent level who is compliant with the requirements set forth by the ~~secretary of social and rehabilitation for aging and disability services~~ as described in subsection (f); or (2) a professional licensed by the behavioral sciences regulatory board who is working in an alcohol and drug treatment facility licensed by the ~~secretary of social and rehabilitation for aging and disability services~~ as meeting the requirements described in subsection (f).

(b) A provider shall provide:

(1) Alcohol and drug evaluations, prior to sentencing, of any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes; and

(2) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute.

(c) A provider shall be capable of providing, within the judicial district: (1) The evaluations required under subsection (b); (2) the alcohol and drug evaluation report required under subsection (d) or (e); (3) the follow-up duties specified under subsection (d) or (e) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. ~~The secretary of social and rehabilitation~~ *for aging and disability* services shall provide each judicial district with an electronic list of providers, and, except as provided further, such list shall be used when selecting a provider to be used as described in subsections (d) and (e). ~~The secretary of social and rehabilitation~~ *for aging and disability* services shall also make all such lists publicly available on the official website of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services. Any provider performing services in any judicial district under this section prior to July 1, 2011, may continue to perform those services until July 1, 2013.

(d) (1) Except as provided further, prior to sentencing, an alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by those statutes. The alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. Except as provided further, the court shall order that the cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service. If the court finds that such person is indigent, the provider shall agree to accept payment as ordered by the court and the court shall order that the cost of any alcohol and drug evaluation be paid to the provider by such person as part of the judgment. The cost of any such evaluation shall be not less than \$150.

(2) The provisions of this subsection shall not apply to any person convicted pursuant to subsection (b)(1)(C) of K.S.A. 8-2,144, subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E) of K.S.A. 8-1567 or subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D) of K.S.A. 2013 Supp. 8-1025, and amendments thereto.

(e) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 or K.S.A. 2013 Supp. 8-1025, and amendments thereto, or the ordinance of a city or resolution of a county in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The cost of any alcohol and drug evaluation for any person shall be paid by such person to the provider at the time of service, and shall be not less than \$150.

(f) On and after July 1, 2013, all alcohol and drug evaluations conducted pursuant to this section shall utilize a standardized substance use evaluation approved by the ~~secretary of social and rehabilitation~~ *for aging and disability* services and be submitted in a format approved by the ~~secretary of social and rehabilitation~~ *for aging and disability* services. On or before July 1, 2013, the ~~secretary of social and rehabilitation~~ *for aging and disability* services shall promulgate rules and regulations to implement this section.

Sec. 3. K.S.A. 2013 Supp. 8-1567 is hereby amended to read as fol-

laws: 8-1567. (a) Driving under the influence is operating or attempting to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) (1) Driving under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto, to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) on a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto, to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(C) on a third conviction a class A, nonperson misdemeanor, except as provided in subsection (b)(1)(D). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court

may place the person convicted under a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours;

(D) on a third conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(E) on a fourth or subsequent conviction a nonperson felony. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 2013 Supp. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the

balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2013 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk and needs of the offender. The risk and needs of the offender shall be determined by use of a risk assessment tool specified by the Kansas sentencing commission. The law enforcement agency maintaining custody and control of a defendant for imprisonment shall cause a certified copy of the judgment form or journal entry to be sent to the supervision office designated by the court and upon expiration of the term of imprisonment shall deliver the defendant to a location designated by the supervision office designated by the court. After the term of imprisonment imposed by the court, the person shall be placed on supervision to community correctional services or court services, as determined by the court, for a mandatory one-year period of supervision, which such period of supervision shall not be reduced. During such supervision, the person shall be required to participate in a multidisciplinary model of services for substance use disorders facilitated by a ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services designated care coordination agency to include assessment and, if appropriate, referral to a community based substance use disorder treatment including recovery management and mental health counseling as needed. The multidisciplinary team shall include the designated care coordination agency, the supervision officer, the ~~social and rehabilitation services department~~ *Kansas department for aging and disability services* designated treatment provider and the offender. Any violation of the conditions of such supervision may subject such person to revocation of supervision and imprisonment in jail for the remainder of the period of imprisonment, the remainder of the supervision period, or any combination or portion thereof.

(4) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug

under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Prior to filing a complaint alleging a violation of this section, a prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(h) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(i) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (A) Refusing to submit to a test to determine the presence of alcohol or drugs, K.S.A. 2013 Supp. 8-1025, and amendments thereto; (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. 2013 Supp. 21-5405, and amendments thereto; (E) aggravated battery as described in subsection (b)(3) of K.S.A. 2013 Supp. 21-5413, and amendments thereto; and (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (i)(2); (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (i)(1) or (i)(2); and (C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would consti-



tute a crime described in subsection (i)(1) or (i)(2) if committed off a military reservation in this state;

(4) multiple convictions of any crime described in subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(j) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(k) (1) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof.

(2) The minimum penalty prescribed by any such ordinance or resolution shall not be less than the minimum penalty prescribed by this section for the same violation, and the maximum penalty in any such ordinance or resolution shall not exceed the maximum penalty prescribed for the same violation.

(3) On and after July 1, 2007, and retroactive for ordinance violations committed on or after July 1, 2006, an ordinance may grant to a municipal court jurisdiction over a violation of such ordinance which is concurrent with the jurisdiction of the district court over a violation of this section, notwithstanding that the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony.

(4) Any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) (1) Upon the filing of a complaint, citation or notice to appear alleging a person has violated a city ordinance prohibiting the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(A) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(B) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(2) If the elements of such ordinance violation are the same as the elements of a violation of this section that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the appropriate county or district attorney for prosecution.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) may be pleaded in the alternative, and the state, city or county, but shall not be required to, may elect one or two of the three prior to submission of the case to the fact finder.

(o) As used in this section: (1) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath;

(2) "imprisonment" shall include any restrained environment in which the court and law enforcement agency intend to retain custody and

control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and

(3) “drug” includes toxic vapors as such term is defined in K.S.A. 2013 Supp. 21-5712, and amendments thereto.

(p) (1) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.

(2) On and after July 1, 2011, the amount of \$250 from each fine imposed pursuant to this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall credit the entire amount to the community corrections supervision fund established by K.S.A. 2013 Supp. 75-52,113, and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 9-1216 is hereby amended to read as follows: 9-1216. When the owner and the bank have entered into a contract authorized in K.S.A. 9-1215, and amendments thereto, the owner’s deposit account subject to the contract or any part of or interest on the account shall be paid by the bank to the owner or pursuant to the owner’s order during the owner’s lifetime. On the owner’s death, the deposit account or any part of or interest on the account shall be paid by the bank to the secretary of social and rehabilitation services for children and families for a claim pursuant to subsection (g) of K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the bank shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the bank for the payment.

Sec. 5. K.S.A. 12-736 is hereby amended to read as follows: 12-736. (a) It is hereby declared to be the policy of the state of Kansas that persons with a disability shall not be excluded from the benefits of single family residential surroundings by any municipal zoning ordinance, resolution or regulation.

(b) For the purpose of this act:

(1) “Group home” means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state;

(2) “municipality” means any township, city or county located in Kansas;

(3) “disability” means, with respect to a person:

(A) A physical or mental impairment which substantially limits one or more of such person’s major life activities;

(B) a record of having such an impairment; or

(C) being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the controlled substance act (21 U.S.C. § 802);

(4) “licensed provider” means a person or agency who provides mental health services and is licensed by:

(A) ~~The department of social and rehabilitation~~ *Kansas department for aging and disability* services pursuant to K.S.A. 75-3307b or 65-425 et seq., and amendments thereto; or

(B) the behavioral sciences regulatory board pursuant to K.S.A. 75-5346 et seq. or 74-5301 et seq., and amendments thereto; or

(C) the state board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

(c) (1) No mentally ill person shall be eligible for placement in a group home unless such person has been evaluated by a licensed provider and such provider determines that the mentally ill person is not dangerous to others and is suitable for group-home placement. A group home shall not be a licensed provider for the purposes of evaluating or approving for placement a mentally ill person in a group home.

(2) No person shall be eligible for placement in a group home if such person is: (A) Assigned to a community corrections program or a diversion program; (B) on parole from a correctional institution or on probation for a felony offense; or (C) in a state mental institution following a finding of mental disease or defect excluding criminal responsibility, pursuant to K.S.A. 22-3220 and 22-3221, *and amendments thereto*.

(d) No person shall be placed in a group home under this act unless such dwelling is licensed as a group home by the department of ~~social and rehabilitation~~ *for aging and disability* services or the department of health and environment.

(e) No municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted. Any zoning ordinance, resolution or regulation which prohibits the location of a group home in such zone or area or which subjects group homes to regulations not applicable to other single family dwellings in the same zone or area is invalid. Notwithstanding the provisions of this act, group homes shall be subject to all other regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, its building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(f) No person or entity shall contract or enter into a contract, restrictive covenant, equitable servitude or such similar restriction, which would restrict group homes or their location in a manner inconsistent with the provisions of subsection (e).

Sec. 6. K.S.A. 2013 Supp. 12-4509 is hereby amended to read as follows: 12-4509. (a) Whenever a person is found guilty of the violation of an ordinance, the municipal judge may:

- (1) Release the person without imposition of sentence;
- (2) release the person on probation after the imposition of sentence, without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court as provided in subsection (e);
- (3) impose such sentence of fine or imprisonment, or both, as authorized for the ordinance violation; or
- (4) impose a sentence of house arrest as provided in K.S.A. 2013 Supp. 21-6609, and amendments thereto.

(b) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the judge may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of ~~social and rehabilitation~~ *for aging and disability* services.

(c) Except as provided in subsection (d), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, an ordinance prohibiting an act prohibited by K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and amendments thereto, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.

(d) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) are permissive and not mandatory.

(e) In addition to any other sentence authorized by law, whenever a person is convicted of any criminal offense, the municipal judge shall determine whether the defendant committed a domestic violence offense as defined in K.S.A. 2013 Supp. ~~21-3110~~ and 21-5111, and amendments thereto, and shall sentence the defendant pursuant to K.S.A. 2013 Supp. 22-4616, and amendments thereto.

(f) The court may impose any conditions of probation or suspension of sentence that the court deems proper, including, but not limited to, requiring that the defendant:

- (1) Avoid such injurious or vicious habits, as directed by the court or the probation officer;
- (2) avoid such persons or places of disreputable or harmful character, as directed by the court or the probation officer;
- (3) report to the probation officer as directed;
- (4) permit the probation officer to visit the defendant at home or elsewhere;
- (5) work faithfully at suitable employment insofar as possible;
- (6) remain within the state unless the court grants permission to leave;
- (7) pay a fine or costs, applicable to the ordinance violation, in one or several sums and in the manner as directed by the court;
- (8) support the defendant's dependents;
- (9) reside in a residential facility located in the community and participate in educational counseling, work and other correctional or rehabilitative programs;
- (10) perform community or public service work for local governmental agencies, private corporations organized not-for-profit, or charitable or social service organizations performing services for the community;
- (11) perform services under a system of day fines whereby the defendant is required to satisfy fines, costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors;
- (12) make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court; or
- (13) reimburse the city, in accordance with any order made under subsection (g), for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant.

(g) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance the judge may order such person to reimburse the city for all or a part of the reasonable expenditures by the city to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

Sec. 7. K.S.A. 2013 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) (1) Except as provided in subsections (b), (c), (d) and (e), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

- (A) Satisfied the sentence imposed; or
  - (B) was discharged from probation, parole or a suspended sentence.
- (2) Except as provided in subsections (b), (c), (d) and (e), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or

more years have elapsed since the terms of the diversion agreement were fulfilled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Defendant’s full name;

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

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

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

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

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

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

(3) Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records

relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

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

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

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

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

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

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

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

(A) In any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the ~~department for children and families~~ *Kansas department for aging and disability services*;

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

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

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

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

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

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

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

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

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

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

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

(4) the conviction may be disclosed in a subsequent prosecution for

an offense which requires as an element of such offense a prior conviction of the type expunged.

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

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

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

- (1) The person whose record was expunged;
- (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
- (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
- (4) the secretary of the department for ~~children and families~~ *aging and disability services*, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the ~~department for children and families~~ *Kansas department for aging and disability services* of any person whose record has been expunged;
- (5) a person entitled to such information pursuant to the terms of the expungement order;
- (6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
- (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
- (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;
- (11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be

an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

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

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

(14) the Kansas sentencing commission;

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

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

Sec. 8. K.S.A. 2013 Supp. 12-4516a is hereby amended to read as follows: 12-4516a. (a) Any person who has been arrested on a violation of a city ordinance of this state may petition the court for the expungement of such arrest record.

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

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

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

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

- (1) The arrest occurred because of mistaken identity;
- (2) a court has found that there was no probable cause for the arrest;
- (3) the petitioner was found not guilty in court proceedings; or
- (4) the expungement would be in the best interests of justice and (A) charges have been dismissed; or (B) no charges have been or are likely to be filed.

(d) When the court has ordered expungement of an arrest record and subsequent court proceedings, if any, the order shall state the information required to be stated in the petition and shall state the grounds for expungement under subsection (c). The clerk of the court shall send a certified copy of the order to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the



arrest. If an order of expungement is entered, the petitioner shall be treated as not having been arrested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. K.S.A. 12-4808 is hereby amended to read as follows: 12-4808. For the purpose of avoiding any duplication of services or competition between services, before any expenditure may be made under the provisions of this act on any new facility, all organizations within such taxing subdivision which are already providing such services as would make them eligible to receive funds under the provisions of this act, and all programs or services provided by youth services of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, must be reviewed by the governing body and found to be insufficient to meet the child care needs of such taxing subdivision.

Sec. 10. K.S.A. 16-304 is hereby amended to read as follows: 16-304. (a) If any balance remains in the account upon the death of the person for whose services the funds were paid, the same shall not be paid by such bank, credit union or savings and loan association to the person, association, partnership, firm or corporation until a certified copy of the death certificate of such person, a verification of death form or other

acceptable proof of death shall have been furnished to the bank, credit union or savings and loan association, together with a verified statement setting forth that all of the terms and conditions of such agreement have been fully performed by the person, association, partnership, firm or corporation.

(b) If any balance remains in the fund after disposition of the fund in accordance with the terms of the agreement, contract or plan such balance shall inure to the benefit of the estate of the purchaser of the agreement, contract or plan unless the purchaser was a person who received medical assistance from the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or a deceased surviving spouse of a recipient of medical assistance and the bank, credit union or savings and loan association has received written notice from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, the funeral home or the recipient, stating that medical assistance has been expended on the recipient for which the ~~department of social and rehabilitation services~~ *Kansas department for children and families* may have a claim. If such notice has been received, the balance shall be paid to the secretary of ~~social and rehabilitation services~~ *for children and families* or the secretary's designee to the extent of medical assistance expended on the deceased recipient.

(c) The bank, credit union or savings and loan association shall not be liable to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* for the balance in the fund if written notice has not been received and the balance of the fund has been paid to the estate of the purchaser of the agreement as provided above.

Sec. 11. K.S.A. 16-311 is hereby amended to read as follows: 16-311.

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

(b) If any balance remains after payment for the final disposition of a dead human body, or for funeral or burial services, or funeral or burial merchandise, and the purchaser of the agreement, contract, or plan is or has been a recipient of medical assistance or a deceased surviving spouse of a recipient of medical assistance, any remaining balance shall be paid according to K.S.A. 16-304, and amendments thereto, or if ~~said~~ *such* agreement, contract or plan was funded by insurance, any remaining balance shall be paid by the insurance company or the person, association, partnership, firm or corporation providing the services or merchandise to the secretary of ~~social and rehabilitation services~~ *for children and families* or the secretary's designee, to the extent of medical assistance expended on the deceased recipient. The insurance company or the person, association, partnership, firm or corporation providing the services or merchandise shall not be liable to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* for the balance in the account if written notice has not been received stating that medical assistance has been expended on the recipient for which the ~~department of social and rehabilitation services~~ *Kansas department for children and families* may have a claim, and the balance of the account has been paid to the estate of the deceased or in the case of insurance, the designated beneficiary.

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

Sec. 12. K.S.A. 2013 Supp. 16-312 is hereby amended to read as follows: 16-312. Any prearranged funeral agreement that involves the payment of money or the purchase or assignment of an insurance policy or annuity shall be in writing and shall include the following information:

(a) The name, address and phone number of the seller and the name

and address of the purchaser of the contract and if the contract involves the payment of money but not the purchase or assignment of an insurance policy or annuity, the social security number of the purchaser of the contract;

(b) a statement of the funeral goods and funeral services purchased. This disclosure may be made by attaching a copy of the completed statement of funeral goods and services selected to the prearranged funeral agreement;

(c) a disclosure informing the purchaser whether the contract is either a guaranteed prearranged funeral agreement or a non-guaranteed prearranged funeral agreement. If the contract is guaranteed only in part, the disclosure shall specify the funeral goods or funeral services included in the guarantee;

(d) if the prearranged funeral agreement is a guaranteed contract, a disclosure that in exchange for all of the proceeds paid pursuant to such prearranged funeral agreement, the seller shall provide the funeral goods and funeral services set forth in such prearranged funeral agreement without regard to the actual cost of such funeral goods and funeral services prevailing at the time of performance under such prearranged funeral agreement;

(e) if the prearranged funeral agreement is a non-guaranteed contract, a disclosure that the proceeds of the trust, insurance policy, or annuity shall be applied to the retail prices in effect at the time of the funeral for the funeral goods and funeral services set forth in the prearranged funeral agreement and that in the event of an insufficiency of funds, the seller shall not be required to perform under such prearranged funeral agreement until payment arrangements satisfactory to the seller have been made;

(f) a disclosure that any excess funds remaining after the payment of funeral goods and services shall be paid to the estate of the purchaser or the beneficiary named in the life insurance policy if the prearranged funeral agreement is funded by a life insurance policy. If the deceased was a recipient of medical assistance, the balance of unused funds shall be paid to the ~~Kansas department of social and rehabilitation services for children and families~~ to the extent of medical assistance expended;

(g) if the prearranged funeral agreement is irrevocable, a disclosure that the purchaser does not have a right to revoke the contract; and

(h) a disclosure that the seller may substitute funeral goods or funeral services of equal quality, value, and workmanship if those specified in the prearranged funeral agreement are unavailable at the time of need.

Sec. 13. K.S.A. 2013 Supp. 17-1762 is hereby amended to read as follows: 17-1762. The following persons shall not be required to register with the secretary of state:

(a) State educational institutions under the control and supervision of the state board of regents, unified school districts, educational interlocals, educational cooperatives, area vocational-technical schools, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to the student body, alumni, faculty and trustees of such institution, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general;

(b) fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by this subsection where such solicitation is confined to the membership of the subsidiary, parent or superior organization;

(c) persons requesting any contributions for the relief or benefit of any individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary, first deducting reasonable expenses for costs of banquets, or social gatherings, if any, provided all fund raising functions are carried on by persons who are unpaid, directly or indirectly, for such services;

(d) any charitable organization which does not intend to solicit and

receive and does not actually receive contributions in excess of \$10,000 during such organization's tax period, as defined by K.S.A. 17-7501, and amendments thereto, if all of such organization's fund-raising functions are carried on by persons who are unpaid for such services. However, if the gross contributions received by such charitable organization during any such tax period is in excess of \$10,000, such organization, within 30 days after the end of such tax period, shall register with the secretary of state as provided in K.S.A. 17-1763, and amendments thereto;

(e) any incorporated community chest, united fund, united way or any charitable organization receiving an allocation from an incorporated community chest, united fund or united way;

(f) a bona fide organization of volunteer firemen, or a bona fide auxiliary or affiliate of such organization, if all fund-raising activities are carried on by members of such organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor;

(g) any charitable organization operating a nursery for infants awaiting adoption if all fund-raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor;

(h) any corporation established by the federal congress that is required by federal law to submit annual reports of such corporation's activities to congress containing itemized accounts of all receipts and expenditures after being duly audited by the department of defense or other federal department;

(i) any girls' club which is affiliated with the girls' club of America, a corporation chartered by congress, if such an affiliate properly files the reports required by the girls' club of America and that the girls' club of America files with the government of the United States the reports required by such federal charter;

(j) any boys' club which is affiliated with the boys' club of America, a corporation chartered by congress, if such an affiliate properly files the reports required by the boys' club of America and that the boys' club of America files with the government of the United States the reports required by such federal charter;

(k) any corporation, trust or organization incorporated or established for religious purposes, or established for charitable, hospital or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by or supervised or controlled by a corporation, trust or organization incorporated or established for religious purposes, or to any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith;

(l) the boy scouts of America and the girl scouts of America, including any regional or local organization affiliated therewith;

(m) the young men's christian association and the young women's christian association, including any regional or local organization affiliated therewith;

(n) any licensed medical care facility which is organized as a nonprofit corporation under the laws of this state;

(o) any licensed community mental health center or licensed mental health clinic;

(p) any licensed community center for people with intellectual disability and its affiliates as determined by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*;

(q) any charitable organization of employees of a corporation whose principal gifts are made to an incorporated community chest, united fund or united way, and whose solicitation is limited to such employees;

(r) any community foundation or community trust to which deductible contributions can be made by individuals, corporations, public charities and private foundations, as well as other charitable organizations and governmental agencies for the overall purposes of the foundation or to particular charitable and endowment funds established under agreement with the foundation or trust for the charitable benefit of the people of a specific geographic area and which is a nonprofit organization exempt from federal income taxation pursuant to section 501(a) of the internal revenue code of 1986, as in effect on the effective date of this act, by reason of qualification under section 501(c)(3) of the internal revenue

code of 1986, as in effect on the effective date of this act, and which is deemed a publicly supported organization and not a private foundation within the meaning of section 509(a)(1) of the internal revenue code of 1986, as in effect on the effective date of this act;

(s) any charitable organization which does not intend to or does not actually solicit or receive contributions from more than 100 persons;

(t) any charitable organization the funds of which are used to support an activity of a municipality of this state; and

(u) the junior league, including any local community organization affiliated therewith.

Sec. 14. K.S.A. 17-2264 is hereby amended to read as follows: 17-2264. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263, and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the secretary of social and rehabilitation services for children and families for a claim pursuant to subsection (g) of K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the credit union shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

Sec. 15. K.S.A. 17-5829 is hereby amended to read as follows: 17-5829. When the owner and the savings and loan association have entered into a contract authorized in K.S.A. 17-5828, and amendments thereto, the owner's deposit account subject to the contract or any part of or interest on the account shall be paid by the savings and loan association to the owner or pursuant to the owner's order during the owner's lifetime. On the owner's death, the deposit account or any part of or interest on the account may be paid by the savings and loan association to the secretary of social and rehabilitation services for children and families for a claim pursuant to subsection (g) of K.S.A. 39-709, and amendments thereto or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by K.S.A. 59-3053, and amendments thereto, the savings and loan association shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the savings and loan association for the payment.

Sec. 16. K.S.A. 2013 Supp. 19-4001 is hereby amended to read as follows: 19-4001. The board of county commissioners of any county or the boards of county commissioners of two or more counties jointly may establish a community mental health center, or community facility for people with intellectual disability, or both, which shall be organized, operated, and financed according to the provisions of this act. The mental health center may render the following mental health services: Out-patient and inpatient diagnostic and treatment services; rehabilitation services to individuals returning to the community from an inpatient facility; consultative services to schools, courts, health and welfare agencies, both public and private, and conducting, in collaboration with other agencies when practical, in-service training for students entering the mental health professions, educational programs, information and research. The community facilities for people with intellectual disability may render, and an intellectual disability governing board which contracts with nonprofit corporations to provide services for people with intellectual disability may provide, the following services: Pre-school, day care, work activity, sheltered workshops, sheltered domiciles, parent and community education and, in collaboration with other agencies when practical, clinical services,

rehabilitation services, in-service training for students entering professions dealing with the above aspects of intellectual disability, information and research. It may establish consulting or referral services, or both, in conjunction with related community health, education, and welfare services.

No community mental health center, or facility for people with intellectual disability, or both, shall be established in such community after the effective date of this act unless and until the establishment of the same has been approved by the secretary of social and rehabilitation for *aging and disability* services.

Sec. 17. K.S.A. 2013 Supp. 19-4007 is hereby amended to read as follows: 19-4007. (a) If the board or boards of county commissioners desire to provide either mental health services or services for people with intellectual disability, or both such services, and to levy the taxes authorized in K.S.A. 19-4004, and amendments thereto, but determine that it is more practicable to contract for such services with a nonprofit corporation, such board or boards may contract with the nonprofit corporation to provide either mental health services or services for people with intellectual disability, or both such services, for the residents of the county or counties. In lieu of contracting with a nonprofit corporation to provide services for people with intellectual disability, a board of county commissioners may establish an intellectual disability governing board for the purpose of allowing this board to contract for and on behalf of the board of county commissioners with a nonprofit corporation to provide services for people with intellectual disability. The board or boards entering into such a contract with a nonprofit corporation, or the intellectual disability governing board authorized to contract with a nonprofit corporation under this section, are hereby authorized to pay the amount agreed upon in such contract from the proceeds of the tax or taxes levied pursuant to K.S.A. 19-4004, and amendments thereto, for mental health services or intellectual disability services, or for both such services. The nonprofit corporation may not deny service to anyone because of inability to pay for the same, but the nonprofit corporation may establish a schedule of charges for services to those who are financially able to pay for such services. The nonprofit corporation shall annually provide the board or boards of county commissioners with a complete financial report showing the amount of fees collected, the amount of tax money received under the contract, and any other income. The financial report shall also show the nonprofit corporation's disbursements, including salaries paid to each person employed by the nonprofit corporation. No such nonprofit corporation shall be organized to receive public funds raised through taxation or public solicitation, or both, unless and until the establishment of the same has been approved by the secretary of social and rehabilitation for *aging and disability* services. The governing board of all such nonprofit corporations shall report annually to the secretary of social and rehabilitation for *aging and disability* services, in such form as may be required on the activities of the mental health center, or community facility for people with intellectual disability.

(b) If the board or boards of county commissioners desire to provide services for people with intellectual disability and to levy the tax authorized in K.S.A. 19-4004, and amendments thereto, for intellectual disability services, but determine that it is more practicable to transfer the proceeds from such tax levy or a portion thereof to a state agency operating a program established under the federal social security act whereby the funds will be eligible for federal financial participation in the purchase of services for eligible persons in facilities for people with intellectual disability, the board or boards are hereby authorized to transfer such proceeds, or a portion thereof, to any such state agency to purchase services in facilities for people with intellectual disability.

Sec. 18. K.S.A. 2013 Supp. 20-378 is hereby amended to read as follows: 20-378. The court trustee shall have the responsibility:

(a) For collection of support or restitution from the obligor upon the written request of the obligee or upon the order of the court; and

(b) to compile a list of individuals who owe arrearages under a support order or have failed, after appropriate notice, to comply with a subpoena issued pursuant to a duty of support. The court trustee shall deliver such list to the secretary of social and rehabilitation services for *children*

*and families* on a quarterly basis or more frequently as requested by the secretary.

Sec. 19. K.S.A. 2013 Supp. 20-380 is hereby amended to read as follows: 20-380. (a) Except as provided further, to defray the expenses of operation of the court trustee's office, the court trustee is authorized to charge an amount: (1) Whether fixed or sliding scale, based upon the scope of services provided or upon economic criteria, not to exceed 5% of the support collected from obligors through such office, as determined necessary by the chief judge as provided by this section; (2) based upon the hourly cost of office operations for the provision of services on an hourly or per service basis, with the written agreement of the obligee; or (3) from restitution collected, not to exceed the fee authorized by the attorney general under any contract entered into pursuant to K.S.A. 75-719, and amendments thereto.

(b) All such amounts shall be paid to the court trustee operations fund of the county where collected. There shall be created a court trustee operations fund in the county treasury of each county or district court of each county, in each judicial district that establishes the office of court trustee for the judicial district. The moneys budgeted to fund the operation of existing court trustee offices and to fund the start-up costs of new court trustee offices established on or after January 1, 1992, whether as a result of a rule adopted pursuant to K.S.A. 2013 Supp. 20-377, and amendments thereto, or because this act has created a court trustee operations fund, shall be transferred from the county general fund to the court trustee operations fund. The county commissioners of the county or group of counties, if the judicial district consists of more than one county, by a majority vote, shall decide whether the county or counties will have a court trustee operations fund in the county treasury or the district court of each county. All expenditures from the court trustee operations fund shall be made in accordance with the provisions of K.S.A. 2013 Supp. 20-375 et seq., and amendments thereto, to enforce duties of support. Authorized expenditures from the court trustee operations fund may include repayment of start-up costs, expansions and operations of the court trustee's office to the county general fund. The court trustee shall be paid compensation as determined by the chief judge. The board of county commissioners of each county to which this act may apply shall provide suitable quarters for the office of court trustee, furnish stationery and supplies, and such furniture and equipment as shall, in the discretion of the chief judge, be necessary for the use of the court trustee. The chief judge shall fix and determine the annual budget of the office of the court trustee and shall review and determine on an annual basis the amount necessary to be charged to defray the expense of start-up costs, expansions and operations of the office of court trustee. All payments made by the secretary of social and rehabilitation services for *children and families* pursuant to K.S.A. 2013 Supp. 23-3113, and amendments thereto, or any grants or other monies received which are intended to further child support enforcement goals or restitution goals shall be deposited in the court trustee operations fund.

(c) The court trustee shall not charge or collect a fee for any support payment that is not paid through the central unit for collection and disbursements of support payments pursuant to K.S.A. 2013 Supp. 39-7,135, and amendments thereto.

Sec. 20. K.S.A. 2013 Supp. 21-5413 is hereby amended to read as follows: 21-5413. (a) Battery is:

(1) Knowingly or recklessly causing bodily harm to another person; or

(2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner;

(b) Aggravated battery is:

(1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;

(B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in

any manner whereby great bodily harm, disfigurement or death can be inflicted;

(2) (A) recklessly causing great bodily harm to another person or disfigurement of another person; or

(B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A. 8-1567, and amendments thereto, when bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act.

(c) Battery against a law enforcement officer is:

(1) Battery, as defined in subsection (a)(2), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty; or

(2) battery, as defined in subsection (a)(1), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty; or

(3) battery, as defined in subsection (a) committed against a:

(A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(B) juvenile correctional facility officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or

(D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.

(d) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (b)(1)(A) committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(3) knowingly causing, with a motor vehicle, bodily harm to a:

(A) Uniformed or properly identified state, county or city law en-



forcement officer while the officer is engaged in the performance of the officer's duty; or

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.

(e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

(f) Battery against a mental health employee is a battery, as defined in subsection (a), committed against a mental health employee by a person in the custody of the ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services, while such employee is engaged in the performance of such employee's duty.

(g) (1) Battery is a class B person misdemeanor.

(2) Aggravated battery as defined in:

(A) Subsection (b)(1)(A) is a severity level 4, person felony;

(B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;

(C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony; and

(D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony.

(3) Battery against a law enforcement officer as defined in:

(A) Subsection (c)(1) is a class A person misdemeanor;

(B) subsection (c)(2) is a severity level 7, person felony; and

(C) subsection (c)(3) is a severity level 5, person felony.

(4) Aggravated battery against a law enforcement officer as defined in:

(A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and

(B) subsection (d)(2) is a severity level 4, person felony.

(5) Battery against a school employee is a class A person misdemeanor.

(6) Battery against a mental health employee is a severity level 7, person felony.

(h) As used in this section:

(1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;

(2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution;

(3) "juvenile correctional facility officer or employee" means any officer or employee of the juvenile justice authority or any independent contractor, or any employee of such contractor, working at a juvenile correctional facility, as defined in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(4) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 2013 Supp. 38-2302, and amendments thereto;

(5) "city or county correctional officer or employee" means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility;

(6) "school employee" means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12; and

(7) "mental health employee" means an employee of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services working at Larned state hospital, Osawatomie state hospital and Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto.

Sec. 21. K.S.A. 2013 Supp. 21-5914 is hereby amended to read as follows: 21-5914. (a) Traffic in contraband in a correctional institution or care and treatment facility is, without the consent of the administrator of the correctional institution or care and treatment facility:

(1) Introducing or attempting to introduce any item into or upon the grounds of any correctional institution or care and treatment facility;

(2) taking, sending, attempting to take or attempting to send any item from any correctional institution or care and treatment facility;

(3) any unauthorized possession of any item while in any correctional institution or care and treatment facility;

(4) distributing any item within any correctional institution or care and treatment facility;

(5) supplying to another who is in lawful custody any object or thing adapted or designed for use in making an escape; or

(6) introducing into an institution in which a person is confined any object or thing adapted or designed for use in making any escape.

(b) Traffic in contraband in a correctional institution or care and treatment facility is a:

(1) Severity level 6, nonperson felony, except as provided in subsection (b)(2) or (b)(3);

(2) severity level 5, nonperson felony if such items are:

(A) Firearms, ammunition, explosives or a controlled substance which is defined in K.S.A. 2013 Supp. 21-5701, and amendments thereto, except as provided in subsection (b)(3);

(B) defined as contraband by rules and regulations adopted by the secretary of corrections, in a state correctional institution or facility by an employee of a state correctional institution or facility, except as provided in subsection (b)(3);

(C) defined as contraband by rules and regulations adopted by the ~~secretary of social and rehabilitation~~ *for aging and disability* services, in a care and treatment facility by an employee of a care and treatment facility, except as provided in subsection (b)(3); or

(D) defined as contraband by rules and regulations adopted by the commissioner of the juvenile justice authority, in a juvenile correctional facility by an employee of a juvenile correctional facility, except as provided by subsection (b)(3); and

(3) severity level 4, nonperson felony if:

(A) Such items are firearms, ammunition or explosives, in a correctional institution by an employee of a correctional institution or in a care and treatment facility by an employee of a care and treatment facility; or

(B) a violation of *subsection (a)(5) or (a)(6)* by an employee or volunteer of the department of corrections, or the employee or volunteer of a contractor who is under contract to provide services to the department of corrections.

(c) The provisions of subsection (b)(2)(A) shall not apply to the possession of a firearm or ammunition by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.

(d) As used in this section:

(1) “Correctional institution” means any state correctional institution or facility, conservation camp, state security hospital, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail;

(2) “care and treatment facility” means the state security hospital provided for under K.S.A. 76-1305 et seq., and amendments thereto, and a facility operated by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for the purposes provided for under K.S.A. 59-29a02 et seq., and amendments thereto; and

(3) “lawful custody” means the same as in K.S.A. 2013 Supp. 21-5912, and amendments thereto.

Sec. 22. K.S.A. 2013 Supp. 21-5927, as amended by section 2 of 2014 Senate Bill No. 271, is hereby amended to read as follows: 21-5927. (a) Medicaid fraud is:

(1) With intent to defraud, making, presenting, submitting, offering or causing to be made, presented, submitted or offered:

(A) Any false or fraudulent claim for payment for any goods, service, item, facility accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(B) any false or fraudulent statement or representation for use in determining payments which may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(C) any false or fraudulent report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(D) any false or fraudulent statement or representation made in connection with any report or filing which is or may be used in computing or determining a rate of payment for any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(E) any statement or representation for use by another in obtaining any goods, service, item, facility or accommodation for which payment may be made, in whole or in part, under the medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission, whether or not the claim is allowed or allowable;

(F) any claim for payment, for any goods, service, item, facility, or accommodation, which is not medically necessary in accordance with professionally recognized parameters or as otherwise required by law, for which payment may be made, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(G) any wholly or partially false or fraudulent book, record, document, data or instrument, which is required to be kept or which is kept as documentation for any goods, service, item, facility or accommodation or of any cost or expense claimed for reimbursement for any goods, service, item, facility or accommodation for which payment is, has been, or can be sought, in whole or in part, under the medicaid program, whether or not the claim is allowed or allowable;

(H) any wholly or partially false or fraudulent book, record, document, data or instrument to any properly identified law enforcement officer, any properly identified employee or authorized representative of the attorney general, or to any properly identified employee or agent of ~~the department of social and rehabilitation services~~ *Kansas department for aging and disability services, Kansas department of health and environment*, or its fiscal agent, in connection with any audit or investigation involving any claim for payment or rate of payment for any goods, service, item, facility or accommodation payable, in whole or in part, under the medicaid program; or

(I) any false or fraudulent statement or representation made, with the intent to influence any acts or decision of any official, employee or agent of a state or federal agency having regulatory or administrative authority over the medicaid program; or

(2) intentionally executing or attempting to execute a scheme or artifice to defraud the medicaid program or any contractor or subcontractor thereof.

(b) (1) Except as provided in subsection (b)(2), for each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2), where the aggregate amount of payments illegally claimed is:

(A) \$250,000 or more, medicaid fraud is a severity level 3, nonperson felony;

(B) at least \$100,000 but less than \$250,000, medicaid fraud is a severity level 5, nonperson felony;

(C) at least \$25,000 but less than \$100,000, medicaid fraud is a severity level 7, nonperson felony;

(D) at least \$1,000 but less than \$25,000, medicaid fraud is a severity level 9, nonperson felony; and

(E) less than \$1,000, medicaid fraud is a class A nonperson misdemeanor.

(2) For each individual count of medicaid fraud as defined in subsection (a)(1)(A), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (a)(1)(F), (a)(1)(G) or (a)(2):

(A) When great bodily harm results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 4, person felony, except as provided in subsection (b)(2)(B); and

(B) when death results from such act, regardless of the aggregate amount of payments illegally claimed, medicaid fraud is a severity level 1, person felony.

(3) Medicaid fraud as defined in subsection (a)(1)(H) or (a)(1)(I) is a severity level 9, nonperson felony.

(c) In determining what is medically necessary pursuant to subsection (a)(1)(F), the attorney general may contract with or consult with qualified health care providers and other qualified individuals to identify professionally recognized parameters for the diagnosis or treatment of the recipient's condition, illness or injury.

(d) In sentencing for medicaid fraud, subsection (c)(3) of K.S.A. 2013 Supp. 21-6815, and amendments thereto, shall not apply and an act or omission by the defendant that resulted in any medicaid recipient receiving any service that was of lesser quality or amount than the service to which such recipient was entitled may be considered an aggravating factor in determining whether substantial and compelling reasons for departure exist pursuant to K.S.A. 2013 Supp. 21-6801 through 21-6824, and amendments thereto.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 23. K.S.A. 2013 Supp. 21-6602 is hereby amended to read as follows: 21-6602. (a) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(2) class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(3) class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month; and

(4) unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(b) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in K.S.A. 2013 Supp. 21-6611, and amendments thereto, instead of or in addition to confinement, as provided in this section.

(c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation *for aging and disability services*.

(d) Except as provided in subsection (e), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee

established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(e) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (d) are permissive and not mandatory.

Sec. 24. K.S.A. 2013 Supp. 21-6702 is hereby amended to read as follows: 21-6702. (a) Whenever any person has been found guilty of a crime and the court finds that an adequate presentence investigation cannot be conducted by resources available within the judicial district, including mental health centers and mental health clinics, the court may require that a presentence investigation be conducted by the Topeka correctional facility or by the state security hospital. If the offender is sent to the Topeka correctional facility or the state security hospital for a presentence investigation under this section, the correctional facility or hospital may keep the offender confined for a maximum of 60 days, except that an inmate may be held for a longer period of time on order of the secretary, or until the court calls for the return of the offender. While held at the Topeka correctional facility or the state security hospital the defendant may be treated the same as any person committed to the secretary of corrections or ~~secretary of social and rehabilitation~~ *for aging and disability* services for purposes of maintaining security and control, discipline, and emergency medical or psychiatric treatment, and general population management except that no such person shall be transferred out of the state or to a federal institution or to any other location unless the transfer is between the correctional facility and the state security hospital. The correctional facility or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its findings and recommendations known to the court in the presentence report.

(b) Except as provided in subsection (c), whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one year, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence;

(4) suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence;

(5) assign the defendant to a community correctional services program subject to the provisions of K.S.A. 75-5291, and amendments thereto, and such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(6) assign the defendant to a conservation camp for a period not to exceed six months;

(7) assign the defendant to a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto;

(8) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (c) of K.S.A. 2013 Supp. 21-6602, and amendments thereto;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court; or

(10) impose any appropriate combination of subsections (b)(1) through (b)(9).

In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (d) of K.S.A. 2013 Supp. 21-6602, and amendments thereto.

In addition to any of the above, the court shall order the defendant to

reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

The court in committing a defendant to the custody of the secretary of corrections shall fix a maximum term of confinement within the limits provided by law. In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

(c) Whenever any juvenile felon, as defined in K.S.A. 38-16,112, prior to its repeal, has been found guilty of a class A or B felony, the court shall commit the defendant to the custody of the secretary of corrections and may impose the fine applicable to the offense.

(d) (1) Except when an appeal is taken and determined adversely to the defendant as provided in subsection (d)(2), at any time within 120 days after a sentence is imposed, after probation or assignment to a community correctional services program has been revoked, the court may modify such sentence, revocation of probation or assignment to a community correctional services program by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits and shall modify such sentence if recommended by the Topeka correctional facility unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification.

(2) If an appeal is taken and determined adversely to the defendant, such sentence may be modified within 120 days after the receipt by the clerk of the district court of the mandate from the supreme court or court of appeals.

(e) The court shall modify the sentence at any time before the expiration thereof when such modification is recommended by the secretary of corrections unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification. The court shall have the power to impose a less severe penalty upon the inmate, including the power to reduce the minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections, the hearing on the recommendation and the order of modification shall be made in open court. Notice of the recommendation of modification of sentence and the time and place of the hearing thereon shall be given by the inmate, or by the inmate's legal counsel, at least 21 days prior to the hearing to the county or district attorney of the county where the inmate was convicted. After receipt of

such notice and at least 14 days prior to the hearing, the county or district attorney shall give notice of the recommendation of modification of sentence and the time and place of the hearing thereon to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's next of kin if the next of kin's address is known to the county or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.

(f) After such defendant has been assigned to a conservation camp but prior to the end of 180 days, the chief administrator of such camp shall file a performance report and recommendations with the court. The court shall enter an order based on such report and recommendations modifying the sentence, if appropriate, by sentencing the defendant to any of the authorized dispositions provided in subsection (b), except to reassign such person to a conservation camp as provided in subsection (b)(6).

(g) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(h) An application for or acceptance of probation, suspended sentence or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(i) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(j) The provisions of this section shall apply to crimes committed before July 1, 1993.

Sec. 25. K.S.A. 2013 Supp. 21-6708 is hereby amended to read as follows: 21-6708. The presumptive sentence for a person who has never before been convicted of a felony, but has now been convicted of a class D or E felony or convicted of an attempt to commit a class D felony shall be probation, unless the conviction is of a crime or of an attempt to commit a crime specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, or in the uniform controlled substances act or the person convicted is a juvenile offender in the custody of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. In determining whether to impose the presumptive sentence, the court shall consider any prior record of the person's having been convicted or having been adjudicated to have committed, while a juvenile, an offense which would constitute a felony if committed by an adult. If the presumptive sentence provided by this section is not imposed, the provisions of section 278, and amendments thereto, shall apply. The provisions of this section shall not apply to crimes committed on or after July 1, 1993.

Sec. 26. K.S.A. 2013 Supp. 22-2410, as amended by section 24 of 2014 Senate Substitute for House Bill No. 2338, is hereby amended to read as follows: 22-2410. (a) Any person who has been arrested in this state may petition the district court for the expungement of such arrest record.

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

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

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

No surcharge or fee shall be imposed to any person filing a petition pursuant to this section, who was arrested as a result of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-6107, and amendments thereto, or who has had criminal charges dismissed because a court has found that there was no probable cause for the arrest, the petitioner was found not guilty in court proceedings or the charges have been dismissed. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

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

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

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

(e) If the ground for expungement is as provided in subsection (c)(4), the court shall determine whether, in the interests of public welfare, the records should be available for any of the following purposes: (1) In any application for employment as a detective with a private detective agency, as defined in K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*;

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

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

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

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

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

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

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

(f) The court shall make all expunged records and related information



in such court's possession, created prior to, on and after July 1, 2011, available to the Kansas bureau of investigation for the purposes of:

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

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

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

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

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

Sec. 27. K.S.A. 22-3723 is hereby amended to read as follows: 22-3723. Whenever a treaty is in force between the United States and a foreign country providing for the transfer of offenders between the United States and such foreign country, the governor is authorized to give the approval of the state of Kansas to a transfer as provided in the treaty, upon the application of a person under the jurisdiction of the secretary of corrections or the secretary of social and rehabilitation for aging and disability services.

Sec. 28. K.S.A. 2013 Supp. 22-4612 is hereby amended to read as follows: 22-4612. (a) Except as otherwise provided in this section, a county, a city, a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care provider or the medicaid rate. The provisions of this section shall not apply if a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract.

(b) Nothing in this section shall prevent a county or city law enforcement agency, a county department of corrections, the Kansas highway patrol or such agencies authorized vendors from entering into agreements with health care providers for the provision of health care services at terms, conditions and amounts which are different than the medicaid rate.

(c) It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or such agencies' agents, to determine, under agreement with the secretary of health and environment, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

(d) Nothing in this section shall be construed to create a duty on the part of a health care provider to render health care services to a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol.

(e) As used in this section:

(1) "County or city law enforcement agency" means a city police department, a county sheriff's department, a county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.

(2) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued

by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed physician assistant, a person licensed by the behavioral sciences regulatory board, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a registered nurse, and advanced nurse practitioner, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed practical nurse, a licensed physical therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, a licensed social worker or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation ~~services~~ *for aging and disability* services and any health care provider licensed by the appropriate regulatory body in another state that has a current approved provider agreement with the secretary of health and environment.

(3) “Medicaid rate” means the terms, conditions and amounts a health care provider would be paid for health care services rendered pursuant to a contract or provider agreement with the secretary of health and environment.

Sec. 29. K.S.A. 22a-243 is hereby amended to read as follows: 22a-243. (a) There is hereby established a state child death review board, which shall be composed of:

(1) One member appointed by each of the following officers to represent the officer’s agency: The attorney general, the director of the Kansas bureau of investigation, the secretary of social and rehabilitation ~~services~~ *for children and families*, the secretary of health and environment and the commissioner of education;

(2) three members appointed by the state board of healing arts, one of whom shall be a district coroner and two of whom shall be physicians licensed to practice medicine and surgery, one specializing in pathology and the other specializing in pediatrics;

(3) one person appointed by the attorney general to represent advocacy groups which focus attention on child abuse awareness and prevention; and

(4) one county or district attorney appointed by the Kansas county and district attorneys association.

(b) The chairperson of the state review board shall be the member appointed by the attorney general to represent the office of the attorney general.

(c) The state child death review board shall be within the office of the attorney general as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the attorney general. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the attorney general. The state review board shall establish and maintain an office in Topeka.

(d) The state review board shall meet at least annually to review all reports submitted to the board. The chairperson of the state review board may call a special meeting of the board at any time to review any report of a child death.

(e) Within the limits of appropriations therefor, the state review board shall appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the state review board.

(f) Within the limits of appropriations therefor, the state review board

may employ other persons who shall be in the classified service of the Kansas civil service act.

(g) Members of the state review board shall not receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto, for attending meetings or subcommittee meetings of the board.

(h) The state review board shall develop a protocol to be used by the state review board. The protocol shall include written guidelines for coroners to use in identifying any suspicious deaths, procedures to be used by the board in investigating child deaths, methods to ensure coordination and cooperation among all agencies involved in child deaths and procedures for facilitating prosecution of perpetrators when it appears the cause of a child's death was from abuse or neglect. The protocol shall be adopted by the state review board by rules and regulations.

(i) The state review board shall submit an annual report to the governor and the legislature on or before October 1 of each year, commencing October 1993. Such report shall include the findings of the board regarding reports of child deaths, the board's analysis and the board's recommendations for improving child protection, including recommendations for modifying statutes, rules and regulations, policies and procedures.

(j) Information acquired by, and records of, the state review board shall be confidential, shall not be disclosed and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding, except that such information and records may be disclosed to any member of the legislature or any legislative committee which has legislative responsibility of the enabling or appropriating legislation, carrying out such member's or committee's official functions. The legislative committee, in accordance with K.S.A. 75-4319, and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection.

(k) The state review board may adopt rules and regulations as necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244, and amendments thereto.

Sec. 30. K.S.A. 22a-244 is hereby amended to read as follows: 22a-244. (a) Within 72 hours after receipt of notification from a coroner pursuant to K.S.A. 22a-242, *and amendments thereto*, the chairperson of the state review board may activate the board to investigate and make a written report regarding the death.

(b) The state review board shall have access to all law enforcement investigative information regarding the death; any autopsy records and coroner's investigative records relating to the death; any medical records of the child; and any records of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or any other social service agency which has provided services to the child or the child's family within three years preceding the child's death.

(c) The state review board may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the board. Any books, records or papers received by the board pursuant to the subpoena shall be regarded as confidential and privileged information and not subject to disclosure.

(d) The state review board's report shall contain the circumstances leading up to the death and cause of death; any social service agency involvement prior to death, including the kinds of services delivered to the dead child or the child's parents, siblings or any other children in the home; the reasons for initial social service agency activity and the reasons for any termination of agency activities if involvement was terminated; whether court intervention had ever been sought and, if so, any action taken by the court; and recommendations for prevention of future death under similar circumstances.

(e) Within 15 days of its activation pursuant to this section, the state review board shall complete and transmit a copy of its written report to the county or district attorney of the county in which the child's death occurred. If the death of the child occurred in a different county than where the child resided, a copy of the report shall be sent to the county or district attorney of the county where the child resided or, if the child

resided in another state, to the child protective services agency of that state.

(f) The state review board shall maintain permanent records of all written reports concerning child deaths.

(g) The state review board may disclose its conclusions regarding a report of a child death but shall not disclose any information received by the board which is not subject to public disclosure by the agency that provided the information to the board.

(h) Information, documents and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the state review board. A person who presented information before the board or who is a member of the board shall not be prevented from testifying about matters within the person's knowledge.

Sec. 31. K.S.A. 2013 Supp. 23-2202 is hereby amended to read as follows: 23-2202. As used in K.S.A. 2013 Supp. 23-2202 through 23-2204, *and amendments thereto*, except where the context otherwise requires:

(a) “Birthing hospital” means a hospital or facility as defined by rules and regulations of the secretary ~~of social and rehabilitation services for children and families~~.

(b) “IV-D program” means a program for providing services pursuant to part D of title IV of the federal social security act (42 U.S.C. ~~See: § 651 et seq.~~), ~~and acts amendatory thereof or supplemental amendments thereto~~.

(c) “Unwed mother” means a mother who was not married at the time of conception, at the time of birth or at any time between conception and birth.

Sec. 32. K.S.A. 2013 Supp. 23-2203 is hereby amended to read as follows: 23-2203. (a) There is hereby established in this state a hospital based program for voluntary acknowledgment of paternity pursuant to K.S.A. 65-2409a, and amendments thereto, for newborn children of unwed mothers. Birthing hospitals shall participate in the program. Other hospitals and persons may participate in the program by agreement with the secretary ~~of social and rehabilitation services for children and families~~.

(b) The secretary ~~of social and rehabilitation services for children and families~~ shall provide information and instructions to birthing hospitals for the hospital based program for voluntary acknowledgment of paternity. The secretary ~~of social and rehabilitation services for children and families~~ may adopt rules and regulations establishing procedures for birthing hospitals under the program.

(c) Subject to appropriations, the secretary ~~of social and rehabilitation services for children and families~~ is authorized to establish in this state a physicians' office-based program for voluntary acknowledgment of paternity pursuant to K.S.A. 65-2409a, and amendments thereto, for newborn children of unwed mothers. The secretary shall provide information and instructions to physicians' offices for the program and may adopt rules and regulations establishing procedures for physicians' offices under the program.

(d) The secretary of health and environment shall provide services for the voluntary acknowledgment of paternity, in appropriate circumstances, through the office of the state registrar. The secretary of health and environment may adopt rules and regulations to carry out the requirements of this section.

Sec. 33. K.S.A. 2013 Supp. 23-2204 is hereby amended to read as follows: 23-2204. (a) The state registrar of vital statistics, in conjunction with the secretary ~~of social and rehabilitation services for children and families~~, shall review and, as needed, revise acknowledgment of paternity forms for use under K.S.A. 2013 Supp. 23-2223 and K.S.A. 65-2409a, and amendments thereto. The acknowledgment of paternity forms shall include or have attached a written description pursuant to subsection (b) of the rights and responsibilities of acknowledging paternity.

(b) A written description of the rights and responsibilities of acknowledging paternity shall state the following:

(1) An acknowledgment of paternity creates a permanent father and child relationship which can only be ended by court order. A person who wants to revoke the acknowledgment of paternity must file the request with the court before the child is one year old, unless the person was

under age 18 when the acknowledgment of paternity was signed. A person under age 18 when the acknowledgment was signed has until one year after his or her 18th birthday to file a request, but if the child is more than one year old then, the judge will first consider the child's best interests.

The person will have to show that the acknowledgment was based on fraud, duress (threat) or an important mistake of fact, unless the request is filed within 60 days of signing the acknowledgment or before any court hearing about the child, whichever is earlier;

(2) both the father and the mother are responsible for the care and support of the child. If necessary, this duty may be enforced through legal action such as a child support order, an order to pay birth or other medical expenses of the child or an order to repay government assistance payments for the child's care. A parent's willful failure to support the parent's child is a crime;

(3) both the father and the mother have rights of custody and parenting time with the child unless a court order changes their rights. Custody, residency and parenting time may be spelled out in a court order and enforced;

(4) both the father and the mother have the right to consent to medical treatment for the child unless a court order changes those rights;

(5) the child may inherit from the father and the father's family or from the mother and the mother's family. The child may receive public benefits, including, but not limited to, social security or private benefits, including, but not limited to, insurance or workers compensation because of the father-child or mother-child relationship;

(6) the father or the mother may be entitled to claim the child as a dependent for tax or other purposes. The father or the mother may inherit from the child or the child's descendants; and

(7) each parent has the right to sign or not sign an acknowledgment of paternity. Each parent has the right to talk with an attorney before signing an acknowledgment of paternity. Each parent has the right to be represented by an attorney in any legal action involving paternity or their rights or duties as a parent. Usually each person is responsible for hiring the person's own attorney.

(c) Any duty to disclose rights or responsibilities related to signing an acknowledgment of paternity shall have been met by furnishing the written disclosures of subsection (b). Any duty to disclose orally the rights or responsibilities related to signing an acknowledgment of paternity may be met by means of an audio recording of the disclosures of subsection (b).

(d) An acknowledgment of paternity completed without the written disclosures of subsection (b) is not invalid solely for that reason and may create a presumption of paternity pursuant to K.S.A. 2013 Supp. 23-2208, and amendments thereto. Nothing in K.S.A. 2013 Supp. 23-2202 through 23-2204, and amendments thereto, shall decrease the validity, force or effect of an acknowledgment of paternity executed in this state prior to the effective date of this act.

(e) Upon request, the state registrar of vital statistics shall provide a certified copy of the acknowledgment of paternity to an office providing IV-D program services.

Sec. 34. K.S.A. 2013 Supp. 23-2209 is hereby amended to read as follows: 23-2209. (a) A child or any person on behalf of such a child, may bring an action:

(1) At any time to determine the existence of a father and child relationship presumed under K.S.A. 2013 Supp. 23-2208, and amendments thereto; or

(2) at any time until three years after the child reaches the age of majority to determine the existence of a father and child relationship which is not presumed under K.S.A. 2013 Supp. 23-2208, and amendments thereto.

(b) When authorized under K.S.A. 39-755 or 39-756, and amendments thereto, the secretary of ~~social and rehabilitation services~~ *for children and families* may bring an action at any time during a child's minority to determine the existence of the father and child relationship.

(c) This section does not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time

provided by law relating to the probate of estates or determination of heirship.

(d) Any agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(e) Except as otherwise provided in this subsection, if an acknowledgment of paternity pursuant to K.S.A. 2013 Supp. 23-2204, and amendments thereto, has been completed the man named as the father, the mother or the child may bring an action to revoke the acknowledgment of paternity at any time until one year after the child's date of birth. The legal responsibilities, including any child support obligation, of any signatory arising from the acknowledgment of paternity shall not be suspended during the action, except for good cause shown. If the person bringing the action was a minor at the time the acknowledgment of paternity was completed, the action to revoke the acknowledgment of paternity may be brought at any time until one year after that person attains age 18, unless the court finds that the child is more than one year of age and that revocation of the acknowledgment of paternity is not in the child's best interest.

The person requesting revocation must show, and shall have the burden of proving, that the acknowledgment of paternity was based upon fraud, duress or material mistake of fact unless the action to revoke the acknowledgment of paternity is filed before the earlier of 60 days after completion of the acknowledgment of paternity or the date of a proceeding relating to the child in which the signatory is a party, including, but not limited to, a proceeding to establish a support order.

If a court of this state has assumed jurisdiction over the matter of the child's paternity or the duty of a man to support the child, that court shall have exclusive jurisdiction to determine whether an acknowledgment of paternity may be revoked under this subsection.

If an acknowledgment of paternity has been revoked under this subsection, it shall not give rise to a presumption of paternity pursuant to K.S.A. 2013 Supp. 23-2208, and amendments thereto. Nothing in this subsection shall prevent a court from admitting a revoked acknowledgment of paternity into evidence for any other purpose.

If there has been an assignment of the child's support rights pursuant to K.S.A. 39-709, and amendments thereto, the ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* shall be a necessary party to any action under this subsection.

Sec. 35. K.S.A. 2013 Supp. 23-2212 is hereby amended to read as follows: 23-2212. (a) Whenever the paternity of a child is in issue in any action or judicial proceeding in which the child, mother and alleged father are parties, the court, upon its own motion or upon motion of any party to the action or proceeding, shall order the mother, child and alleged father to submit to genetic tests. If an action is filed by the ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* under K.S.A. 39-755 or 39-756, and amendments thereto, the court shall order genetic tests on the motion of the ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* or any party to the action if paternity of the child is in issue. If any party refuses to submit to the tests, the court may resolve the question of paternity against the party or enforce its order if the rights of others and the interests of justice so require. The tests shall be made by experts qualified as genetic examiners who shall be appointed by the court.

(b) Parties to an action may agree to conduct genetic tests prior to or during the pendency of an action for support of a child. The verified written report of the experts shall be admitted into evidence as provided in subsection (c) unless the court finds that paternity of the child is not in issue.

(c) The verified written report of the experts shall be considered to be stipulated to by all parties unless written notice of intent to challenge the validity of the report is given to all parties not more than 20 days after receipt of a copy of the report but in no event less than 10 days before any hearing at which the genetic test results may be introduced into evidence. If such notice is given, the experts shall be called by the court as witnesses to testify as to their findings and shall be subject to cross-examination by the parties. Any party may demand that other experts, qualified as genetic examiners, perform independent tests under order of the

court, the results of which may be offered in evidence. The number and qualification of the other experts shall be determined by the court. If no challenge is made, the genetic test results shall be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

Sec. 36. K.S.A. 2013 Supp. 23-2213 is hereby amended to read as follows: 23-2213. (a) Evidence relating to paternity may include any of the following:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception.

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy.

(3) Genetic test results of the statistical probability of the alleged father's paternity.

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. The court may, and upon request of a party shall, require the child, the mother and the alleged father to submit to appropriate tests.

(5) Testimony, records and notes of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth. Such testimony, records and notes are not privileged.

(6) Any other evidence relevant to the issue of paternity of the child, including but not limited to voluntary acknowledgment of paternity made in accordance with K.S.A. 2013 Supp. 23-2204, and amendments thereto.

(b) Testimony relating to sexual access to the mother by a man at a time other than the probable time of the conception of the child is inadmissible in evidence.

(c) For any child whose weight at birth is equal to or greater than five pounds 12 ounces, or 2,608.2 grams, it shall be presumed that the child was conceived between 300 and 230 days prior to the date of the child's birth. A presumption under this section may be rebutted by clear and convincing evidence.

(d) Evidence consisting of the results of any genetic test that is of a type generally acknowledged as reliable by accreditation bodies designated by the ~~secretary of social and rehabilitation services for children and families~~ shall not be inadmissible solely on the basis of being performed by a laboratory approved by such an accreditation body.

(e) Evidence of expenses incurred for pregnancy, childbirth and genetic tests may be admitted as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for such goods and services.

Sec. 37. K.S.A. 2013 Supp. 23-2219 is hereby amended to read as follows: 23-2219. (a) If the petitioner is not represented by counsel, the petitioner in an action to determine paternity may apply for services from: (1) The court trustee of the judicial district in which the action is brought, if the office of court trustee has been established in the county; or (2) the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or its contractor, if the action is brought pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), as amended. At the request of a petitioner in an action to determine paternity, the county or district attorney of the county in which the action is brought shall proceed on the petitioner's behalf if the petitioner is not represented by counsel, the action is not brought pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), as amended, and there is no court trustee in the county.

(b) The court shall appoint a guardian ad litem to represent the minor child if the court finds that the interests of the child and the interests of the petitioner differ. In any other case, the court may appoint such a guardian ad litem.

(c) The court shall appoint counsel for any other party to the action who is financially unable to obtain counsel.

(d) If a party is financially unable to pay the costs of a transcript, the court shall furnish on request a transcript for purposes of appeal.

Sec. 38. K.S.A. 2013 Supp. 23-3102 is hereby amended to read as follows: 23-3102. As used in the income withholding act:

(a) “Arrearage” means the total amount of unpaid support which is due and unpaid under an order for support, based upon the due date specified in the order for support or, if no specific date is stated in the order, the last day of the month in which the payment is to be made. If the order for support includes a judgment for reimbursement, an arrearage equal to or greater than the amount of support payable for one month exists on the date the order for support is entered.

(b) “Business day” means a day on which state offices in Kansas are open for regular business.

(c) “Health benefit plan” means any benefit plan, other than public assistance, which is able to provide hospital, surgical, medical, dental or any other health care or benefits for a child, whether through insurance or otherwise, and which is available through a parent’s employment or other group plan.

(d) “Income” means any form of payment to an individual, regardless of source, including, but not limited to, wages, salary, trust, royalty, commission, bonus, compensation as an independent contractor, annuity and retirement benefits, workers compensation and any other periodic payments made by any person, private entity or federal, state or local government or any agency or instrumentality thereof. “Income” does not include: (1) Any amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal and state taxes, social security tax and other retirement and disability contributions; (2) any amounts exempted by federal law; (3) public assistance payments; and (4) unemployment insurance benefits except to the extent otherwise provided by law. Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld shall not apply. Workers compensation shall be considered income only for the purposes of child support and not for the purposes of maintenance. Unemployment insurance benefits shall be considered income for purposes of this act when such funds are sought by the secretary of the department for children and families, or the secretary’s designee, in administration of the title IV-D program.

(e) “Income withholding agency” means the department for children and families.

(f) “Income withholding order” means an order issued under this act which requires a payor to withhold income to satisfy an order for support or to defray an arrearage.

(g) “Lump sum payment” means income in the form of a bonus, commission, an amount paid in lieu of vacation or other leave time, or any other payment to an obligor. “Lump sum payment” does not include payments made on regular paydays as compensation, reimbursement of expenses incurred by the obligor on behalf of the payor, or an amount paid as severance pay on termination of employment.

(h) “Medical child support order” means an order requiring a parent to provide coverage for a child under a health benefit plan and, where the context requires, may include an order requiring a payor to enroll a child in a health benefit plan.

(i) “Medical withholding order” means an income withholding order which requires an employer, sponsor or other administrator of a health benefit plan to enroll a child under the health coverage of a parent.

(j) “Nonparticipating parent” means, if one parent is a participating parent as defined in this section, the other parent.

(k) “Obligee” means the person or entity to whom a duty of support is owed.

(l) “Obligor” means any person who owes a duty to make payments or provide health benefit coverage under an order for support.

(m) “Order for support” means any order of a court, or of an administrative agency authorized by law to issue such an order, which provides for payment of funds for the support of a child, or for maintenance of a spouse or ex-spouse, and includes an order which provides for modification or resumption of a previously existing order; payment of uninsured medical expenses; payment of an arrearage accrued under a previously existing order; a reimbursement order, including, but not limited to, an order established pursuant to K.S.A. 39-718a or 39-718b, and amendments thereto; an order established pursuant to K.S.A. 23-451 et seq., and amendments thereto; or a medical child support order.

(n) “Participating parent” means a parent who is eligible for single



coverage under a health benefit plan as defined in this section, regardless of the type of coverage actually in effect, if any.

(o) “Payor” means any person or entity owing income to an obligor or any self-employed obligor and includes, with respect to a medical child support order, the sponsor or administrator of a health benefit plan.

(p) “Periodic payment” means wages, salary, royalties, trust payments, annuity payments, retirement payments and any other regularly occurring, scheduled payment to an obligor.

(q) “Public office” means any elected or appointed official of the state or any political subdivision or agency of the state, or any subcontractor thereof, who is or may become responsible by law for enforcement of, or who is or may become authorized to enforce, an order for support, including, but not limited to, the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, court trustees, county or district attorneys and other subcontractors.

(r) “Title IV-D” means part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto, as in effect on December 31, 2009. “Title IV-D cases” means those cases required by title IV-D to be processed by the *Kansas* department for children and families under the state’s plan for providing title IV-D services.

Sec. 39. K.S.A. 2013 Supp. 23-3109 is hereby amended to read as follows: 23-3109. (a) If an obligee is receiving income withholding payments under this act, the obligee shall give written notice of any change of address, within seven days after the change to the public office, clerk of the district court or court trustee through which the obligee receives the payments.

(b) If any support rights are assigned to the ~~secretary of social and rehabilitation services~~ *for children and families*, the obligee shall serve on the ~~secretary of social and rehabilitation services~~ *for children and families* a copy of any order for support providing for immediate income withholding or any notice of intent to apply for issuance of an income withholding order. If any support rights are assigned to the ~~secretary of social and rehabilitation services~~ *for children and families*, payments pursuant to an income withholding order shall be disbursed as the notice of assignment directs.

(c) The obligee or public office shall provide written notice to the court trustee or clerk of the court of any other support payments made, including but not limited to a setoff under federal or state law, a collection of unemployment compensation pursuant to K.S.A. 44-718, and amendments thereto, or a direct payment from the obligor. The clerk of the court issuing the order for support or other designated person shall record the amounts reported in such notices.

(d) Any public office and clerk of court which collects, disburses or receives payments pursuant to income withholding orders shall maintain complete, accurate and clear records of all payments and their disbursement. Certified copies of payment records maintained by a public office or clerk of court shall, without further proof, be admitted into evidence in any legal proceedings which concern the issue of support.

Sec. 40. K.S.A. 2013 Supp. 23-3113 is hereby amended to read as follows: 23-3113. (a) The judicial administrator and the ~~secretary of social and rehabilitation services~~ *for children and families* shall cooperate to design suggested legal forms and informational materials which describe procedures and remedies under this act for distribution to all parties in support actions.

(b) The judicial administrator of the courts and the ~~secretary of social and rehabilitation services~~ *for children and families* shall enter into a contract to develop and maintain an automated management information system which will monitor support payments, maintain accurate records of support payments and permit prompt notice of arrearages in support payments. District courts, including court trustees, shall be subcontractors in the management information system and payments for their services shall be disbursed as directed by the judicial administrator. Unless good cause is shown, the ~~secretary of social and rehabilitation services~~ *for children and families* shall contract with court trustees for enforcement services. Subcontractor employees determined necessary to the performance of the contract by the judicial administrator shall be state employees paid by county general funds. The provisions of K.S.A. 20-358 and 20-

359, and amendments thereto, shall apply. County expenditures for compensation of subcontractor employees may be paid during any budget year even though the expenditures were not included in the budget for that year. County general funds shall be promptly reimbursed for subcontractor employee compensation cost from the subcontractor's payment plus a reasonable administrative fee for the county for acting as fiscal and reporting agent as determined necessary by the judicial administrator. The provisions of the Kansas court personnel rules, except for pay and classification plans, shall apply to subcontractor employees.

Sec. 41. K.S.A. 2013 Supp. 23-3114 is hereby amended to read as follows: 23-3114. (a) Whether or not a medical child support order has previously been entered, the court shall address the medical needs of the child, and if necessary, enter a medical child support order. Subject to any requirements in child support guidelines adopted by the supreme court pursuant to K.S.A. 20-165, and amendments thereto, the medical child support order may require either parent or both parents to furnish coverage under any health benefit plan as provided in this section, allocate between the parents responsibility for deductibles and copayments, allocate between the parents responsibility for medical costs not covered by any health benefit plan, include costs of coverage under a health benefit plan in the calculation of a current child support order, require cash medical support as an adjustment to a current support order, and make any other provision that justice may require. Before requiring either parent to provide coverage under any health benefit plan, the court shall consider whether the benefits of the plan are accessible to the child and the cost of coverage, including deductibles and copayments, in relation to the overall financial circumstances. In no event shall the court consider as a factor the availability of medical assistance to any person. Nothing in this section shall prevent the court from prospectively ordering a parent to provide coverage under any health benefit plan which may become available to the parent.

(b) Except for good cause shown, if more than one health benefit plan is available for and accessible to a child, the court shall give preference to the plan: (1) Designated by court order or agreement of the parties, or, if none, then (2) in which the child already has benefits, or, if none, then (3) with terms closest to those designated by court order or agreement of the parties, or, if none, then (4) in which the parent or members of the parent's household have benefits, or, if none, then (5) in which the child will receive the greatest benefits.

(c) When a medical child support order has been entered, the obligor shall be deemed to have granted by operation of law a limited power of attorney to submit claims to a health benefit plan on the child's behalf and to endorse and negotiate any check or other negotiable instrument issued in full or partial payment of the child's claim. Except as otherwise provided in this subsection, the limited power of attorney shall be held by the obligee. If the child is receiving medical assistance from the secretary of ~~social and rehabilitation~~ *for aging and disability services or the department of health and environment*, the secretary of ~~social and rehabilitation services~~ *for children and families* shall be deemed the sole holder of the limited power of attorney with respect to payments subject to the secretary's claim for reimbursement. Upon termination of medical assistance in this state for the child, the secretary of ~~social and rehabilitation services~~ *for children and families* shall retain the limited power of attorney with respect to medical assistance already provided until the claim of the secretary for reimbursement is satisfied. If the child is receiving medical assistance under Title XIX of the federal social security act in another state or jurisdiction, the agency or official responsible for administering the Title XIX program in that state or jurisdiction shall be deemed the sole holder of the limited power of attorney with respect to payments subject to the claim of that agency or official for reimbursement. Upon termination of medical assistance in that state or jurisdiction for the child the agency or official administering the Title XIX program shall retain the limited power of attorney with respect to medical assistance already provided until the claim of that agency or official for reimbursement is satisfied.

(d) In any case in which a participating parent is required by a court or administrative order to provide health coverage for a child, the partic-

icipating parent is eligible for family health coverage, and the child is otherwise eligible for family health coverage, without regard to any enrollment season restrictions the employer, sponsor or other administrator of a health benefit plan: (1) Shall permit the participating parent to enroll the child for coverage; or (2) if the participating parent is enrolled but has not applied for coverage for the child, shall permit the holder of a limited power of attorney pursuant to subsection (c) to enroll the child. A child enrolled under this subsection shall be treated, with regard to any preexisting condition, as though enrollment occurred during the normal open enrollment period.

(e) When a child has been enrolled for coverage pursuant to subsection (d), the employer, sponsor or other administrator of a health benefit plan shall not disenroll or eliminate coverage of the child unless the employer, sponsor or administrator is provided: (1) Satisfactory written evidence that the court or administrative order requiring the parent to provide health coverage is no longer in effect for the child and either the participating parent has requested a change or discontinuance of the child's coverage, or the child is otherwise ineligible for continued coverage; or (2) satisfactory written evidence, signed by all holders of a limited power of attorney pursuant to subsection (c), that the child is or will be enrolled in comparable health coverage through another insurer or health benefit plan which will take effect no later than the effective date of the disenrollment. An employer may also disenroll or eliminate coverage for the child if the employer has eliminated family health coverage for all of its employees.

(f) The provisions of this section and the income withholding act and amendments thereto shall apply to all orders for support, including all medical child support orders, entered in this state regardless of the date the order was entered.

Sec. 42. K.S.A. 2013 Supp. 23-3121 is hereby amended to read as follows: 23-3121. (a) As used in this section, "consumer reporting agency" means any person which, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(b) ~~The secretary of social and rehabilitation services~~ *for children and families* shall develop procedures for making information concerning support arrearages owed or assigned to the secretary or owed to any person who has applied for services pursuant to K.S.A. 39-756, and amendments thereto, available to consumer reporting agencies upon their request. The procedures shall provide for the information to be made available to such agencies in any case in which the support arrearage is \$1,000 or more unless the secretary determines that providing the information is not appropriate in a particular case. The procedures may additionally provide for the information to be available to such agencies if the amount of the support arrearage is less than \$1,000.

(c) The secretary may charge a consumer reporting agency requesting support arrearage information a fee not to exceed the actual cost to the secretary in providing such information.

(d) Prior to providing any information concerning an obligor's arrearage to a consumer reporting agency, the secretary shall provide advance notice to the obligor who owes support by first-class mail to the obligor's last known address, concerning the proposed release of information to a consumer reporting agency and of the methods available for contesting the accuracy of the information as provided for in K.S.A. 50-710, and amendments thereto.

Sec. 43. K.S.A. 2013 Supp. 23-3210 is hereby amended to read as follows: 23-3210. (a) *Investigation and report.* In any proceeding in which legal custody, residency, visitation rights or parenting time are contested, the court may order an investigation and report concerning the appropriate legal custody, residency, visitation rights and parenting time to be granted to the parties. The investigation and report may be made by court services officers or any consenting person or agency employed by the court for that purpose. ~~The court may use the department of social and rehabilitation services~~ *Kansas department for children and families* to

make the investigation and report if no other source is available for that purpose. The costs for making the investigation and report may be assessed as court costs in the case as provided in article 20 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(b) *Consultation.* In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential legal custodial arrangements. Upon order of the court, the investigator may refer the child to other professionals for diagnosis. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past. If the requirements of subsection (c) are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) *Use of report and investigator's testimony.* The court shall make the investigator's report available prior to the hearing to counsel or to any party not represented by counsel. Upon motion of either party, the report may be made available to a party represented by counsel, unless the court finds that such distribution would be harmful to either party, the child or other witnesses. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. In consideration of the mental health or best interests of the child, the court may approve a stipulation that the interview records not be divulged to the parties.

Sec. 44. K.S.A. 2013 Supp. 23-36,201 is hereby amended to read as follows: 23-36,201. In a proceeding to establish, enforce or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (a) The individual is personally served with notice within this state;
- (b) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (c) the individual resided with the child in this state;
- (d) the individual resided in this state and provided prenatal expenses or support for the child;
- (e) the child resides in this state as a result of the acts or directives of the individual;
- (f) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (g) the individual asserted parentage in the putative father registry maintained in this state by the secretary of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*; or
- (h) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Sec. 45. K.S.A. 2013 Supp. 23-36,310 is hereby amended to read as follows: 23-36,310. (a) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* is the state information agency under this act.

- (b) The state information agency shall:
  - (1) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this act and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;
  - (2) maintain a register of tribunals and support enforcement agencies received from other states;
  - (3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this act received from an initiating tribunal or the state information agency of the initiating state; and
  - (4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, drivers' licenses and social security.

Sec. 46. K.S.A. 2013 Supp. 32-906 is hereby amended to read as follows: 32-906. (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid Kansas fishing license is required to fish or to take any bullfrog in this state.

(b) The provisions of subsection (a) do not apply to fishing by:

- (1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;
- (2) a person who is less than 16 years of age;
- (3) a resident of this state who is 75 years of age or more;
- (4) a person fishing in a private water fishing impoundment unless waived pursuant to K.S.A. 32-975, and amendments thereto;
- (5) a resident of an adult care home, as defined by K.S.A. 39-923, and amendments thereto, licensed by the secretary of aging;
- (6) a person on dates designated pursuant to subsection (f);
- (7) a person fishing under a valid institutional group fishing license issued pursuant to subsection (g); or
- (8) a participant in a fishing clinic sponsored or cosponsored by the department, during the period of time that the fishing clinic is being conducted.

(c) The fee for a fishing license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid throughout the state.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid from the date of issuance and expires on December 31 following its issuance, except that the secretary may issue a:

- (1) Permanent license pursuant to K.S.A. 32-929, and amendments thereto;
- (2) lifetime license pursuant to K.S.A. 32-930, and amendments thereto;
- (3) nonresident fishing license valid for a period of five days; and
- (4) resident or nonresident fishing license valid for a period of 24 hours.

(f) The secretary may designate by resolution two days each calendar year during which persons may fish by legal means without having a valid fishing license.

(g) The secretary shall issue an annual institutional group fishing license to each facility operating under the jurisdiction of or licensed by the secretary of ~~social and rehabilitation~~ *for aging and disability* services and to any veterans administration medical center in the state of Kansas upon application by such facility or center to the secretary of wildlife, parks and tourism for such license.

All applications for facilities under the jurisdiction of the secretary of ~~social and rehabilitation~~ *for aging and disability* services shall be made with the approval of the secretary of ~~social and rehabilitation~~ *for aging and disability* services and shall provide such information as the secretary of wildlife, parks and tourism requires. All applications for any veterans administration medical center shall be made with the approval of the director of such facility and shall provide such information as the secretary of wildlife, parks and tourism requires. Persons who have been admitted to and are currently residing at the facility or center, not to exceed 20 at any one time, may fish under an institutional group fishing license within the state while on a group trip, group outing or other group activity which is supervised by the facility or center. Persons fishing under an institutional group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and to all rules and regulations relating to fishing.

The staff personnel of the facility or center supervising the group trip, group outing or other group activity shall have in their possession the institutional license when engaged in supervising any activity requiring the license. Such staff personnel may assist group members in all aspects of their fishing activity.

(h) The secretary may issue a special nonprofit group fishing license to any community, civic or charitable organization which is organized as a not-for-profit corporation, for use by such community, civic or charitable organization for the sole purpose of conducting group fishing activ-

ities for handicapped or developmentally disabled individuals. All applications for a special nonprofit group fishing license shall be made to the secretary or the secretary's designee and shall provide such information as required by the secretary.

Handicapped or developmentally disabled individuals, not to exceed 20 at any one time, may fish under a special nonprofit group fishing license while on a group trip, outing or activity which is supervised by the community, civic or charitable organization. Individuals fishing under a special nonprofit group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and rules and regulations relating to fishing.

The staff personnel of the community, civic or charitable organization supervising the group trip, outing or activity shall have in their possession the special nonprofit group fishing license when engaged in supervising any activity requiring the special nonprofit group fishing license. Such staff personnel may assist group members in all aspects of their fishing activity.

(i) The provisions of paragraph (b)(3) shall expire on June 30, 2020.

Sec. 47. K.S.A. 2013 Supp. 32-918 is hereby amended to read as follows: 32-918. (a) Upon request of the secretary of ~~social and rehabilitation services for children and families~~, the secretary of wildlife, parks and tourism shall not allow any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism to be purchased by any applicant except as provided in this section. The secretary of ~~social and rehabilitation services for children and families~~ may make such a request by providing the secretary of wildlife, parks and tourism, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife, parks and tourism to match applicants against the list with reasonable accuracy. The secretary of ~~social and rehabilitation services for children and families~~ may include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order in a title IV-D case or has failed, after appropriate notice, to comply with an outstanding warrant or subpoena directed to the individual in a title IV-D case. The secretary of ~~social and rehabilitation services for children and families~~ shall include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order, as reported to the secretary of ~~social and rehabilitation services for children and families~~ by the court trustee or has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee and as reported to the secretary of ~~social and rehabilitation services for children and families~~ by the court trustee.

(b) If any applicant for a license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism is not allowed to complete a purchase pursuant to this section, the vendor of the license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism shall immediately deliver to the applicant a written notice, furnished by the state of Kansas, stating the basis for the action and how the applicant may dispute the action or request other relief. Such notice shall inform the applicant who owes arrearages in an IV-D case to contact ~~social and rehabilitation services~~ *the department for children and families* and in a non-IV-D case to contact the court trustee.

(c) Immediately upon receiving a release executed by an authorized agent of the secretary of ~~social and rehabilitation services for children and families~~ or the court trustee, the secretary of wildlife, parks and tourism may allow the applicant to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism. The applicant shall have the burden of obtaining and delivering the release. The secretary of ~~social and rehabilitation services for children and families~~ or the court trustee may limit the duration of the release.

(d) Upon request, the secretary of ~~social and rehabilitation services for children and families~~ shall issue a release if, as appropriate:

- (1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;
- (2) an income withholding order in the case has been served upon the applicant's current employer or payor;
- (3) an agreement has been completed or an order has been entered

setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(4) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(5) the court trustee notifies the ~~secretary of social and rehabilitation services for children and families~~ that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(e) Individuals previously included in a quarterly listing may be omitted from any subsequent listing by the ~~secretary of social and rehabilitation services for children and families~~. When a new listing takes effect, the secretary of wildlife, parks and tourism may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism, whether or not the applicant had been included in a previous listing.

(f) Nothing in this section shall be construed to require or permit the secretary of wildlife, parks and tourism to determine any issue related to a child support order or related to the title IV-D case, including questions of mistaken identity or the adequacy of any notice provided pursuant to this section. In a title IV-D case, the ~~secretary of social and rehabilitation services for children and families~~ shall provide an opportunity for fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, to any person who has been denied any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism pursuant to this section, provided that the person complies with the requirements of the ~~secretary of social and rehabilitation services for children and families~~ for requesting such fair hearing. In a non-IV-D case, the applicant shall contact the court trustee.

(g) The term “title IV-D” has the meaning ascribed thereto in K.S.A. 32-930, and amendments thereto.

(h) The ~~secretary of social and rehabilitation services for children and families~~ and the ~~secretary of wildlife and parks, parks and tourism~~ may enter into an agreement for administering the provisions of this section.

(i) The ~~secretary of social and rehabilitation services for children and families~~ and the secretary of wildlife, parks and tourism may each adopt rules and regulations necessary to carry out the provisions of this section.

(j) Upon receipt of such list, the secretary of wildlife, parks and tourism shall send by first class mail, a letter to any new individual on the listing who has a current license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism informing such individual of the provisions of this section.

Sec. 48. K.S.A. 2013 Supp. 32-930 is hereby amended to read as follows: 32-930. (a) Except as provided in subsection (c), the secretary or the secretary’s designee is authorized to issue to any Kansas resident a lifetime fishing, hunting or furharvester or combination hunting and fishing license upon proper application made therefor to the secretary or the secretary’s designee and payment of a license fee as follows: (1) A total payment made at the time of purchase in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto; or (2) payment may be made over a two-year period in eight quarter-annual installments in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto. If payment is in installments, the license shall not be issued until the final installment has been paid. A person making installment payments shall not be required to obtain the appropriate annual license, and each installment payment shall be deemed to be such an annual license for a period of one year following the date of the last installment payment made. If an installment payment is not received within 30 days after it is due and owing, the secretary may consider the payments in default and may retain any payments previously received. Any lifetime license issued to a Kansas resident shall not be made invalid by reason of the holder thereof subsequently residing outside the state of Kansas. Any nonresident holder of a Kansas lifetime hunting or combination hunting and fishing license shall be eligible under the same conditions as a Kansas resident for a big game or wild turkey permit upon proper application to the secretary. Any nonresident holder of a lifetime fishing license issued before July 1, 1989, shall be eligible under the same conditions as a Kansas

resident for a big game or wild turkey permit upon proper application to the secretary.

(b) For the purposes of subsection (a), the term “resident” shall have the meaning defined in K.S.A. 32-701, and amendments thereto, except that a person shall have maintained that person’s place of permanent abode in this state for a period of not less than one year immediately preceding the person’s application for a lifetime fishing, hunting or furharvester or combination hunting and fishing license.

(c) (1) Upon request of the secretary of ~~social and rehabilitation services for children and families~~, the secretary of wildlife, parks and tourism shall not issue a lifetime fishing, hunting or furharvester or combination hunting and fishing license to an applicant except as provided in this subsection. The secretary of ~~social and rehabilitation services for children and families~~ may make such a request if, at the time of the request, the applicant:

(A) Owed arrearages under a support order in a title IV-D case being administered by the secretary of ~~social and rehabilitation services for children and families~~;

(B) had outstanding a warrant or subpoena, directed to the applicant, in a title IV-D case being administered by the secretary of ~~social and rehabilitation services for children and families~~;

(C) owes arrearages under a support order, as reported to the secretary of ~~social and rehabilitation services for children and families~~ by the court trustee; or

(D) has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee as reported to the secretary of ~~social and rehabilitation services for children and families~~ by the court trustee.

(2) Upon receiving a release from an authorized agent of the secretary of ~~social and rehabilitation services for children and families~~ or the court trustee, the secretary of wildlife, parks and tourism may issue the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The applicant shall have the burden of obtaining and delivering the release.

(3) The secretary of ~~social and rehabilitation services for children and families~~ shall issue a release upon request if, as appropriate:

(A) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(B) an income withholding order has been served upon the applicant’s current employer or payor;

(C) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(D) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(E) the court trustee notifies the secretary of ~~social and rehabilitation services for children and families~~ that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(d) (1) Upon request of the secretary of ~~social and rehabilitation services for children and families~~, the secretary of wildlife, parks and tourism shall suspend a lifetime fishing, hunting or furharvester or combination hunting and fishing license to a licensee as provided in this subsection. The secretary of ~~social and rehabilitation services for children and families~~ may make such a request if, at the time of the request, the applicant owed arrearages under a support order or had outstanding a warrant or subpoena as stated in subsection (c)(1).

(2) Upon receiving a release from an authorized agent of the secretary of ~~social and rehabilitation services for children and families~~ or the court trustee, the secretary of wildlife, parks and tourism may reinstate the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The licensee shall have the burden of obtaining and delivering the release.

(3) The secretary of ~~social and rehabilitation services for children and families~~ shall issue a release upon request if the requirements of subsection (c)(3) are met.

(e) Nothing in subsection (c) or (d) shall be construed to require or permit the secretary of wildlife, parks and tourism to determine any issue



related to a child support order or related to the title IV-D case including to resolve questions of mistaken identity or determine the adequacy of any notice relating to subsection (c) or (d) that the secretary of wildlife, parks and tourism provides to the applicant.

(f) “Title IV-D” means part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), ~~and amendments thereto~~, as in effect on December 31, 2001, relating to child support enforcement services.

(g) The secretary, in accordance with K.S.A. 32-805, and amendments thereto, may adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 49. K.S.A. 38-134 is hereby amended to read as follows: 38-134.

(a) As used in this section:

(1) “Child” means a person under 18 years of age who has been removed from the home of a relative as a result of judicial determination and whose placement and care is the responsibility of the secretary.

(2) “Family foster home” means a private home in which care is given for 24 hours a day for children away from their parent or guardian and which is licensed under K.A.R. 28-4-311 et seq.

(3) “Foster family” means all persons living in the foster home other than foster children.

(4) “Foster parent” means the licensee who is responsible for the care of foster children.

(5) “Secretary” means the secretary ~~of social and rehabilitation services for children and families.~~

(b) In order to assist the foster family to make an informed decision regarding their acceptance of a particular child, to help the foster family anticipate problems which may occur during the child’s placement and to help the foster family meet the needs of the child in a constructive manner, the secretary shall seek to obtain and shall provide the following information to the foster parent as the information becomes available to the secretary:

- (1) Strengths, needs and general behavior of the child;
- (2) circumstances which necessitated placement;
- (3) information about the child’s family and the child’s relationship to the family which may affect the placement;
- (4) important life experiences and relationships which may affect the child’s feelings, behavior, attitudes or adjustment;
- (5) medical history of the child, including third-party coverage which may be available to the child; and
- (6) education history, to include present grade placement, special strengths and weaknesses.

Sec. 50. K.S.A. 2013 Supp. 38-143 is hereby amended to read as follows: 38-143. As used in the grandparents as caregivers act:

(a) “Program” means the grandparents as caregivers program.

(b) “Secretary” means the secretary ~~of the department of social and rehabilitation services for children and families.~~

(c) “Department” means the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

Sec. 51. K.S.A. 2013 Supp. 38-144 is hereby amended to read as follows: 38-144. (a) In accordance with the provisions of the grandparents as caregivers act and subject to the provisions of appropriation acts, the secretary shall establish a grandparents as caregivers program within the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. The program shall be administered in a manner which recognizes that:

- (1) The relationship between a child and a parent differs from the relationship between a child and a grandparent;
- (2) society and the demands and needs of the members of society change between the time a person raises a child and the time the same person raises a grandchild;
- (3) caring for a grandchild often places additional financial, social and psychological strain on grandparents with fixed incomes;
- (4) different parenting skills are necessary when raising a grandchild, and many grandparents do not possess such skills, are not aware of how to obtain such skills and cannot afford access to the services necessary to obtain such skills;
- (5) grandparents acting as caregivers need a support structure, in-

cluding counseling for both the grandparent and grandchild, respite care, transportation assistance and child care; and

(6) grandparents are often unaware of medical and other assistance, including cash assistance for which they may be eligible.

Sec. 52. K.S.A. 38-320 is hereby amended to read as follows: 38-320. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) “Department” means the ~~state department of social and rehabilitation services~~ *Kansas department for children and families* or any division thereof.

(b) “Secretary” means the ~~secretary of the social and rehabilitation services or his~~ *secretary for children and families or the secretary’s* designee.

Sec. 53. K.S.A. 38-1808 is hereby amended to read as follows: 38-1808. (a) There is hereby established in the state treasury the family and children investment fund. The family and children investment fund shall be administered as provided in this section.

(b) There shall be credited to the family and children investment fund appropriations, gifts, grants, contributions, matching funds and participant payments.

(c) (1) There is hereby created the family and children trust account in the family and children investment fund. The ~~secretary of social and rehabilitation services~~ *secretary for children and families* shall administer the family and children trust account.

(2) Moneys credited to the family and children trust account shall be used for the following purposes: (A) Matching federal moneys to purchase services relating to community-based programs for the broad range of child abuse and neglect prevention activities; (B) providing start-up or expansion grants for community-based prevention projects for the broad range of child abuse and neglect prevention activities; (C) studying and evaluating community-based prevention projects for the broad range of child abuse and neglect prevention activities; (D) preparing, publishing, purchasing and disseminating educational material dealing with the broad range of child abuse and neglect prevention activities; and (E) payment of the administrative costs of the family and children trust account and of that portion of the Kansas children’s cabinet, established pursuant to K.S.A. 38-1901, and amendments thereto, which are attributable to the family and children trust account, and that portion of the administrative costs of the board of trustees, of the Kansas public employees retirement system established by K.S.A. 74-4905, and amendments thereto, which are attributable to the family and children endowment account of the family and children investment fund. No moneys in the family and children trust account shall be used for the purpose of providing services for the voluntary termination of pregnancy.

(3) Expenditures from the family and children trust account shall be subject to the approval of the Kansas children’s cabinet established pursuant to K.S.A. 38-1901, and amendments thereto. All expenditures from the family and children trust account shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~secretary of social and rehabilitation services~~ *secretary for children and families* or a person designated by the secretary.

(d) (1) There is hereby created the permanent families account in the family and children investment fund. The judicial administrator of the courts shall administer this account.

(2) Moneys credited to the permanent families account shall be used for the following purposes: (A) Not more than 12% of the amount credited to the permanent families account during the fiscal year may be used to provide technical assistance to district courts or local groups wanting to establish a local citizen review board or a court-appointed special advocate program, including but not limited to such staff as necessary to provide such assistance, and to provide services necessary for the administration of such board or program, including but not limited to grants administration, accounting, data collection, report writing and training of local citizen review board staff; (B) grants to court-appointed special advocate programs, upon application approved by the chief judge of the judicial district where the program is located; and (C) grants to district courts, upon application of the chief judge of the judicial district, for

expenses of establishment, operation and evaluation of local citizen review boards in the judicial district, including costs of: (i) Employing local citizen review board coordinators and clerical staff; (ii) telephone, photocopying and office equipment and supplies for which there are shown to be no local funds available; (iii) mileage of staff and board members; and (iv) training staff and board members.

(3) In addition to the other duties and powers provided by law, in administering the permanent families account, the judicial administrator shall:

(A) Accept and receive grants, loans, gifts or donations from any public or private entity in support of programs administered by the judicial administrator and assist in the development of supplemental funding sources for local and state programs;

(B) consider applications for and make such grants from the permanent families account as authorized by law; and

(C) receive reports from local citizen review boards established pursuant to K.S.A. ~~38-1812~~ 38-2207, and amendments thereto, regarding the status of children under the supervision of the district courts and regarding systemic barriers to permanence for children, assure that appropriate data is maintained regularly and compiled at least once a year by such boards on all cases reviewed and assure that the effectiveness of such boards is evaluated on an ongoing basis, using, where possible, random selection of local citizen review boards and cases for the evaluation and including client outcome data to determine effectiveness.

(4) All expenditures from the permanent families account shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the judicial administrator or a person designated by the judicial administrator.

(e) The family and children endowment account of the family and children investment fund shall constitute and shall be administered as an endowment for the purposes for which expenditures may be made from the family and children trust account of the family and children investment fund. The family and children endowment account of the family and children investment fund shall be invested by the board of trustees of the Kansas public employees retirement system established by K.S.A. 74-4905, and amendments thereto. All interest or other income of the investments of the moneys in the family and children trust endowment account of the family and children investment fund, after payment of any management and administrative fees, shall be considered income of the family and children trust account of the family and children investment fund and shall be deposited in the state treasury to the credit of the family and children trust account of the family and children investment fund.

(f) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the family and children investment fund interest earnings based on:

(1) The average daily balance of moneys in the family and children investment fund for the preceding month, excluding all amounts credited to the family and children endowment account of the family and children investment fund; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 54. K.S.A. 38-1817 is hereby amended to read as follows: 38-1817. On and after July 1, 1997:

(a) Whenever the corporation for change, or words of like effect, is referred to or designated by a statute, contract or other document, and such reference relates to the family and children trust account of the family and children investment fund, such reference or designation shall be deemed to apply to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

(b) Whenever the executive director or the chairperson of the board of directors of the corporation for change, or words of like effect, is referred to or designated by a statute, contract or other document, and such reference relates to the family and children trust account of the family and children investment fund, such reference or designation shall be deemed to apply to the ~~secretary of social and rehabilitation services~~ *for children and families*.

(c) All orders and directives of the corporation for change or of the

executive director or the chairperson of the board of directors of the corporation for change which are in existence on the effective date of this act and which relate to the family and children trust account of the family and children investment fund, shall continue to be effective and shall be deemed to be orders and directives of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* until revised, amended or nullified pursuant to law.

(d) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall succeed to whatever right, title or interest the corporation for change has acquired in any real property in this state with moneys from the family and children trust account of the family and children investment fund, and the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the corporation for change or of the executive director or the chairperson of the board of directors of the corporation for change to acquire, hold or dispose of real property or any interest therein and such power or authority relates to the children and family trust account of the family and children investment fund or to real property or any interest therein acquired with moneys from such account prior to the effective date of this act, the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall succeed to such power or authority.

Sec. 55. K.S.A. 38-1819 is hereby amended to read as follows: 38-1819. On and after July 1, 1997:

(a) Except as otherwise provided in this act, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the corporation for change, which relate to the family and children trust account of the family and children investment fund prior to the effective date of this act and which are transferred to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, and who, in the opinion of the secretary of ~~social and rehabilitation services~~ *for children and families*, are necessary to perform the powers, duties and functions of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, shall be transferred to and shall become officers and employees of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this section. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

(b) Except as otherwise provided in this act, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the corporation for change, which relate to the permanent families account of the family and children investment fund prior to the effective date of this act and which are transferred by this act to the judicial administrator of the courts, and who, in the opinion of the judicial administrator of the courts, are necessary to perform the powers, duties and functions of the office of judicial administration under this act, shall be transferred to, and shall become officers and employees of the office of judicial administration. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this section. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

Sec. 56. K.S.A. 38-1820 is hereby amended to read as follows: 38-1820. On and after July 1, 1997:

(a) When any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result

of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

(b) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* shall succeed to all property and records which were used for or pertain to the performance of the powers, duties and functions transferred to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* by this act. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer or attachment of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

(c) The judicial administrator of the courts shall succeed to all property and records which were used for or pertain to the performance of the powers, duties and functions transferred to the judicial administrator of the courts. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer or attachment of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

Sec. 57. K.S.A. 38-1821 is hereby amended to read as follows: 38-1821. On and after July 1, 1997:

(a) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the corporation for change which relates to the family and children trust account of the family and children investment fund transferred to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* under this act.

(b) The judicial administrator of the courts shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the corporation for change which relates to the permanent families account of the family and children investment fund transferred to the judicial administrator of the courts under this act.

(c) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(d) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

Sec. 58. K.S.A. 38-1822 is hereby amended to read as follows: 38-1822. On and after July 1, 1997:

(a) The balance of all funds received by the corporation for change and maintained in interest-bearing accounts in Kansas banks or Kansas savings and loan associations pursuant to K.S.A. 38-1809, prior to its repeal, shall be transferred to and deposited in the state treasury and credited to the family and children investment fund.

(b) The liability for all accrued compensation or salaries of officers and employees who are transferred to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* as provided for by this act and who become a part of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, shall be assumed and paid by the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

(c) The liability for all accrued compensation or salaries of officers and employees who are transferred to the office of judicial administration as provided for by this act and who become part of the office of judicial administration, shall be assumed and paid by the judicial administrator of the courts.

Sec. 59. K.S.A. 38-1901 is hereby amended to read as follows: 38-1901. On and after the effective date of this act:

(a) The advisory committee on children and families is hereby redesignated and shall be known and referred to as the Kansas children's cabinet.

(b) The Kansas children's cabinet shall consist of 15 members as follows: (1) The secretary of health and environment, or the secretary's designee; (2) the secretary of ~~social and rehabilitation services~~ *for children and families*, or the secretary's designee; (3) a member of the state board of regents selected by the state board of regents, or such member's designee; (4) the commissioner of education, or the commissioner's designee; (5) the commissioner of juvenile justice, or the commissioner's designee; (6) a member of the Kansas supreme court selected by the Kansas supreme court, or such member's designee; (7) five members of the public who are interested in and knowledgeable about the needs of children and families shall be appointed by the governor, which, subject to the provisions of subsection (e), may include persons who are children's advocates, members of organizations with experience in programs that benefit children or other individuals who have experience with children's programs and services; (8) one person appointed by the speaker of the house of representatives; (9) one person appointed by the minority leader of the house of representatives; (10) one person appointed by the president of the senate; and (11) one person appointed by the minority leader of the senate. The members designated by clauses (1), (2), (3), (4), (5) and (6) of this subsection shall be nonvoting members of the Kansas children's cabinet. All other members shall be voting members.

(c) (1) Except as provided in paragraph (2) of this subsection, the members of the Kansas children's cabinet appointed by the governor, speaker, president and minority leaders shall serve for terms of four years and until their successors are appointed and qualified. The governor shall appoint a chairperson of the committee from among the members appointed by the governor. The chairperson shall serve in such office throughout such member's current term of office and until a successor is appointed and qualified. The members of the Kansas children's cabinet may elect any additional officers from among its members necessary to carry out the duties and functions of the Kansas children's cabinet.

(2) Of the members first appointed by the governor, two shall be appointed for terms of two years, two shall be appointed for terms of three years and the member selected by the governor to be the chairperson shall be appointed for a term of four years. The member first appointed by the speaker of the house of representatives shall be appointed for a term of one year, the member first appointed by the minority leader of the house of representatives shall be appointed for a term of two years, the member first appointed by the president of the senate shall be appointed for a term of three years and the member first appointed by the minority leader of the senate shall be appointed for a term of four years. The governor shall designate the term for which each of the members first appointed by the governor shall serve.

(3) All members appointed to fill vacancies in the membership of the Kansas children's cabinet and all members appointed to succeed members appointed to membership on the Kansas children's cabinet shall be appointed in like manner as that provided for the original appointment of the member succeeded. All members appointed to fill vacancies of a member of the Kansas children's cabinet appointed by the governor, the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate or the minority leader of the senate shall be appointed to fill the unexpired term of such member.

(d) Not more than three members of the Kansas children's cabinet appointed by the governor under subsection (b)(7) shall be members of the same political party.

(e) (1) No person shall serve on the Kansas children's cabinet if such person has knowingly acquired a substantial interest in any business. Any such person who knowingly acquires such an interest shall vacate such member's position on the Kansas children's cabinet.

(2) For purposes of this subsection, "substantial interest" means any of the following:

(A) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(B) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(C) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of that amount of compensation received by the individual or the individual's spouse.

(D) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

(3) As used in this subsection, "client or customer" means a business or combination of businesses.

(4) As used in this subsection, "business" means any entity which is eligible to receive funds from the children's initiatives fund, as provided in K.S.A. 38-2102, and amendments thereto, from the children's initiatives accountability fund, established by K.S.A. 38-2103, and amendments thereto, or from the family and children trust account of the family and children investment fund, as provided in K.S.A. 38-1808, and amendments thereto.

(f) The Kansas children's cabinet shall meet upon the call of the chairperson as necessary to carry out the duties and functions of the Kansas children's cabinet. A quorum of the Kansas children's cabinet shall be five voting members.

(g) The Kansas children's cabinet shall have and perform the following functions:

(1) Assist the governor in developing and implementing a coordinated, comprehensive service delivery system to serve the children and families of Kansas;

(2) identify barriers to service and gaps in service due to strict definitions of boundaries between departments and agencies;

(3) facilitate interagency and interdepartmental cooperation toward the common goal of serving children and families;

(4) investigate and identify methodologies for the combining of funds across departmental boundaries to better serve children and families;

(5) propose actions needed to achieve coordination of funding and services across departmental lines;

(6) encourage and facilitate joint planning and coordination between the public and private sectors to better serve the needs of children and families; and

(7) perform the duties and functions prescribed by K.S.A. 38-2103, and amendments thereto.

(h) Members of the Kansas children's cabinet shall not be paid compensation, but shall receive subsistence allowances, mileage and other expenses as provided by K.S.A. 75-3223, and amendments thereto. The subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto, shall be paid from available appropriations of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* except that expenses of members who are employed by a state agency shall be reimbursed by that state agency.

(i) On the effective date of this act, the advisory committee on children and families is hereby abolished and all powers, duties, functions, records and other property of the advisory committee on children and families are hereby transferred to the Kansas children's cabinet created by this section. Except as otherwise specifically provided by this act, the Kansas children's cabinet shall be a continuation of the advisory committee on children and families as it existed prior to the effective date of this act.

Sec. 60. K.S.A. 2013 Supp. 38-2222 is hereby amended to read as follows: 38-2222. The secretary shall conduct a continuing public information and educational program concerning the reporting of suspected abuse or neglect for local staff of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, for persons required to report under this code and for other appropriate persons.

Sec. 61. K.S.A. 2013 Supp. 38-2223 is hereby amended to read as follows: 38-2223. (a) *Persons making reports.* (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, licensed professional or practical nurses and chief administrative officers of medical care facilities;

(B) the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educational institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child;

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers, community corrections officers, case managers appointed under K.S.A. 2013 Supp. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 2013 Supp. 23-3502, and amendments thereto; and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) *Form of report.* (1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) *To whom made.* Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the ~~department of social and rehabilitation services~~ *Kansas department for children and families* is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) Reports of child abuse or neglect occurring in an institution operated by the ~~secretary of social and rehabilitation~~ *Kansas department for*



*aging and disability* services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services and the Kansas department for children and families* shall be made to the appropriate law enforcement agency.

(d) *Death of child.* Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) *Violations.* (1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) *Immunity from liability.* Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

Sec. 62. K.S.A. 2013 Supp. 38-2226 is hereby amended to read as follows: 38-2226. (a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforcement: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 2013 Supp. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the secretary shall be investigated by the attorney general. Any other suspected child abuse or neglect by persons employed by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to

protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.*

(1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child. To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

Sec. 63. K.S.A. 2013 Supp. 38-2247 is hereby amended to read as follows: 38-2247. (a) *Adjudication.* Proceedings prior to and including adjudication under this code shall be open to attendance by any person unless the court determines that closed proceedings or the exclusion of that person would be in the best interests of the child or is necessary to protect the privacy rights of the parents.

(1) The court may not exclude the guardian ad litem, parties and interested parties.

(2) Members of the news media shall comply with supreme court rule ~~10-01~~ 1001.

(b) *Disposition.* Proceedings pertaining to the disposition of a child adjudicated to be in need of care shall be closed to all persons except the parties, the guardian ad litem, interested parties and their attorneys, officers of the court, a court appointed special advocate and the custodian.

(1) Other persons may be permitted to attend with the consent of the parties or by order of the court, if the court determines that it would be in the best interests of the child or the conduct of the proceedings, subject to such limitations as the court determines to be appropriate.

(2) The court may exclude any person if the court determines that such person's exclusion would be in the best interests of the child or the conduct of the proceedings.

(c) Notwithstanding subsections (a) and (b) of this section, the court shall permit the attendance at the proceedings of up to two people designated by the parent of the child, both of whom have participated in a parent ally orientation program approved by the judicial administrator.

(1) Such parent ally orientation program shall include, but not be limited to, information concerning the confidentiality of the proceedings; the child and parent's right to counsel; the definitions and jurisdiction pursuant to the Kansas code for care of children; the types and purposes of the hearings; options for informal supervision and dispositions; placement options; the parents' obligation to financially support the child while the child is in the state's custody; obligations of the secretary of social and rehabilitation services for children and families; obligations of entities that contract with the department of social and rehabilitation services *Kansas department for children and families* for family preservation, foster care and adoption; the termination of parental rights; the procedures for appeals; and the basic rules regarding court procedure.

(2) The court may remove the parent's ally or allies from a proceeding if such ally becomes disruptive in the present proceeding or has been found disruptive in a prior proceeding.

(d) *Preservation of confidentiality.* If information required to be kept confidential by K.S.A. 2013 Supp. 38-2209, and amendments thereto, is to be introduced into evidence and there are persons in attendance who are not authorized to receive the information, the court may exclude those persons during the presentation of the evidence or conduct an in camera inspection of the evidence.

Sec. 64. K.S.A. 2013 Supp. 38-2261 is hereby amended to read as follows: 38-2261. The secretary shall notify the foster parent or parents that the foster parent or parents have a right to submit a report. Copies of the report shall be available to the parties and interested parties. The

report made by foster parents shall be on a form created and provided by the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

Sec. 65. K.S.A. 2013 Supp. 38-2282, as amended by section 1 of 2014 House Bill No. 2577, is hereby amended to read as follows: 38-2282. (a) This section shall be known and may be cited as the newborn infant protection act.

(b) A parent or other person having lawful custody of an infant which is 45 days old or younger and which has not suffered bodily harm may surrender physical custody of the infant to any employee who is on duty at a police station, sheriff's office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall take physical custody of an infant surrendered pursuant to this section. A parent or other person voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history.

(c) A person or facility to whom an infant is delivered pursuant to this subsection shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has been abused, and such person or such facility shall be immune from civil or criminal liability for any action taken pursuant to this subsection.

(d) As soon as possible after a person takes physical custody of an infant under this section, such person shall notify a local law enforcement agency that the person has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 2013 Supp. 38-2232, and amendments thereto.

(e) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(f) Upon request, all medical records of the infant shall be made available to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such records release.

Sec. 66. K.S.A. 2013 Supp. 38-2286 is hereby amended to read as follows: 38-2286. (a) Notwithstanding the provisions of other statutes, when a child is removed from the custody of a parent and not placed with the child's other parent, a grandparent who requests custody shall receive substantial consideration when evaluating what custody, visitation or residency arrangements are in the best interests of the child. Such evaluation of custody, visitation or residency arrangements shall be stated on the record.

(b) In deciding whether to give custody to a grandparent, the court should be guided by the best interests of the child and should consider all relevant factors including, but not limited to, the following:

- (1) The wishes of the parents, child and grandparent;
- (2) the extent to which the grandparent has cared for, nurtured and supported the child;
- (3) the intent and circumstances under which the child is placed with the grandparent, including whether domestic violence is a factor and whether the child is placed to allow the parent to seek work or attend school; and
- (4) the physical and mental health of all individuals involved.

(c) If the court does not give custody of a child to a grandparent pursuant to subsection (b) and the child is placed in the custody of the secretary ~~of social and rehabilitation services~~ *for children and families*, a grandparent who requests placement of the child in such grandparent's home shall receive substantial consideration in the evaluation of the secretary's placement of the child. The secretary shall consider all relevant

factors, including, but not limited to, all factors listed in subsection (b) in deciding whether to place the child in the home of such grandparent. If the secretary decides that the child is not to be placed in the home of such grandparent, the secretary shall prepare and maintain a written report providing the specific reasons for such finding.

(d) The provisions of this section shall not apply to actions filed under the Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto.

(e) This section shall be part of and supplemental to the revised Kansas code for care of children.

Sec. 67. K.S.A. 2013 Supp. 38-2304 is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. 2013 Supp. 38-2347, and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

- (1) The complaint is dismissed;
- (2) the juvenile is adjudicated not guilty at trial;
- (3) the juvenile, after being adjudicated guilty and sentenced:
  - (i) Successfully completes the term of probation or order of assignment to community corrections;

(ii) is discharged by the commissioner pursuant to K.S.A. 2013 Supp. 38-2376, and amendments thereto;

(iii) reaches the juvenile's 21st birthday and no exceptions apply that extend jurisdiction beyond age 21;

(4) the court terminates jurisdiction; or

(5) the offender is convicted of a new felony while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2013 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony.

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender's 21st birthday but no later than the juvenile offender's 23rd birthday if either or both of the following conditions apply:

(1) The juvenile offender is sentenced pursuant to K.S.A. 2013 Supp. 38-2369, and amendments thereto, and the term of the sentence including successful completion of aftercare extends beyond the juvenile offender's 21st birthday; or

(2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary of ~~social and rehabilitation services~~ *for children and families* under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care unless the offender was adjudicated for a felony or a second or subsequent misdemeanor. If the adjudication was for a felony or a second or subsequent misdemeanor, the continued placement cannot be ordered unless the court finds there are compelling circumstances which, in the best interest of the juvenile offender, require that the placement should be continued. In considering whether compelling circumstances exist, the court shall consider the reports and recommendations of the foster placement, the contract provider, the secretary of ~~social and rehabilitation services~~ *for children and families*, the presentence investigation and all other relevant factors. If the foster placement refuses to continue the juvenile in the foster placement the court shall not order continued placement as a child in need of care.

(2) If a placement with the secretary ~~of social and rehabilitation services~~ *for children and families* is continued after sentencing, the secretary shall not be responsible for any costs of sanctions imposed under this code.

(3) If the juvenile offender is placed in the custody of the juvenile justice authority, the secretary ~~of social and rehabilitation services~~ *for children and families* shall not be responsible for furnishing services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing other services provided by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a comparable case in another jurisdiction, except as provided by K.S.A. 2013 Supp. 23-37,101 et seq., and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 68. K.S.A. 2013 Supp. 38-2310 is hereby amended to read as follows: 38-2310. (a) All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile under 14 years of age shall be kept readily distinguishable from criminal and other records and shall not be disclosed to anyone except:

(1) The judge of the district court and members of the staff of the court designated by the judge;

(2) parties to the proceedings and their attorneys;

(3) ~~the department of social and rehabilitation services~~ *Kansas department for children and families*;

(4) the juvenile's court appointed special advocate, any officer of a public or private agency or institution or any individual having custody of a juvenile under court order or providing educational, medical or mental health services to a juvenile;

(5) any educational institution, to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees;

(6) any educator, to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils;

(7) law enforcement officers or county or district attorneys, or their staff, when necessary for the discharge of their official duties;

(8) the central repository, as defined by K.S.A. 22-4701, and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 2013 Supp. 38-2326, and amendments thereto;

(9) juvenile intake and assessment workers;

(10) the juvenile justice authority;

(11) juvenile community corrections officers;

(12) any other person when authorized by a court order, subject to any conditions imposed by the order; and

(13) as provided in subsection (c).

(b) The provisions of this section shall not apply to records concerning:

(1) A violation, by a person 14 or more years of age, of any provision of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated, and amendments thereto; or

(3) an offense for which the juvenile is prosecuted as an adult.

(c) All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile 14 or more years of age shall be subject to the same disclosure restrictions as the records of adults. Information identifying victims and alleged victims of sex offenses, as defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or any alleged victim of any sex offense from voluntarily disclosing such victim's identity.

(d) Relevant information, reports and records, shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of corrections.

(e) All records, reports and information obtained as a part of the juvenile intake and assessment process for juveniles shall be confidential, and shall not be disclosed except as provided by statutory law and rules and regulations promulgated by the commissioner thereunder.

(1) Any court of record may order the disclosure of such records, reports and other information to any person or entity.

(2) The head of any juvenile intake and assessment program, certified by the commissioner of juvenile justice, may authorize disclosure of such records, reports and other information to:

(A) A person licensed to practice the healing arts who has before that person a juvenile whom the person reasonably suspects may be abused or neglected;

(B) a court-appointed special advocate for a juvenile or an agency having the legal responsibility or authorization to care for, treat or supervise a juvenile;

(C) a parent or other person responsible for the welfare of a juvenile, or such person's legal representative, with protection for the identity of persons reporting and other appropriate persons;

(D) the juvenile, the attorney and a guardian ad litem, if any, for such juvenile;

(E) the police or other law enforcement agency;

(F) an agency charged with the responsibility of preventing or treating physical, mental or emotional abuse or neglect or sexual abuse of children, if the agency requesting the information has standards of confidentiality as strict or stricter than the requirements of the Kansas code for care of children or the revised Kansas juvenile justice code, whichever is applicable;

(G) members of a multidisciplinary team under this code;

(H) an agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect;

(I) any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a juvenile who is the subject of a report or record of child abuse or neglect, specifically including the following: Physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physicians' assistants, community mental health workers, alcohol and drug abuse counselors and licensed or registered child care providers;

(J) a citizen review board pursuant to K.S.A. 2013 Supp. 38-2207, and amendments thereto;

(K) an educational institution to the extent necessary to enable such institution to provide the safest possible environment for pupils and employees of the institution;

(L) any educator to the extent necessary for the protection of the educator and pupils; and

(M) any juvenile intake and assessment worker of another certified juvenile intake and assessment program.

Sec. 69. K.S.A. 2013 Supp. 38-2319 is hereby amended to read as follows: 38-2319. (a) The court shall order child support unless good cause is shown why such support should not be ordered. In determining the amount of a child support order under the revised Kansas juvenile justice

code, the court shall apply the Kansas child support guidelines adopted pursuant to K.S.A. 20-165, and amendments thereto.

(b) If necessary to carry out the intent of this section, the court may refer the matter to the secretary ~~of social and rehabilitation services for children and families~~ for child support enforcement.

Sec. 70. K.S.A. 2013 Supp. 38-2326 is hereby amended to read as follows: 38-2326. (a) In order to properly advise the three branches of government on the operation of the juvenile justice system, there is hereby established within and as a part of the central repository, a juvenile offender information system. The system shall serve as a repository of juvenile offender information which is collected by juvenile justice agencies and reported to the system.

(b) Except as otherwise provided by this subsection, every juvenile justice agency shall report juvenile offender information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this section. A juvenile justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(c) Reporting methods may include:

(1) Submission of juvenile offender information by a juvenile justice agency directly to the central repository;

(2) if the information can readily be collected and reported through the court system, submission to the central repository by the office of judicial administrator; or

(3) if the information can readily be collected and reported through juvenile justice agencies that are part of a geographically based information system, submission to the central repository by the agencies.

(d) The director may determine, by rules and regulations, the statutorily required reportable events to be reported by each juvenile justice agency, in order to avoid duplication in reporting.

(e) Juvenile offender information maintained in the juvenile offender information system is confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information, except that the information shall be open to inspection by law enforcement agencies of this state, by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* if related to an individual in the secretary's custody or control, by the juvenile justice authority if related to an individual in the commissioner's custody or control, by the department of corrections if related to an individual in the custody and control of the secretary of corrections, by educational institutions to the extent necessary to provide the safest possible environment for pupils and employees, by any educator to the extent necessary for the protection of the educator and pupils, by the officers of any public institution to which the individual is committed, by county and district attorneys, by attorneys for the parties to a proceeding under this code, by an intake and assessment worker or upon order of a judge of the district court or an appellate court. Such information shall reflect the offense level and whether such offense is a person or nonperson offense.

(f) Any journal entry of a trial of adjudication shall state the number of the statute under which the juvenile is adjudicated to be a juvenile offender and specify whether each offense, if done by an adult, would constitute a felony or misdemeanor, as defined in K.S.A. 2013 Supp. 21-5102, and amendments thereto.

(g) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(h) The director shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section.

(i) The director shall develop incentives to encourage the timely entry of juvenile offender information into the central repository.

Sec. 71. K.S.A. 2013 Supp. 38-2335 is hereby amended to read as follows: 38-2335. (a) The court shall not issue the first warrant or enter

an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;

(B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or

(C) immediate placement of the juvenile is in the juvenile's best interest; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall enter its determination in the warrant or order.

(3) If the juvenile is in the custody of the commissioner, the commissioner shall prepare a report for the court documenting such reasonable efforts.

(4) If the juvenile is in the custody of the secretary ~~of social and rehabilitation services~~ *for children and families* under the Kansas code for the care of children, the secretary shall prepare a report for the court documenting such reasonable efforts.

(5) In all other cases, the person preparing the predisposition report shall include documentation of such reasonable efforts in the report.

(b) If the court determines that reasonable efforts to maintain the family unit and prevent unnecessary removal of a juvenile were not made, the court shall determine whether such reasonable efforts were unnecessary because:

(1) A court of competent jurisdiction has determined that the parent has subjected the juvenile to aggravated circumstances;

(2) a court of competent jurisdiction has determined that the parent has been convicted of a murder of another child of the parent; voluntary manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit such a murder or such a voluntary manslaughter; or a felony assault that results in serious bodily injury to the juvenile or another child of the parent;

(3) the parental rights of the parent with respect to a sibling have been terminated involuntarily; or

(4) an emergency exists requiring protection of the juvenile and efforts to maintain the family unit and prevent unnecessary removal of the juvenile from the home were not possible.

(c) Nothing in this section shall be construed to prohibit the court from issuing a warrant or entering an order authorizing or requiring removal of the juvenile from the home if the juvenile presents a risk to public safety.

(d) When the juvenile has been in foster care and has been placed at home or allowed a trial home visit for a period of six months or more and is again removed from the home, the court shall again make a determination pursuant to subsections (a) and (b).

Sec. 72. K.S.A. 2013 Supp. 38-2350 is hereby amended to read as follows: 38-2350. (a) If, after proceedings as required by K.S.A. 2013 Supp. 38-2349, and amendments thereto, it is determined that a juvenile who has been found incompetent is not a mentally ill person subject to involuntary commitment for care and treatment as defined in subsection (f) of K.S.A. 59-2946, and amendments thereto, the juvenile shall remain in the institution where committed pursuant to K.S.A. 2013 Supp. 38-2348, and amendments thereto. The secretary ~~of social and rehabilitation services~~ *for children and families* shall promptly notify the court in which the proceedings are pending and the commissioner of the result of the proceedings. The court shall then proceed pursuant to subsection (c).

(b) If a juvenile has been found to be a mentally ill person and committed to a state psychiatric hospital for evaluation and treatment pursuant to K.S.A. 2013 Supp. 38-2349, and amendments thereto, but thereafter is to be discharged because such juvenile is not a mentally ill person subject to involuntary commitment for care and treatment as defined in subsection (f) of K.S.A. 59-2946, and amendments thereto, the treatment facility shall promptly notify the court in which the proceedings are pending that the juvenile is to be discharged. The court shall then proceed pursuant to subsection (c).

(c) Unless the court finds pursuant to subsection (c) of K.S.A. 2013



Supp. 38-2348, and amendments thereto, that the proceedings shall be resumed, within seven days after receiving notice pursuant to subsection (a) or (b), the court shall order the juvenile to be discharged from commitment and shall dismiss the charges without prejudice. The period of limitation for the prosecution for the crime charged shall not continue to run until the juvenile has been determined to have attained competency pursuant to subsection (e) of K.S.A. 2013 Supp. 38-2348, and amendments thereto.

Sec. 73. K.S.A. 2013 Supp. 38-2356 is hereby amended to read as follows: 38-2356. (a) If the court finds that the evidence fails to prove an offense charged or a lesser included offense as defined in subsection (b) of K.S.A. 2013 Supp. 21-5109, and amendments thereto, the court shall enter an order dismissing the charge.

(b) If the court finds that the juvenile committed the offense charged or a lesser included offense as defined in subsection (b) of K.S.A. 2013 Supp. 21-5109, and amendments thereto, the court shall adjudicate the juvenile to be a juvenile offender and may issue a sentence as authorized by this code.

(c) If the court finds that the juvenile committed the acts constituting the offense charged or a lesser included offense as defined in subsection (b) of K.S.A. 2013 Supp. 21-5109, and amendments thereto, but is not responsible because of mental disease or defect, the juvenile shall not be adjudicated as a juvenile offender and shall be committed to the custody of the secretary of social and rehabilitation ~~for aging and disability~~ services and placed in a state hospital. The juvenile's continued commitment shall be subject to annual review in the manner provided by K.S.A. 22-3428a, and amendments thereto, for review of commitment of a defendant suffering from mental disease or defect, and the juvenile may be discharged or conditionally released pursuant to that section. The juvenile also may be discharged or conditionally released in the same manner and subject to the same procedures as provided by K.S.A. 22-3428, and amendments thereto, for discharge of or granting conditional release to a defendant found suffering from mental disease or defect. If the juvenile violates any conditions of an order of conditional release, the juvenile shall be subject to contempt proceedings and returned to custody as provided by K.S.A. 22-3428b, and amendments thereto.

(d) A copy of the court's order shall be sent to the school district in which the juvenile offender is enrolled or will be enrolled.

Sec. 74. K.S.A. 2013 Supp. 38-2361 is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2013 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2013 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2013 Supp. 38-2368, and amendments thereto, and subject to subsection (a) of K.S.A. 2013 Supp. 38-2365, and amendments thereto, the court may impose one or more of the following sentencing alternatives. In the event that any sentencing alternative chosen constitutes an order authorizing or requiring removal of the juvenile from the juvenile's home and such findings either have not previously been made or the findings are not or may no longer be current, the court shall make determinations as required by K.S.A. 2013 Supp. 38-2334 and 38-2335, and amendments thereto.

(1) Place the juvenile on probation through court services or community corrections for a fixed period, subject to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (12) and when ordered with the alternative in paragraph (10) shall constitute a recommendation. Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (10) or (12). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the commissioner as provided in K.S.A. 2013 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for a mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative.

(11) Commit the juvenile to a sanctions house for a period no longer than 28 days subject to the provisions of subsection (f).

(12) Commit the juvenile directly to the custody of the commissioner for a period of confinement in a juvenile correctional facility and a period of aftercare pursuant to K.S.A. 2013 Supp. 38-2369, and amendments thereto. The provisions of K.S.A. 2013 Supp. 38-2365, and amendments thereto, shall not apply to juveniles committed pursuant to this provision, provided however, that 21 days prior to the juvenile's release from a juvenile correctional facility, the commissioner or designee shall notify the court of the juvenile's anticipated release date. The court shall set and hold a permanency hearing pursuant to K.S.A. 2013 Supp. 38-2365, and amendments thereto, within seven days after the juvenile's release. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority nor shall the fee be

assessed against the secretary of the department for children and families or the *Kansas* department for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would

render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) If the court commits the juvenile to a sanctions house pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court may order commitment for up to 28 days for the same offense or violation of sentencing condition. The court shall review the commitment every seven days and, may shorten the initial commitment or, if the initial term is less than 28 days, may extend the commitment;

(2) if, in the sentencing order, the court orders a sanctions house placement for a verifiable probation violation and such probation violation occurs, the juvenile may immediately be taken to a sanctions house and detained for no more than 48 hours, excluding Saturdays, Sundays, holidays, and days on which the office of the clerk of the court is not accessible, prior to court review of the placement. The court and all parties shall be notified of the sanctions house placement; and

(3) a juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a sanctions house, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(g) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(h) In addition to the requirements of K.S.A. 2013 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the commissioner within 30 days of final disposition.

(i) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense that if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in subsection (b) of K.S.A. 2013 Supp. 21-5426, and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in subsection (a)(3) of K.S.A. 2013 Supp. 21-5503, and amendments thereto; (3) aggravated indecent liberties with a child, as defined in subsection (b)(3) of K.S.A. 2013 Supp. 21-5506, and amendments thereto; (4) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2013 Supp. 21-5504, and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. 2013 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in subsection (a)(1) or (a)(4) of K.S.A. 2013 Supp. 21-5510, and amendments thereto, if the victim is less

than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in parts (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(j) The sentencing hearing shall be open to the public as provided in K.S.A. 2013 Supp. 38-2353, and amendments thereto.

Sec. 75. K.S.A. 39-110 is hereby amended to read as follows: 39-110. Any person who has not resided in the state of Kansas one year continuously prior to application for admission to a state hospital, state hospital and training center, *or the Kansas neurological institute* ~~or sanatorium or hospital for tuberculosis~~, may be returned by the secretary ~~of social and rehabilitation~~ *for aging and disability* services either before or after ~~his~~ *such person's* admission to the state of which ~~he~~ *such person* is a resident: ~~Provided, however, that~~. No such person shall be so returned unless arrangements to receive such person have been made in the state to which ~~he~~ *such person* is to be returned. The cost of the return to the person's place of residence shall be paid: First, by the person if funds are available; second, by ~~his~~ *such person's* responsible relatives if funds are available; and third, by the state institution concerned if no other funds are available: ~~Provided further, that~~. The secretary ~~of social and rehabilitation~~ *for aging and disability* services is hereby empowered, authorized and directed to enter into agreements with the authorities of other states which shall adopt legislation consistent with this act for the arbitration of disputed questions between such states and the state of Kansas respecting the residence of such persons.

Sec. 76. K.S.A. 39-111 is hereby amended to read as follows: 39-111. No person shall be admitted to a state hospital, a state hospital and training center, Kansas neurological institute, an institution for the education of the deaf, *or an institution for the education of the blind*, ~~or to a state hospital or sanatorium for tuberculosis~~, who has not lived in the state of Kansas at least one year continuously immediately prior to application for admission thereto. The residence of a minor child shall follow and be the same as ~~his~~ *the child's* parents: ~~Provided, however,~~. The secretary ~~of social and rehabilitation~~ *services for children and families or the secretary for aging and disability services, as applies*, may waive the residence requirement in cases where the residence cannot be ascertained, or where the particular circumstances of the case constitute a medical emergency so that in ~~his~~ *the secretary's* judgment a sufficient reason exists for the temporary suspension of the residence requirement.

Sec. 77. K.S.A. 39-708c is hereby amended to read as follows: 39-708c. (a) The secretary ~~of social and rehabilitation~~ *services for children and families* shall develop state plans, as provided under the federal social security act, whereby the state cooperates with the federal government in its program of assisting the states financially in furnishing assistance and services to eligible individuals. The secretary shall undertake to cooperate with the federal government on any other federal program providing federal financial assistance and services in the field of social welfare not inconsistent with this act. The secretary is not required to develop a state plan for participation or cooperation in all federal social security act programs or other federal programs that are available. The secretary shall also have the power, but is not required, to develop a state plan in regard to assistance and services in which the federal government does not participate.

(b) The secretary shall have the power and duty to determine the general policies relating to all forms of social welfare which are administered or supervised by the secretary and to adopt the rules and regulations therefor.

(c) The secretary shall hire, in accordance with the provisions of the

Kansas civil service act, such employees as may be needed, in the judgment of the secretary, to carry out the provisions of this act. The secretary shall advise the governor and the legislature on all social welfare matters covered in this act.

(d) The secretary shall establish and maintain intake offices throughout the state. The secretary may establish and create area offices to coordinate and supervise the administration of the intake offices located within the area. The number and location of intake offices and area offices shall be within the discretion of the secretary. Each intake office shall be open at least 12 hours of each working week on a regularly scheduled basis. The secretary shall supervise all social welfare activities of the intake offices and area offices. The secretary may lease office or business space, but no lease or rental contract shall be for a period to exceed 10 years. A person desiring public assistance, or if the person is incapable or incapacitated, a relative, friend, personal representative or conservator of the person shall make application at the intake office. When it is necessary, employees may take applications elsewhere at any time. The applications shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which the applicant may have at the time of the filing of the application and such other information as may be required by the secretary. When a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for assistance unless otherwise prohibited by law. The form of application, the procedure for the determination of eligibility and the amount and kind of assistance or service shall be determined by the secretary.

(e) The secretary shall provide special inservice training for employees of the secretary and may provide the training as a part of the job or at accredited educational institutions.

(f) The secretary shall establish an adequate system of financial records. The secretary shall make annual reports to the governor and shall make any reports required by federal agencies.

(g) The secretary shall sponsor, operate or supervise community work experience programs whereby recipients of assistance shall work out a part or all of their assistance and conserve work skills and develop new skills. The compensation credited to recipients for the programs shall be based upon an hourly rate equal to or in excess of the federal minimum wage hourly rate. The programs shall be administered by the secretary. In the programs, the secretary shall provide protection to the recipient under the workmen's compensation act or shall provide comparable protection and may enter into cooperative arrangements with other public officials and agencies or with private not-for-profit corporations providing assistance to needy persons in developing, subject to the approval of the secretary, the programs under this section.

(h) The secretary may receive, have custody of, protect, administer, disburse, dispose of and account for federal or private commodities, equipment, supplies and any kind of property, including food stamps or coupons, which are given, granted, loaned or advanced to the state of Kansas for social welfare works, and for any other purposes provided for by federal laws or rules and regulations or by private devise, grant or loan, or from corporations organized to act as federal agencies, and to do all things and acts which are necessary or required to perform the functions and carry out the provisions of federal laws, rules and regulations under which such commodities, equipment, supplies and other property may be given, granted, loaned or advanced to the state of Kansas, and to act as an agent of the federal government when designated as an agent, and do and perform all things and acts that may be required by the federal laws or rules and regulations not inconsistent with the act.

(i) The secretary may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purpose of this act.

(j) The secretary shall have authority to lease real and personal property whenever the property is not available through the state or a political subdivision of the state, for carrying on the functions of the secretary.

(k) All contracts shall be made in the name of ~~“secretary of social and rehabilitation services,”~~ *the secretary for children and families* and in that name the secretary may sue and be sued on such contracts. The grant of

authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriations act of this state.

(l) All moneys and property of any kind whatsoever received from the Kansas emergency relief committee or from any other state department or political subdivision of the state shall be used by the secretary in the administration and promotion of social welfare in the state of Kansas. The property may be given, loaned or placed at the disposal of any county, city or state agency engaged in the promotion of social welfare.

(m) The secretary shall prepare annually, at the time and in the form directed by the governor, a budget covering the estimated receipts and expenditures of the secretary for the ensuing year.

(n) The secretary shall have authority to make grants of funds, commodities or other needed property to local units of government under rules and regulations adopted by the secretary for the promotion of social welfare in local units of government.

(o) The secretary shall have authority to sell any property in the secretary's possession received from any source whatsoever for which there is no need or use in the administration or the promotion of social welfare in the state of Kansas.

(p) The secretary shall adopt a seal.

(q) The secretary shall initiate or cooperate with other agencies in developing programs for the prevention of blindness, the restoration of eyesight and the vocational rehabilitation of blind persons and shall establish a division of services for the blind. The secretary may initiate or cooperate with other agencies in developing programs for the prevention and rehabilitation of other handicapped persons.

(r) The secretary shall develop a children and youth service program and shall administer or supervise program activities including the care and protection of children who are deprived, defective, wayward, miscreant, delinquent or children in need of care. The secretary shall cooperate with the federal government through its appropriate agency or instrumentality in establishing, extending and strengthening such services and undertake other services to children authorized by law. Nothing in this act shall be construed as authorizing any state official, agent or representative, in carrying out any of the provisions of this act, to take charge of any child over the objection of either of the parents of such child or of the person standing in loco parentis to such child except pursuant to a proper court order.

(s) The secretary shall develop plans financed by federal funds or state funds or both for providing medical care for needy persons. The secretary, in developing the plan, may enter into an agreement with an agent or intermediary for the purpose of performing certain functions, including the making of medical payment reviews, determining the amount due the medical vendors from the state in accordance with standards set by the secretary, preparing and certifying to the secretary lists of medical vendors and the amounts due them and other related functions determined by the secretary. The secretary may also provide medical, remedial, preventive or rehabilitative care and services for needy persons by the payment of premiums to the federal social security system for the purchase of supplemental medical insurance benefits as provided by the federal social security act and amendments thereto. Medicaid recipients who were residents of a nursing facility on September 1, 1991, and who subsequently lost eligibility in the period September 1, 1991, through June 30, 1992, due to an increase in income shall be considered to meet the 300% income cap eligibility test.

(t) The secretary shall carry on research and compile statistics relative to the entire social welfare program throughout the state, including all phases of dependency, defectiveness, delinquency and related problems; develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to social welfare problems.

(u) The secretary may receive grants, gifts, bequests, money or aid of any character whatsoever, for state welfare work. All moneys coming into the hands of the secretary shall be deposited in the state social welfare fund provided for in this act.

(v) The secretary may enter into agreements with other states or the

welfare department of other states, in regard to the manner of determining the state of residence in disputed cases, the manner of returning persons to the place of residence and the bearing or sharing of the costs.

(w) The secretary shall perform any other duties and services necessary to carry out the purposes of this act and promote social welfare in the state of Kansas, not inconsistent with the state law.

(x) The secretary shall establish payment schedules for each group of health care providers. Any payment schedules which are a part of the state medicaid plan shall conform to state and federal law. The secretary shall not be required to make any payments under the state medicaid plan which do not meet requirements for state and federal financial participation.

(1) The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result complies with state and federal law.

(2) The secretary shall establish payment schedules for providers of hospital and adult care home services under the medicaid plan that are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The secretary shall not be required to establish rates for any such facility that are in excess of the minimum necessary to efficiently and economically meet those standards regardless of any excess costs incurred by any such facility.

(y) The secretary shall maintain a system of centralized payment for all welfare expenditures.

Sec. 78. K.S.A. 39-708d is hereby amended to read as follows: 39-708d. Notwithstanding any of the provisions contained in subsection (d) of K.S.A. 39-708c, and amendments thereto, the secretary of ~~social and rehabilitation services~~ *for children and families* may lease office or business space for a period exceeding 10 years if the proposed lease has been presented to the joint committee on state building construction for advice and consultation.

Sec. 79. K.S.A. 39-711a is hereby amended to read as follows: 39-711a. The board of education of any school district may enter into an agreement with any private nonprofit organization or any public board, council or agency, which is authorized to provide meals for the aged by the secretary of ~~social and rehabilitation~~ *for aging and disability* services acting as an agent of the federal government in establishing and administering food service programs for the aged under any federal law, which agreement may provide for use of school lunch facilities to be used for preparation and service of meals for the aged. Such meals may be served on or off of school premises and school district employees may participate in providing such services to the extent authorized by such an agreement. Nothing in this act shall be deemed to authorize diversion of any federal funds from the purpose for which the same are provided, nor to authorize the keeping of accounts of federal moneys in a manner contrary to any act of congress or rules or directives promulgated pursuant thereto.

Sec. 80. K.S.A. 2013 Supp. 39-717 is hereby amended to read as follows: 39-717. (a) Assistance granted under the provisions of this act shall not:

(1) Be sold or otherwise disposed of to others by the client or by anyone else except under the rules and regulations of the secretary of ~~social and rehabilitation services~~ *for children and families or the secretary of health and environment*; or

(2) knowingly be purchased, acquired or possessed by anyone unless the purchase, acquisition or possession is authorized by the rules and regulations of the secretary of ~~social and rehabilitation services~~ *for children and families, the Kansas department of health and environment* or the laws under which the assistance was granted.

(b) (1) Any person convicted of violating the provisions of this section shall be guilty of a class A nonperson misdemeanor if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was less than \$1,000.

(2) Any person convicted of violating the provisions of this section shall be guilty of a severity level 9, nonperson felony if the value of the



assistance sold or otherwise disposed of, purchased, acquired or possessed was at least \$1,000 but less than \$25,000.

(3) Any person convicted of violating the provisions of this section shall be guilty of a severity level 7, nonperson felony if the value of the assistance sold or otherwise disposed of, purchased, acquired or possessed was \$25,000 or more.

(c) None of the money paid, payable, or to be paid, or any tangible assistance received under this act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Sec. 81. K.S.A. 39-718b is hereby amended to read as follows: 39-718b. (a) Except as provided in subsection (b), a child's parent, parents or guardian shall be liable to repay to the secretary ~~of social and rehabilitation services for children and families~~ any assistance expended on the child's behalf, regardless of the specific program under which the assistance is or has been provided. When more than one person is legally obligated to support the child, liability to the secretary shall be joint and several. The secretary shall have the power and authority to file a civil action in the name of the secretary for repayment of the assistance, regardless of the existence of any other action involving the support of the child.

(b) With respect to an individual parent or guardian, the provisions of subsection (a) shall not apply to:

(1) Assistance provided on behalf of any person other than the child of the parent or guardian;

(2) assistance provided during a month in which the needs of the parent or guardian were included in the assistance provided to the child; or

(3) assistance provided during a month in which the parent or guardian has fully complied with the terms of an order of support for the child, if a court of competent jurisdiction has considered the issue of support. For the purposes of this subsection, if an order is silent on the issue of support, it shall not be presumed that the court has considered the issue of support. Amounts paid for a particular month pursuant to a judgment under this act shall be credited against the amount accruing for the same month under any other order of support for the child, up to the amount of the current support obligation for that month.

(c) When the assistance provided during a month is on behalf of more than one person, the amount of assistance provided on behalf of one person for that month shall be determined by dividing the total assistance by the number of people on whose behalf assistance was provided.

(d) Except as provided in subsection (b), a child's parent, parents or guardian shall be liable to repay to an agency or subdivision of another state any assistance substantially similar to that defined in subsection (d) of K.S.A. 39-702, and amendments thereto, which has been expended in the other state on the child's behalf, regardless of the specific program under which the assistance is or has been provided. When more than one person is legally obligated to support the child, liability to the agency or subdivision shall be joint and several.

(e) Actions authorized herein are in addition to and not in substitution for any other remedies.

Sec. 82. K.S.A. 39-740 is hereby amended to read as follows: 39-740. The records relating to the blind, as filed in the office of the state board of health, shall be available to the secretary ~~of social and rehabilitation services for children and families~~ at all times.

Sec. 83. K.S.A. 39-744 is hereby amended to read as follows: 39-744. From and after January 1, 1974: (a) All the powers, duties and functions of the existing county social welfare boards and the existing county directors are hereby transferred to and conferred and imposed, respectively, upon the secretary ~~of social and rehabilitation services for children and families~~ and the director of social services.

(b) The secretary ~~of social and rehabilitation services for children and families~~ and the director of social services shall be the successors in every way, respectively to the powers, duties and functions of the county social welfare boards and county directors in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the sec-

retary of social and rehabilitation services for children and families or the director of social services, respectively, shall be deemed to have the same force and effect as if performed by the county social welfare boards or county directors, respectively, in which such functions were vested prior to the effective date of this act.

(c) Whenever the county social welfare board, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of social and rehabilitation services for children and families.

(d) Whenever the county director, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the director of social services.

Sec. 84. K.S.A. 39-751 is hereby amended to read as follows: 39-751. The secretary of social and rehabilitation services for children and families shall hereby establish, maintain and improve, within the limits of funds appropriated therefor, including any grants or funds received from federal agencies and other sources, a program, the purpose of which shall be to aid the aged, the physically disabled and needy families in maintaining and repairing their respective homes. The secretary shall establish standards to determine the eligibility of persons to receive such aid. Such program shall be initially implemented for a period of one year in any county having a population of more than ~~one hundred fifty thousand (150,000)~~ 150,000 and less than ~~one hundred eighty thousand (180,000)~~ 180,000.

Sec. 85. K.S.A. 39-753 is hereby amended to read as follows: 39-753. For the purpose of providing title IV-D child support enforcement services, the secretary of social and rehabilitation services for children and families shall:

(a) Enter into contracts or agreements necessary to administer title IV-D services.

(b) Maintain and operate a central registry, within the organizational unit of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* responsible for providing child support services, for the location of absent parents.

(c) Develop guidelines for coordinating activities of any governmental department, board, commission, bureau or agency in providing information necessary for the location of absent parents.

(d) Coordinate any activity on a state level in searching for an absent parent.

(e) Assist in the location of any parent or other person as required or permitted under title IV-D.

(f) Initiate and maintain legal actions necessary to implement the requirements of title IV-D.

(g) Assist in establishing paternity and in securing and enforcing orders for support in title IV-D cases.

(h) Utilize, in appropriate cases, support enforcement and collection and location services available through the federal department of health and human services, including but not limited to the services of federal courts, the federal parent locator services and the treasury department, if authorized or required by federal law.

(i) Accept, on behalf of the state, assignment of support rights pursuant to K.S.A. 39-709 or 39-756, and amendments thereto.

(j) Adopt rules and regulations necessary to provide title IV-D services and to enable the state to meet requirements set forth in title IV-D.

(k) Maintain and operate an automated system to manage title IV-D information and to perform such activities as may be required or permitted by title IV-D. The automated system shall include a registry, to be known as the "state case registry," that contains such records with respect to each title IV-D case as may be required by title IV-D.

Sec. 86. K.S.A. 2013 Supp. 39-754 is hereby amended to read as follows: 39-754. (a) If an assignment of support rights is deemed to have been made pursuant to K.S.A. 39-709 or 39-756, and amendments thereto, support payments shall be made to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

(b) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or other person whose support rights are assigned, the secretary of social and rehabilitation services for

*children and families* shall file a notice of the assignment with the court ordering the payments without the requirement that a copy of the notice be provided to the obligee or obligor. The notice shall not require the signature of the applicant, recipient or obligee on any accompanying assignment document. The notice shall include:

- (1) A statement that the assignment is in effect;
- (2) the name of any child and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) a request that the payments ordered be made to the secretary of ~~social and rehabilitation services~~ *for children and families*.

(c) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward all support payments, including those made as a result of any garnishment, contempt, attachment, income withholding, income assignment or release of lien process, to the secretary of ~~social and rehabilitation services~~ *for children and families* until the court receives notification of the termination of the assignment.

(d) If the claim of the secretary for repayment of the unreimbursed portion of aid to families with dependent children, medical assistance or the child's share of the costs of care and custody of a child under K.S.A. 2013 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, is not satisfied when such aid is discontinued, the secretary shall file a notice of partial termination of assignment of support rights with the court which will preserve the assignment in regard to unpaid support rights which were due and owing at the time of the discontinuance of such aid. A copy of the notice of the partial termination of the assignment need not be provided to the obligee or obligor. The notice shall include:

- (1) A statement that the assignment has been partially terminated;
- (2) the name of any child and the caretaker or other adult for whom support has been ordered by the court;
- (3) the number of the case in which support was ordered; and
- (4) the date the assignment was partially terminated.

(e) Upon receipt of the notice and without the requirement of a hearing or order, the court shall forward all payments made to satisfy support arrearages due and owing as of the date the assignment of support rights was partially terminated to the secretary of ~~social and rehabilitation services~~ *for children and families* until the court receives notification of the termination of the assignment.

(f) If the secretary of ~~social and rehabilitation services~~ *for children and families* or the secretary's designee has on file with the court ordering support payments, a notice of assignment of support rights pursuant to subsection (b) or a notice of partial termination of assignment of support rights pursuant to subsection (d), the secretary shall be considered a necessary party in interest concerning any legal action to enforce, modify, settle, satisfy or discharge an assigned support obligation and, as such, shall be given notice by the party filing such action in accordance with the rules of civil procedure.

(g) Upon written notification by the secretary's designee that assigned support has been collected pursuant to K.S.A. 44-718 or 75-6201 et seq., and amendments thereto, or section 464 of title IV, part D, of the federal social security act, or any other method of direct payment to the secretary, the clerk of the court or other record keeper where the support order was established, shall enter the amounts collected by the secretary of ~~social and rehabilitation services~~ *for children and families* in the court's payment ledger or other record to insure that the obligor is credited for the amounts collected.

Sec. 87. K.S.A. 39-755 is hereby amended to read as follows: 39-755.

(a) In cases where the secretary of ~~social and rehabilitation services~~ *for children and families* is deemed to have an assignment of support rights in accordance with the provisions of K.S.A. 39-709, and amendments thereto, the secretary is authorized to bring a civil action in the name of the state of Kansas or of the obligee whose support rights are assigned to enforce such support rights, establish an order for medical support and, when appropriate or necessary, to establish the parentage of a child. The secretary may also enforce any assigned support order or file a motion to modify any such order.

(b) The secretary of ~~social and rehabilitation services~~ *for children and*

*families* shall be deemed to hold the interests of all persons, officials and agencies having an interest in the assignment. The court shall determine, in accordance with applicable provisions of law, the parties necessary to the proceeding and whether independent counsel should be appointed to represent any party to the assignment or any other person having an interest in the support right. In any action or proceeding brought by the secretary of social and rehabilitation services *for children and families* to establish paternity or to establish, modify or enforce a support obligation, the ~~social and rehabilitation services' department for children and families'~~ attorney or the attorneys with whom the agency contracts to provide legal services shall represent the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*. Nothing in this section shall be construed to modify any statutory mandate, authority or confidentiality required by any governmental agency. Any representation by such attorney shall not be construed to create an attorney-client relationship between the attorney and any party other than the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*.

(c) Any support order made by the court in such a proceeding shall direct that payments be made to the secretary of social and rehabilitation services *for children and families* so long as there is in effect an assignment of support rights to the secretary and, upon notification by the secretary to the court that the assignment is terminated, that payments be made to the person or family.

(d) The provisions of this section shall also apply to cases brought by the secretary on behalf of persons who have applied for services pursuant to K.S.A. 39-756, and amendments thereto.

(e) *In all child support actions initiated before the effective date of the governor's 2012 executive reorganization order 41, whenever the department of social and rehabilitation services, or words of like effect, are referred to or designated in case names and captions, pleadings, and all filings of any kind used by the department for children and families in the ordinary course of business with any court, business, agency, person or political subdivision of this state, such reference or designation shall be deemed to apply to the Kansas department for children and families.*

Sec. 88. K.S.A. 2013 Supp. 39-756 is hereby amended to read as follows: 39-756. (a) (1) The secretary of social and rehabilitation services *for children and families* shall make support enforcement services required under part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), ~~or acts amendatory thereof or supplemental thereto,~~ and federal regulations promulgated pursuant thereto, including, but not limited to, the location of parents, the establishment of paternity and the enforcement of child support obligations, available to persons not subject to the requirements of K.S.A. 39-709, and amendments thereto, and not receiving support enforcement services pursuant to subsection (b). Persons who previously received public assistance but who are not receiving support enforcement services pursuant to subsection (b) may apply for or receive support enforcement services pursuant to this subsection.

(2) By applying for or receiving support enforcement services pursuant to subsection (a)(1), the applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in behalf of any family member, including the applicant, for whom the applicant is applying for or receiving support enforcement services. The assignment shall automatically become effective upon the date of application for or receipt of support enforcement services, whichever is earlier, and shall remain in full force and effect so long as the secretary provides support enforcement services on behalf of the applicant, recipient or child. By applying for or receiving support enforcement services pursuant to subsection (a)(1), the applicant, recipient or obligee is also deemed to have appointed the secretary or the secretary's designee as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person for whom the secretary is providing support enforcement services. This limited power of attorney shall be effective from the date support rights are as-

signed and shall remain in effect until the assignment is terminated in full.

(3) Nothing in this subsection shall affect or limit any existing assignment or claim for repayment of any unreimbursed portion of assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or limit any subsequent assignment of support rights.

(b) (1) Upon discontinuance of all public assistance giving rise to an assignment of support rights pursuant to K.S.A. 39-709, and amendments thereto, the secretary shall continue to provide all appropriate support enforcement services required under title IV-D of the federal social security act for the persons who were receiving assistance, unless the recipient requests that support enforcement services be discontinued.

(2) When support enforcement services are provided pursuant to subsection (b)(1), the assignment of support rights and limited power of attorney pursuant to K.S.A. 39-709, and amendments thereto, shall remain in full force and effect. When the secretary is no longer providing support enforcement services related to support obligations accruing after the date assistance was discontinued, the assignment of support rights shall remain in effect to the extent provided in K.S.A. 39-756a, and amendments thereto.

(3) Nothing in this subsection shall affect or limit any existing assignment or claim for repayment of any unreimbursed portion of assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or limit any subsequent assignment of support rights.

(c) The secretary shall fix by rules and regulations fees for services rendered pursuant to this section. Such fees shall conform to the requirements of title IV-D of the federal social security act. Any fees imposed by the secretary upon a person required to make payments under a support order shall be in addition to any amount the person is required to pay as support.

(d) Except as otherwise provided in this subsection, assigned support that is collected while a person is receiving services pursuant to subsection (a) or (b) shall be distributed as required by title IV-D of the federal social security act. If federal law authorizes the secretary to elect to distribute more support to any families than would otherwise be permitted, the secretary may make such election by adopting rules and regulations for that purpose.

(e) If any attorney provides legal services on behalf of the secretary in any case in which the secretary is furnishing title IV-D services, such attorney shall have an attorney-client relationship only with the secretary. The provisions of this subsection shall apply whether the attorney is an employee of the state, a contractor subject to the requirements of K.S.A. 75-5365, and amendments thereto, or an employee of such a contractor. Nothing in this subsection shall be construed to modify any statutory mandate, authority or confidentiality required by any governmental agency. No action by such attorney shall be construed to create an attorney-client relationship between the attorney and any person, other than the secretary.

Sec. 89. K.S.A. 2013 Supp. 39-757 is hereby amended to read as follows: 39-757. (a) The secretary ~~of social and rehabilitation services for children and families~~ shall remit all moneys received by or for the secretary from the enforcement of rights assigned to the secretary under subsection (b) of K.S.A. 39-709, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury as follows: (1) Amounts to be distributed pursuant to part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.), or acts amendatory thereof or supplemental thereto,~~ to the state shall be credited to the title IV-D aid to families with dependent children fee fund, and all expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary; and (2) amounts to be distributed pursuant to part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.), or acts amendatory thereof or supplemental thereto,~~ to applicants for or recipients of aid under subsection (b) of K.S.A. 39-709, and amendments

thereto, shall be credited to the title IV-D aid to families with dependent children claims fund, and all expenditures from such fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(b) The secretary of ~~social and rehabilitation services for children and families~~ shall remit all moneys received by or for the secretary under K.S.A. 39-756, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury as follows: (1) Amounts to be distributed pursuant to part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.), or acts amendatory thereof or supplemental thereto,~~ to the state shall be credited to the title IV-D fee fund, and all expenditures from such fund shall be made in accordance with appropriate acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary; and (2) amounts to be distributed pursuant to part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.), or acts amendatory thereof or supplemental thereto,~~ to persons who under K.S.A. 39-756, and amendments thereto, are eligible for services specified in such section shall be credited to the title IV-D claims fund, and all expenditures from such fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(c) Money shall be deposited in the funds established by subsections (a) and (b) of this section and shall be distributed from such funds in accordance with the provisions of part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.), or acts amendatory thereof or supplemental thereto.~~

Sec. 90. K.S.A. 39-758 is hereby amended to read as follows: 39-758.

(a) State, county and local units of government, their officers and employees, shall cooperate with the secretary of ~~social and rehabilitation services for children and families~~ in locating absent parents or their assets and shall on request supply the secretary of ~~social and rehabilitation services for children and families~~ with available information about an absent parent or the absent parent's assets including but not limited to the location, employment status, income, date of birth and social security number of the absent parent or any information concerning medical or health insurance coverage for dependents.

(b) Upon written request, federal and state agencies conducting locator activities under title IV-D shall be eligible to receive information leading to the location of an individual if the information is contained within any system used by this state to locate an individual for purposes relating to motor vehicles or law enforcement.

(c) Information received by the secretary of ~~social and rehabilitation services for children and families~~ under this section shall be available upon request to persons authorized to receive such information.

Any person receiving such information shall be subject to the provisions of K.S.A. 39-759, and amendments thereto. Information of the department of revenue shall be subject to the limitations of K.S.A. 79-3234, and amendments thereto.

(d) Any person or entity providing access to information pursuant to this section, including but not limited to access by automated processes, shall not be liable to any person for good faith actions in providing the access or information. The provisions of this subsection shall not apply to information of the department of revenue.

(e) Notwithstanding any prohibition to the contrary which may apply to information of the department of revenue, the secretary may enter into an agreement with any agency or official in this state to permit the secretary and the secretary's designees access to information for the purposes of this section. Such an agreement shall not be construed to be a contract for the performance of support enforcement services pursuant to K.S.A. 75-5365, and amendments thereto.

Sec. 91. K.S.A. 2013 Supp. 39-760 is hereby amended to read as follows: 39-760. (a) The secretary of health and environment and the

secretary of ~~social and rehabilitation services for children and families~~ are hereby directed to establish a system for the reporting of suspected abuse or fraud in connection with state welfare or medical assistance programs, either by recipients or health care providers. The system shall be designed to permit any person in the state at any time to place a toll-free call into the system and report suspected cases of welfare abuse or suspected cases of health care provider fraud.

(b) The secretary of health and environment and the secretary of ~~social and rehabilitation services for children and families~~ are further directed to publicize the system throughout the state.

(c) Notice of the existence of the system established pursuant to this section shall be displayed prominently in the office or facility of every health care provider who provides services under the state medical assistance program.

(d) The secretary of health and environment shall notify annually each recipient of state medical assistance of the toll-free number of the system established pursuant to this section and the purpose thereof. If possible, such notice shall be printed on the medical cards issued to recipients by the secretary.

Sec. 92. K.S.A. 39-782 is hereby amended to read as follows: 39-782. Prior to certifying an adult care home for participation in the state medical assistance program as an intermediate care facility for mental health, the secretary of ~~social and rehabilitation for aging and disability~~ services shall hold a public hearing in the area in which the facility is located. At least 10 days prior to the hearing, the secretary of ~~social and rehabilitation for aging and disability~~ services shall give notice in a newspaper of general circulation in the area in which the facility is located that the facility has applied for certification for participation in the state medical assistance program as an intermediate care facility for mental health and that a public hearing is to be held to obtain public comment in regard to such application. In addition, the notice shall state the time and place of the public hearing and the manner in which interested parties may present their views at the hearing. The secretary of ~~social and rehabilitation for aging and disability~~ services shall consider the public comments at the hearing in determining whether to grant such certification.

Sec. 93. K.S.A. 39-783 is hereby amended to read as follows: 39-783. The secretary of ~~social and rehabilitation for aging and disability~~ services or the Kansas department of health and environment shall mail a written notice to all affected health care provider groups of each reduction in the scope or reimbursement of services provided under the medical assistance program of the ~~Kansas department of social and rehabilitation for aging and disability~~ services or the Kansas department of health and environment at least 10 days prior to the effective date of any such reduction. The written notice shall include a complete and accurate description of the proposed reductions. The secretary of ~~social and rehabilitation for aging and disability~~ services or the Kansas department of health and environment shall not implement any such reduction in the medical assistance program until 10 days after the date that the written notice prescribed by this section is mailed to the affected provider groups. The failure to give notice as prescribed by this section shall not constitute or provide grounds for any cause of action concerning the medical assistance program and no such failure to give notice shall invalidate any action of the secretary of ~~social and rehabilitation for aging and disability~~ services or the Kansas department of health and environment concerning the medical assistance program.

Sec. 94. K.S.A. 2013 Supp. 39-784 is hereby amended to read as follows: 39-784. (a) The secretary of ~~social and rehabilitation for aging and disability~~ services is hereby authorized to fix, charge and collect reasonable fees for providing home care services to recipients served under the medicaid home and community based services program.

(b) All moneys received for fees collected pursuant to subsection (a) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~SRS Kansas department for aging and disability~~ services temporary deposit fund.

Sec. 95. K.S.A. 2013 Supp. 39-785 is hereby amended to read as

follows: 39-785. As used in K.S.A. 2013 Supp. 21-5606, K.S.A. 39-709 and K.S.A. 39-785 to 39-790, inclusive, and amendments thereto:

(a) “Adult care home” means a nursing facility licensed under the adult care home licensure act.

(b) “Excess shelter allowance” means, for the applicant or recipient’s spouse, the amount by which the sum of (1) the spouse’s expense for rent or mortgage payment, including principal and interest, taxes and insurance and, in the case of a condominium or cooperative, required maintenance charges excluding utilities, for the spouse’s principal residence, and (2) the standard utility allowance under section 5(e) of the food stamp act of 1977, exceeds 30% of the maximum amount of income allowed under K.S.A. 39-787, and amendments thereto.

(c) “Home and community based services” means those services provided under the state medical assistance program under waivers as defined in title XIX of the federal social security act in accordance with the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto, to recipients who would require admission to an adult care home if such services were not otherwise provided.

(d) “Income” means earned income and unearned income as defined under the state medical assistance program in accordance with the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto, to determine eligibility of applicants for medical assistance.

(e) “Institution” means an adult care home or a long-term care unit of a medical care facility.

(f) “Medical assistance” has the meaning provided under K.S.A. 39-702, and amendments thereto.

(g) “Qualified applicant” means a person who (1) applies for medical assistance and (2) is receiving long-term care in an institution or would be eligible for home and community based services if receiving medical assistance.

(h) “Qualified recipient” means a person who (1) receives medical assistance and (2) is receiving long-term care in an institution or is receiving home and community based services.

(i) “Resources” means cash or other liquid assets or any real or personal property that an individual or spouse owns and could convert to cash to be used for such individual’s support and maintenance. If the individual has the right, authority or power to liquidate the property, or such individual’s share of the property, it is a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual or spouse.

(j) “Secretary” means the ~~secretary of social and rehabilitation~~ *secretary for aging and disability* services.

(k) “Exempt income” means income which is not considered in determining eligibility for medical assistance under the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto.

(l) “Nonexempt income” means income which is considered in determining eligibility for medical assistance under the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto.

(m) “Exempt resources” means resources which are not considered in determining eligibility for medical assistance under the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto.

(n) “Nonexempt resources” means resources which are considered in determining eligibility for medical assistance under the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto.

(o) “Long-term care” means care which exceeds or is projected to exceed three months, including the month care begins.

Sec. 96. K.S.A. 39-786 is hereby amended to read as follows: 39-786. (a) For the purpose of determining medical assistance eligibility pursuant to K.S.A. 39-709, and amendments thereto, and the right to and obligation of medical support for the purposes of K.S.A. 39-709 and 39-719a, and amendments thereto, a qualified applicant or qualified recipient and such applicant’s or recipient’s spouse may divide their aggregate resources, whether owned jointly or singly, into separate shares as provided by this section. Subject to the provisions of subsection (g), if a qualified applicant or qualified recipient and such applicant’s or recipient’s spouse so divide their aggregate resources:

(1) Only the separate nonexempt resources of the applicant or recip-



ient shall be considered in determining eligibility for medical assistance: (A) If the applicant's or recipient's spouse is not applying for or receiving medical assistance, in the month following the month in which the applicant or recipient enters an institution to receive long-term care or begins to receive home and community based services, or at any time thereafter; or (B) if the applicant's or recipient's spouse is applying for or receiving medical assistance, in the seventh month following the month in which the applicant or recipient enters an institution to receive long-term care or begins to receive home and community based services, or at any time thereafter;

(2) ~~the secretary of social and rehabilitation services~~ *Kansas department for children and families*, in determining the eligibility of the applicant or recipient for long-term institutional care or home and community based services, shall not take into account the separate nonexempt resources of the applicant's or recipient's spouse and shall not require proof of adequate consideration for any transfer made in dividing resources in accordance with this section;

(3) the resources received by the qualified applicant's or qualified recipient's spouse pursuant to this section shall not be considered to be available to the applicant or recipient for future medical support and the qualified applicant's or qualified recipient's spouse shall have no duty of future medical support of the qualified applicant or qualified recipient from such resources;

(4) except as otherwise provided in this section, neither the secretary nor the state may recover from the resources received by the qualified applicant's or qualified recipient's spouse pursuant to this section any amounts paid for future medical assistance provided to the qualified applicant or qualified recipient; and

(5) neither the secretary nor the state shall be subrogated to or assigned any future right of the qualified applicant or qualified recipient to medical support from the resources of the qualified applicant's or qualified recipient's spouse.

(b) If a qualified applicant or qualified recipient and such applicant's or recipient's spouse choose to divide their aggregate resources pursuant to this section, the division shall be in such a manner that the qualified applicant's or qualified recipient's spouse owns singly aggregate nonexempt resources with a value which is the greater of: (A) \$12,000, subject to adjustment under subsection (i); or (B) the lesser of (i) the spousal share computed under subsection (c) or (ii) four times the amount described in clause (A).

(c) There shall be computed, as of the beginning of a continuous period of long-term care of the qualified applicant or qualified recipient: (A) The total value of the nonexempt resources to the extent the qualified applicant or qualified recipient or such applicant's or recipient's spouse has an ownership interest; and (B) a spousal share which is equal to  $\frac{1}{2}$  of such total value.

(d) A division of resources pursuant to this section shall be evidenced by a written interspousal agreement, signed by both spouses or their personal representatives, to divide the resources as provided by this section and to make any transfers necessary to carry out the division. In the case of a qualified applicant, a notice of intent to divide resources shall be filed with the secretary at the time of application. In the case of a qualified recipient, such notice shall be filed with the secretary at the time the recipient and the recipient's spouse desire to divide resources. The division shall apply to resources owned on the date the notice of intent is filed and the division shall be presumed to take place on that date if a copy of the agreement to divide resources and evidence, satisfactory to the secretary, of completion of any transfers necessary to effect the division are filed with the secretary within 90 days after the notice of intent is filed or within such additional time as permitted by the secretary, in the secretary's discretion, for good cause shown.

(e) Once a qualified applicant for or qualified recipient of medical assistance has divided resources with a spouse pursuant to this section, such applicant or recipient may not thereafter again divide resources under this section with such spouse or any subsequent spouse.

(f) ~~The secretary of social and rehabilitation services~~ *Kansas department for children and families* shall furnish to each qualified applicant or

qualified recipient and such applicant's or recipient's spouse, and any personal representative thereof, a clear and simple written statement that:

(1) The total resources of the qualified applicant or qualified recipient and of the applicant's or recipient's spouse may be divided hereunder;

(2) upon such a division, the spouse's nonexempt resources will not be considered in determining eligibility of the applicant or recipient for long-term institutional care or home and community based services and the spouse shall not be required to use the resources received by the spouse pursuant to this section to provide future medical support to the qualified applicant or qualified recipient;

(3) a lien for medical assistance paid may be imposed against the property of the qualified applicant or qualified recipient and the property of the applicant's or recipient's spouse but only to the extent authorized under this section.

(g) If a qualified recipient of medical assistance and such recipient's spouse have divided their resources as provided by this section, the secretary, may establish, enforce and foreclose a lien for any amount of medical assistance provided the recipient but only to the extent authorized under 42 U.S.C. § 1396p, as in effect on the effective date of this act.

(h) The secretary shall adopt such rules and regulations as necessary to implement and enforce the provisions of this section.

(i) The dollar amounts specified in subsection (b) and K.S.A. 39-787(a), *and amendments thereto*, shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers, all items, the United States city average, between September, 1987, and the September before the calendar year involved.

Sec. 97. K.S.A. 39-787 is hereby amended to read as follows: 39-787.

(a) For the purpose of determining medical assistance eligibility pursuant to K.S.A. 39-709, and amendments thereto, and the right to and obligation of medical support for the purposes of K.S.A. 39-709 and 39-719a, and amendments thereto, a qualified applicant or qualified recipient and such applicant's or recipient's spouse may divide their aggregate income, whether received jointly or singly, into separate shares as provided by this section so that the spouse retains the first \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400 of the aggregate nonexempt income. If a qualified applicant or qualified recipient and such applicant's or recipient's spouse so divide their aggregate income:

(1) Only the separate nonexempt income of the qualified applicant or qualified recipient shall be considered in determining eligibility for medical assistance: (A) If the applicant's or recipient's spouse is not applying for or receiving medical assistance, in the month following the month in which the applicant or recipient enters an institution to receive long-term care or begins to receive home and community based services, or at any time thereafter; or (B) if the applicant or recipient and the applicant's or recipient's spouse share the same residence and the applicant's or recipient's spouse is applying for or receiving medical assistance, in the seventh month following the month in which the applicant or recipient enters an institution to receive long-term care or begins to receive home and community based services, or at any time thereafter;

(2) ~~the secretary of social and rehabilitation services for children and families,~~ in determining the eligibility of the applicant or recipient for long-term institutional care or home and community based services, shall not take into account the separate nonexempt income of the applicant's or recipient's spouse and shall not require proof of adequate consideration for any assignment made in dividing income;

(3) of the annual income of the qualified applicant's or qualified recipient's spouse, only that portion exceeding \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400 shall be considered to be available to the qualified applicant or qualified recipient for future medical support and the qualified applicant's or qualified recipient's spouse shall have a duty of future medical support of the qualified applicant or qualified recipient only to the extent that such spouse's annual income exceeds \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400;

(4) neither the secretary nor the state may recover from the income of the qualified applicant's or qualified recipient's spouse, for future medical assistance provided to the qualified applicant or qualified recipient:

(A) Any amount in any calendar year when the income of such spouse is less than \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400; or (B) an amount in any calendar year which would reduce such spouse's income to less than \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400 for such calendar year; and

(5) the secretary's subrogation rights on behalf of the state shall be subject to the limitation of subsection (a)(4).

(b) A division of income pursuant to this section shall be evidenced by a written interspousal agreement, signed by both spouses or their personal representatives, to divide income as provided by this section and to carry out the division. In the case of a qualified applicant, a notice of intent to divide income shall be filed with the secretary at the time of application. In the case of a qualified recipient, such notice shall be filed with the secretary.

(c) ~~The secretary of social and rehabilitation services for children and families~~ shall furnish to each qualified applicant or qualified recipient and such applicant's or recipient's spouse, and any personal representative thereof, a clear and simple written statement that the total income of the qualified applicant or qualified recipient and of the applicant's or recipient's spouse may be divided hereunder and that, upon such a division, the spouse's income will not be considered in determining eligibility of the applicant or recipient for long-term institutional care or home and community based services and the spouse shall be required to use only that portion of the spouse's annual income which exceeds \$9,000 plus any allowable excess shelter allowance up to a maximum total of \$14,400 to provide future medical support to the applicant or recipient.

(d) The secretary shall adopt such rules and regulations as necessary to implement and enforce the provisions of this section.

Sec. 98. K.S.A. 39-788 is hereby amended to read as follows: 39-788.

(a) No provision of this act shall be considered to be in conflict with any federal statute or regulation until after a final determination by the secretary of the United States department of health and human services finding such a conflict.

(b) If the secretary of the United States department of health and human services makes an initial determination that any provision of this act is in conflict with any federal statute or regulation, the secretary ~~of social and rehabilitation for aging and disability services or the department of health and environment, or both,~~ shall take all available and necessary steps to obtain a final determination reversing that decision. If a final determination is made that this act conflicts with federal law, the secretary ~~of social and rehabilitation for aging and disability services or the department of health and environment, or both,~~ shall immediately request that the attorney general seek judicial review of the determination and shall immediately notify the appropriate policy and fiscal committees of the legislature.

Sec. 99. K.S.A. 39-7,100 is hereby amended to read as follows: 39-7,100. (a) As used in this section:

(1) "Home and community based services programs" mean the programs established under the state medical assistance program under plans or waivers as defined in the federal social security act in accordance with the plans or waivers adopted by the secretary ~~of social and rehabilitation services and the secretary of aging, either separately or jointly,~~ *for aging and disability services* to provide attendant care services to individuals in need of in-home care who would require admission to an institution if the attendant care services were not otherwise provided.

(2) "Secretary" means ~~either the secretary of social and rehabilitation services or the secretary of aging~~ *for aging and disability services*.

(b) The secretary as part of the home and community based services programs, subject to social security act grant requirements, shall provide that:

(1) Priority recipients of attendant care services shall be those individuals in need of in-home care who are at the greatest risk of being placed in an institutional setting;

(2) individuals in need of in-home care who are recipients of attendant care services and the parents or guardians of individuals who are minors at least 16 years of age and who are in need of in-home care shall

have the right to choose the option to make decisions about, direct the provisions of and control the attendant care services received by such individuals including, but not limited to, selecting, training, managing, paying and dismissing of an attendant;

(3) any proposals to provide attendant care services solicited by the secretary shall be selected based on service priorities developed by the secretary, except that priority shall be given to proposals that will serve those at greatest risk of being placed in an institution as determined by the secretary;

(4) providers, where appropriate, shall include individuals in need of in-home care in the planning, startup, delivery and administration of attendant care services and the training of personal care attendants; and

(5) within the limits of appropriations therefor, the home and community based services programs shall serve eligible individuals in need of in-home care throughout this state.

(c) Within the limits of appropriations therefor, the secretary may initiate demonstration projects to test new ways of providing attendant care services and may conduct specific research into ways to best provide attendant care services in both urban and rural environments.

Sec. 100. K.S.A. 39-7,100a is hereby amended to read as follows: 39-7,100a. The secretary of ~~social and rehabilitation~~ *for aging and disability* services shall apply for appropriate waivers to applicable federal medicaid provisions to permit an expansion of home and community based services to include the services provided under the Kansas senior care act and to obtain medicaid funding therefor.

Sec. 101. K.S.A. 39-7,102 is hereby amended to read as follows: 39-7,102. As used in the KanWork act, unless the context clearly requires otherwise:

(a) “Committee” means the KanWork interagency coordinating committee established under K.S.A. 39-7,108 and amendments thereto.

(b) “KanWork program” means the work experience and training program for public assistance recipients established under the KanWork act.

(c) “Participant” means a public assistance recipient who participates in the KanWork program.

(d) “Secretary” means the secretary of ~~social and rehabilitation services~~ *for children and families*.

(e) “State child care center” means a child care center licensed under K.S.A. 65-501 et seq., and amendments thereto.

(f) The terms defined in K.S.A. 39-702, and amendments thereto, and used in the KanWork act have the meanings provided by K.S.A. 39-702, and amendments thereto.

Sec. 102. K.S.A. 39-7,103 is hereby amended to read as follows: 39-7,103. (a) The secretary of ~~social and rehabilitation services~~ *for children and families* shall be responsible for the planning, integration and coordination of employment and related services for public assistance recipients. All appropriate state and local agencies shall cooperate with the secretary in the planning, integration and coordination of employment and related services as provided under the KanWork act.

(b) Within the limits of appropriations therefor, the secretary shall establish and administer the KanWork program for recipients of public assistance which shall consist of the following components: Evaluation for eligibility and services; job preparation, training and education; support services; and transitional services.

(c) The secretary shall adopt rules and regulations which establish KanWork program requirements for eligibility for the receipt of public assistance and which establish penalties to be imposed when an assignment under a KanWork program requirement is not completed without good cause. The secretary may adopt rules and regulations establishing exemptions from any such KanWork program requirements, except that no person shall be exempt solely because such person provides care for a child three years of age or older unless federal law or rules and regulations specifically provide that such a person be exempt and a waiver of such requirement cannot be obtained. Requirements, exemptions and penalties established under this subsection (c) shall be consistent with the provisions of any state or federal law, rules and regulations or waiver granted under federal law or rules and regulations which relate thereto.

(d) In carrying out the duties specified under the KanWork act, the secretary shall seek the advice of and consult with the KanWork interagency coordinating committee. The secretary may enter into contracts as may be necessary to carry out the provisions of the KanWork act.

(e) The secretary shall monitor and evaluate periodically the KanWork program and shall track job retention rates of participants for not more than 15 months after a participant is employed and is no longer eligible for cash assistance. Within the limits of appropriations therefor, the secretary may enter into contracts for marketing and publishing information concerning the KanWork program and may enter into contracts for assistance in monitoring and evaluating the KanWork program and in tracking job retention rates of applicants.

(f) The secretary may seek waivers from program requirements of the federal government as may be needed to carry out the provisions of the KanWork act and to maximize federal matching and other funds with respect to the programs established under such act.

Sec. 103. K.S.A. 39-7,104 is hereby amended to read as follows: 39-7,104. (a) ~~The secretary of social and rehabilitation services for children and families~~ shall provide for the evaluation of public assistance recipients to determine whether such persons are required to participate in the KanWork program and whether such persons are employable. All public assistance recipients not required to participate in the KanWork program who are employable shall be encouraged to participate in such program. The secretary also shall provide for the evaluation of KanWork participants to assess the appropriate level of services needed by such participants under the KanWork program; shall provide initial employability screening, goal setting, identification of support service needs and development of initial timeline goals for completion of activities; and shall establish and enter into with such participants written contracts of participant self-sufficiency. The secretary shall also develop a set of performance standards by which the effectiveness of the KanWork program may be evaluated.

(b) ~~The secretary of social and rehabilitation services for children and families~~ may enter into agreements with public, private and community-based providers for services including but not limited to the following: Determination and provision of employment occupational assessment, goal setting, training services, job development and placement and such other services as the secretary may deem appropriate within the provisions of this act.

(c) A KanWork participant who is determined to be employable shall not be eligible to participate in the KanWork program for more than 30 months, inclusive of any educational program under the KanWork program. Except as otherwise provided in this subsection, a KanWork participant under the KanWork program shall not be eligible to receive any cash assistance for three years subsequent to the time participation in the KanWork program ceases. ~~The secretary of social and rehabilitation services for children and families~~ may adopt by rules and regulations exceptions to such limitations on participation in the KanWork program, on participation in any educational program thereunder, or on eligibility for cash assistance, in cases of undue hardship. Notwithstanding the foregoing provisions of this subsection, a KanWork participant who fails to become employed while participating in the KanWork program is authorized to receive support services as defined in K.S.A. 39-7,106, and amendments thereto, for a period not to exceed six months while a person is seeking employment. If the person obtains employment, the person is authorized to receive transitional services under K.S.A. 39-7,107, and amendments thereto.

(d) KanWork participants may bring grievances and appeal decisions of the secretary under the KanWork program in accordance with grievance and appeal procedures established by the secretary by rules and regulations.

Sec. 104. K.S.A. 39-7,105 is hereby amended to read as follows: 39-7,105. (a) Within the limits of appropriations therefor and to the extent allowed under any applicable federal law or rule and regulation adopted pursuant thereto, the secretary shall establish and make available to eligible public assistance recipients the job preparation, training and education component of the KanWork program.

(b) The job preparation element of the job preparation, training and education component includes, but is not limited to, the following:

(1) Unsupervised job search, in which the participant individually seeks work and makes periodic progress reports to the secretary or an agency contracting with the secretary.

(2) Supervised job search which includes, but is not limited to, access to telephones to contact prospective employers, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed and critiqued by the secretary or an agent of the secretary. The amount and type of activity required during this supervised job search period shall be determined by the secretary and the participant, based on the participant's employment history and need for supportive services and shall be consistent with rules and regulations adopted by the secretary.

(3) Job club workshops, including group or individual training sessions, where participants learn various job finding and job retention skills. Workshops shall be conducted by persons trained in employment counseling. The skills taught in job clubs shall include preparation of an application, writing a resume, interviewing techniques, understanding employer requirements and expectations, telephone canvassing for job leads, proper dress and conduct on the job and ways to enhance self-esteem, self-image and confidence.

(4) Job referral and placement services.

(5) Employment counseling to assist persons to reach informed decisions on appropriate employment goals.

(c) The training and education element of the job preparation, training and education component includes, but is not limited to, the following:

(1) Job training which includes, but is not limited to, training in industry-specific job skills in a classroom or onsite setting, including training provided by private industry, universities, community colleges, state and local agencies and school districts.

(2) Community work experience for a public or nonprofit agency that provides the participant the opportunity to develop basic work skills, practice and improve existing skills and acquire on-the-job experience established in accordance with the provisions of subsection (g) of K.S.A. 39-708c, and amendments thereto, or subsection (d)(B)(3) of K.S.A. 39-709, and amendments thereto, or both such sections.

(3) Work experience through a grant diversion program which the secretary is hereby authorized to implement in which an employer receives a wage subsidy from money diverted in accordance with law from public assistance grants. Grant diversion shall be implemented through a contract entered into by the secretary and the employer.

(4) Work experience through employment with state government or local governmental units in work which otherwise would have gone undone, if the participant is unable to be placed in other employment. The state government and local governmental units may cooperate with the secretary ~~of social and rehabilitation services~~ *for children and families* in developing and making available such employment opportunities.

(5) Remedial education, which shall include adult basic education, high school completion and general equivalency diploma instruction. Only participants deemed able to become substantially more employable for an educational experience shall be placed in remedial education.

(6) College and community college education, when that education provides sufficient employment skills training which can be expected to lead to employment based on a labor market needs assessment. Only participants deemed capable of becoming substantially more employable from such an educational experience shall be placed in this education component.

(7) Vocational training in a community college, vocational technical school or local school district program which can be expected to lead to employment based upon a labor market needs assessment.

(8) English language instruction for non-English speaking participants.

(9) Other programs that may be made available through federal legislation authorizing employment and training programs for public assistance recipients.

(10) No participant who has graduated from high school shall partic-

ipate in any educational program under the KanWork act for more than 30 months. A participant who has not graduated from high school but who the secretary determines is able to obtain general educational development credentials within nine months after becoming a KanWork participant may participate in the educational program under the KanWork act, but such educational program participation under the KanWork program shall be limited to 30 months, less the period of time required for the participant to obtain general educational development credentials, after the participant has received the general educational development credentials. The secretary of social and rehabilitation services ~~for children and families~~ may adopt by rules and regulations exceptions to such limitations on participation in any such educational program in cases of undue hardship.

(d) Workers assigned to state agencies under the KanWork program may participate in classified civil service examinations equivalent to the position occupied, as well as any other civil service examination for which the participant is qualified, and experience in the position occupied by the participant shall be included in determining whether the participant meets the experience requirements for the particular position under the Kansas civil service act.

(e) The secretary may enter into contracts with community service providers for job development and service provision.

Sec. 105. K.S.A. 2013 Supp. 39-7,108 is hereby amended to read as follows: 39-7,108. (a) There is hereby created the KanWork interagency coordinating committee which shall consist of the following members: (1) No more than 10 members appointed by the governor; (2) the secretary of social and rehabilitation services ~~for children and families~~; (3) the secretary of labor; (4) the secretary of administration or the secretary's designee; (5) the secretary of commerce or the secretary's designee; (6) a faculty member engaged in teaching social welfare courses or other relevant academic disciplines at a college or university located in this state appointed by the chairperson of the state board of regents; and (7) a representative of the state department of education who is knowledgeable in the area of vocational-technical education or community colleges, or both, appointed by the chairperson of the state board of education. Individuals appointed to the committee by the governor shall include: A representative of the Kansas league of municipalities; a representative of the Kansas association of counties; a representative of a local school district; a representative of the financial community; a representative of the business community; a representative of organized labor; a representative of the child support enforcement program of the judicial branch; and a social services advocacy representative.

(b) The member of the committee appointed by the chairperson of the state board of regents, the member of the committee appointed by the chairperson of the state board of education and the members of the committee appointed by the governor shall be appointed for two-year terms and until their successors are appointed and qualified. Upon the vacancy of a position on the committee, the person appointing the member whose position is vacant, or the successor to the position of the person appointing such member, shall appoint a person to fill such vacancy.

(c) The secretary of social and rehabilitation services ~~for children and families~~ shall serve as chairperson of the committee. The committee shall meet on the call of the chairperson. A majority of all the members of the committee shall constitute a quorum.

(d) The committee shall provide oversight of the KanWork program to insure cooperation at all levels of government, to avoid duplication among agencies and programs, insure cooperation and smooth implementation of the program, encourage involvement by the public, private and nonprofit sectors in the state and provide ongoing planning for the program. In addition, the committee shall review periodically the use of funds under the federal job training and partnership act and other federal funds available for any similar programs and may issue reports as necessary.

(e) The secretary of social and rehabilitation services ~~for children and families~~ shall provide staff assistance and clerical services to the committee. Other state agencies shall cooperate with the committee by providing

information and other assistance as may be helpful to the committee in carrying out its duties under this section.

(f) The members of the committee who are not state officers or employees and who are attending meetings of such committee, or attending a subcommittee meeting thereof authorized by such committee, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. Amounts paid under this subsection (f) shall be from appropriations to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~social and rehabilitation services for children and families~~ or a person designated by the secretary.

Sec. 106. K.S.A. 39-7,109 is hereby amended to read as follows: 39-7,109. (a) The secretary of ~~social and rehabilitation services for children and families~~ shall establish state child care centers and may operate such centers or enter into contracts with private providers for the operation of such centers. State child care centers shall be licensed under the provisions of K.S.A. 65-501 et seq., and amendments thereto. The secretary of ~~social and rehabilitation services for children and families~~ and the secretary of health and environment are hereby authorized to enter into joint agreements as may be necessary to facilitate the establishment and operation of state child care centers.

(b) A state child care center shall provide child care services for children of KanWork participants. A state child care center may provide child care services for children of state employees; children of employees of local governments and other agencies participating in the KanWork program which have entered into agreements with the secretary authorizing their employees to utilize state child care center services; and children of teenage parents who have not yet completed high school if the parent is working to complete high school or is working for a high school equivalency certificate and if the school district has entered into an agreement with the secretary that such teenage parents will be allowed to continue attending school.

(c) The secretary by rules and regulations shall establish a sliding fee scale based upon ability to pay for child care services provided by a state child care center. All persons whose children are utilizing such child care services, other than persons whose children are receiving such child care services under subsection (b) of K.S.A. 39-7,106, *and amendments thereto*, shall pay a fee for the services based upon such sliding fee scale.

Sec. 107. K.S.A. 39-7,122 is hereby amended to read as follows: 39-7,122. (a) The secretary of ~~social and rehabilitation services~~ *health and environment* shall provide transitional medical care services, including extended medical care services under KanWork, under the medical care plan for medical assistance adopted by the secretary. The transitional medical care services shall be provided for not to exceed 24 months after a recipient of assistance becomes employed and is no longer eligible for cash assistance unless the recipient is otherwise covered by health benefits. Such transitional medical care services shall be provided with a 25% copayment requirement during the 13<sup>th</sup> month through the 24<sup>th</sup> month.

(b) As used in this section, terms have the meanings provided by K.S.A. 39-702, and amendments thereto.

Sec. 108. K.S.A. 39-7,123 is hereby amended to read as follows: 39-7,123. (a) As used in this section: “Individual assistance support trust” means a trust created by a not-for-profit corporation which is a 501(c)(3) organization under the federal internal revenue code of 1986 and which was organized for the purpose of receiving money pursuant to an agreement under this section.

(b) There is hereby established in the state treasury the state individual assistance support trust fund.

(c) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the state individual assistance support trust fund interest earnings based on:

(1) The average daily balance of moneys in the state individual assistance support trust fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) The secretary of ~~social and rehabilitation services~~ *for children and*



*families* may accept moneys from an individual assistance support trust for deposit in the state individual assistance support trust fund pursuant to an agreement with the individual assistance support trust for purposes of matching federal funds. The individual assistance support trust may retain 5% of any grant it receives for purposes of this section. The secretary shall deposit 10% of such moneys in the state general fund and 5% of such moneys shall be deposited in the state general fund and credited to the social welfare fund. The balance of such moneys shall be deposited in a separate account in the state individual assistance support trust fund for each grant so received. The moneys in each such account shall be expended by the secretary, in accordance with rules and regulations of the secretary, only for the purpose of matching federal funds in accordance with the terms of the agreement. Interest earned on moneys in the trust fund and transferred to the trust fund under subsection (c) shall be prorated in accordance with procedures approved by the director of accounts and reports and credited monthly to each such account.

(e) If the secretary determines that the moneys cannot be used for the purpose of matching federal funds in a manner consistent with the rules and regulations of the secretary and the agreement, or upon the request of the individual assistance support trust, the remaining moneys in such account, together with any accumulated interest thereon, shall be paid to the individual assistance support trust which deposited such moneys in the state individual assistance support trust fund.

(f) The secretary shall adopt rules and regulations and procedures as may be necessary or useful for the administration of the trust fund. All payments and disbursements from the trust fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

Sec. 109. K.S.A. 39-7,125 is hereby amended to read as follows: 39-7,125. (a) (1) In determining the amount of aid to families with dependent children for a family with fewer than three dependent children at the beginning of any period of time such assistance is received by such family, the secretary of ~~social and rehabilitation services~~ *for children and families* shall revise the schedule of benefits to be paid to such recipient family by eliminating: (A) In the case of the birth of the third dependent child born to such family while receiving aid to families with dependent children, 50% of the increment in aid to families with dependent children benefits for which that family would otherwise be eligible as a result of such birth; and (B) in the case of the birth of the fourth or subsequent dependent child, 100% of the increment in aid to families with dependent children benefits for which that family would otherwise be eligible as a result of such birth.

(2) The secretary of ~~social and rehabilitation services~~ *for children and families* shall provide instead that a recipient family with fewer than three dependent children at the time such assistance is first received by such family, may receive additional benefits only pursuant to subsection (a)(3) or subsection (c).

(3) Each such family shall benefit from any general increase in the amount of aid to families with dependent children benefits which is provided to all program recipients.

(b) (1) In determining the amount of aid to families with dependent children to a recipient family with three or more dependent children at the beginning of any period of time such assistance is received by such family, the secretary of ~~social and rehabilitation services~~ *for children and families* shall revise the schedule of benefits to be paid to such recipient family by eliminating: (A) In the case of the birth of the first child born to such family while receiving aid to families with dependent children, 50% of the increment in benefits under the program for which that family would otherwise be eligible as a result of such birth; and (B) in the case of the birth of each subsequent dependent child, 100% of the increment in benefits under the program for which that family would otherwise be eligible as a result of such birth.

(2) The secretary of ~~social and rehabilitation services~~ *for children and families* shall provide instead that a recipient family with three or more dependent children at the time such assistance is first received by such family may receive additional benefits only pursuant to subsection (b)(3) or subsection (c).

(3) Each such family shall benefit from any general increase in the amount of aid to families with dependent children benefits which is provided to all program recipients.

(c) ~~The secretary of social and rehabilitation services for children and families~~ shall provide: (1) That in computing the amount of aid to families with dependent children available to any family in which one or more adults have earned income from bona fide employment, as defined by rules and regulations of the ~~secretary of social and rehabilitation services for children and families~~, the provisions of subsection (a)(1) and subsection (b)(1), which limit the amount of assistance a family can receive, shall not apply; (2) in the case of a family with two adults and only one of whom is employed, the monthly earned income disregard shall increase by an amount equal to not more than 100% of that which the family would have otherwise received by parenting an additional child; and (3) in any family each employed individual shall receive the earnings disregards specified in K.S.A. 39-7,127, and amendments thereto.

(d) For purposes of this section: (1) Any child born to an adult while that adult is ineligible for aid to families with dependent children pursuant to a penalty imposed by the ~~secretary of social and rehabilitation services for children and families~~ for failure to comply with benefit eligibility requirements shall be considered to be born while the adult is a recipient of aid to families with dependent children; (2) each child in a multiple birth shall be entitled to receive the same incremental increase in benefits as the first child in such birth; and (3) the birth of any child which results from a pregnancy which exists at the time aid to families with dependent children is first received after June 30, 1994, shall not be considered to be the birth of a third or subsequent child for the purpose of applying the provisions of subsection (a)(1) or subsection (b)(1) which limit the amount of assistance a family can receive for aid to families with dependent children.

Sec. 110. K.S.A. 39-7,127 is hereby amended to read as follows: 39-7,127. (a) ~~The secretary of social and rehabilitation services for children and families~~ shall make program modifications to the aid to families with dependent children program of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, to include a work-and-earn incentive program containing provisions such that:

(1) If an individual's earned income is considered, the individual shall be allowed a work-and-earn incentive adjustment to assistance which shall be determined in accordance with policies prescribed by rules and regulations adopted by the ~~secretary of social and rehabilitation services for children and families~~ and shall include an incentive disregard of the amount equal to a \$90 work expense plus 40% of the gross monthly earned income above the \$90 with (A) the individual's eligibility continuing until the family's total income exceeds the maximum income limit established by the ~~secretary of social and rehabilitation services for children and families~~ in rules and regulations, (B) no time limit on the incentive disregard, and (C) no application of any other time-limited, work-related income disregard when the work-and-earn incentive program is applicable; and

(2) if an individual's earned income is considered, the individual shall be allowed the work expense deduction referenced in paragraph (1) of this subsection from the earned income, which shall include, as provided in rules and regulations of the ~~secretary of social and rehabilitation services for children and families~~, generally all work-related expenses, other than day care, and includes specifically: Taxes, transportation expenses, meal expenses and acquisition and maintenance expense for required uniforms.

(b) ~~The secretary of social and rehabilitation services for children and families~~ shall seek waivers from program requirements of the federal government as may be needed to carry out the provisions of this section and to maximize federal matching and other funds with respect to the provisions of this section. ~~The secretary of social and rehabilitation services for children and families~~ shall implement the provisions of this section only if such waivers to federal program requirements have been obtained from the federal government.

Sec. 111. K.S.A. 39-7,128 is hereby amended to read as follows: 39-7,128. In determining eligibility for aid to families with dependent chil-

dren or grant determinations relating thereto, the secretary of ~~social and rehabilitation services for children and families~~ shall exclude from income and resources any income earned by a minor and saved by the minor for educational purposes for the minor. This earned income shall be income earned by the minor and saved for educational purposes in accordance with rules and regulations of the secretary of ~~social and rehabilitation services for children and families~~ which define earned income for the purposes of this section and specify the method by which such income may be dedicated to educational purposes to ensure that such income is used in a manner to comply with the provisions of this section.

Sec. 112. K.S.A. 2013 Supp. 39-7,129 is hereby amended to read as follows: 39-7,129. The secretary of ~~social and rehabilitation services for children and families~~ shall adjust, by rules and regulations, the program requirements for aid to families with dependent children provided through the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to include requirements that, as a condition for continued eligibility for aid to families with dependent children, the family comply with laws providing for immunization and vaccination of children attending school or a child care facility. The secretary of health and environment shall provide to the secretary of ~~social and rehabilitation services for children and families~~ current information on the requirements of these laws which relate to the immunization and vaccination of children.

Sec. 113. K.S.A. 39-7,130 is hereby amended to read as follows: 39-7,130. (a) The secretary of ~~social and rehabilitation services for children and families~~ shall seek a waiver under federal law to allow two-parent families otherwise eligible for aid to families with dependent children to be eligible even though the principal wage earner may be working more than the allowable hours per month and have not worked in the required quarters of the year or earned less than required in such quarters of the year, or both; to allow pregnant women otherwise eligible for aid to families with dependent children to be eligible for aid to families with dependent children from the first month of pregnancy; and to allow children otherwise eligible for aid to families with dependent children foster care to be eligible even though the child's family does not meet aid to families with dependent children criteria.

(b) As used in this section, terms have the meanings provided by K.S.A. 39-702, and amendments thereto.

Sec. 114. K.S.A. 39-7,131 is hereby amended to read as follows: 39-7,131. Where required, the secretary of ~~social and rehabilitation services for children and families~~ shall apply for waiver of federal law or regulation as necessary to implement the provisions of this act. The secretary of ~~social and rehabilitation services for children and families~~ shall not implement any provision of this act if the secretary determines that implementing such provision would have the effect of spending more state general funds than appropriated or reducing or eliminating federal matching funds or other federal funds.

Sec. 115. K.S.A. 2013 Supp. 39-7,132 is hereby amended to read as follows: 39-7,132. (a) Any person who agrees to provide financial support to a person who would otherwise be eligible to receive aid to families with dependent children and who has entered into an agreement with the secretary of ~~social and rehabilitation services for children and families~~ for this purpose, in accordance with rules and regulations adopted by the secretary of ~~social and rehabilitation services for children and families~~ establishing the terms and conditions of such agreement, shall receive a credit against the tax liability imposed under the Kansas income tax act as provided under K.S.A. 79-32,200, and amendments thereto.

(b) Moneys received by the secretary under this section shall be used to match available federal moneys for providing aid to families with dependent children in the following manner: (1) The portion equal to 80% of such moneys shall be credited to the state general fund; (2) the portion equal to 15% of such moneys shall be used by the secretary to match available federal moneys and shall be added by the secretary to the grant of the recipient family; and (3) the remaining portion equal to 5% of such moneys shall be credited to the social welfare fund for administrative expenses and one-time grants.

(c) For tax year 2013 and all tax years thereafter, the income tax credit

provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

Sec. 116. K.S.A. 2013 Supp. 39-7,134 is hereby amended to read as follows: 39-7,134. The ~~secretary of social and rehabilitation services for children and families~~ is hereby directed to establish a system for disseminating information and advice to and making referrals of persons seeking to enforce child support orders, whether or not the person or child is receiving public assistance.

Sec. 117. K.S.A. 2013 Supp. 39-7,135 is hereby amended to read as follows: 39-7,135. (a) ~~The department of social and rehabilitation services~~ *Kansas department for children and families*, the title IV-D agency for the state, shall maintain a central unit for collection and disbursement of support payments to meet the requirements of title IV-D and this section. Such central unit shall be known as the Kansas payment center. The name "Kansas payment center" shall be reserved for use by the state of Kansas for the functions of the central unit and shall not be used by any entity without the consent of the ~~secretary of social and rehabilitation services for children and families~~.

The department may contract with another entity for development, enhancement or operation, in whole or in part, of such central unit. The Kansas payment center shall be subject to the following conditions and limitations:

(1) The Kansas payment center shall be subject to the Kansas supreme court rule concerning official child support and maintenance records established pursuant to subsection (c).

(2) No contract shall include provisions allowing the contractor to be paid, in whole or in part, on the basis of an amount per phone call received by the center nor allowing the contractor to be paid an amount per check issued for checks that were issued in error by the center. Nothing in this paragraph shall be construed to prevent the ~~secretary of social and rehabilitation services for children and families~~ from compensating on the basis of an amount per phone call any contractor that does not process receipts or disbursements under this section.

(3) Any contract for processing receipts or disbursements under this section shall include penalty provisions for noncompliance with federal regulations relating to the timeliness of collections and disbursements and shall include a monetary penalty of \$100 for each erroneous transaction, whether related to collection or disbursement. Penalties shall be collected as and when assessed. Of the penalty, \$25 shall be allocated to the obligee and \$75 shall be allocated to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

(4) Designees of the ~~secretary of social and rehabilitation services for children and families~~ and designees of the office of judicial administration shall have full access to all data, subject to the provisions of title IV-D of the federal social security act, 42 U.S.C. § 651 et seq. Designees of the ~~secretary of social and rehabilitation services for children and families~~, all district court clerks and court trustees shall have access to records of the Kansas payment center sufficient to allow them to assist in the process of matching support payments to the correct accounts.

(5) The Kansas payment center shall provide sufficient customer service staff during regular business hours. Obligors and obligees shall be provided 24-hour access to information about the status of receipts and disbursements, including, but not limited to, date of receipt by the center, date of processing by the center and date of disbursement to the obligee.

(b) The Kansas payment center shall have, by operation of law, a limited power of attorney to perform the specific act of endorsing and negotiating all drafts, checks, money orders or other negotiable instruments representing support payments received by the center. Nothing in this subsection shall be construed as affecting the property rights or interests of any person in such negotiable instruments. The provisions of this subsection shall apply to any negotiable instrument received by the center on or after October 1, 2000.

(c) The Kansas supreme court, by court rule, shall establish the procedure for the creation, maintenance and correction of official child support and maintenance records for use as official court records.

(d) The department shall collaborate with the Kansas supreme court to maintain the Kansas payment center, which shall include all support payments subject to the requirements of title IV-D of the federal social security act, 42 U.S.C. § 651 et seq., and, except as specifically directed otherwise by the court pursuant to K.S.A. 2013 Supp. 23-2712 and 23-2802 and articles 29, 30 and 31 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, all other support payments due under a court order entered in this state.

(e) Any provision in any support order or income withholding order entered in this state which requires remittance of support payments to the clerk of the district court or district court trustee shall be deemed to require remittance of support payments to the Kansas payment center, regardless of the date the support or income withholding order was entered.

(f) (1) Except as otherwise provided in this subsection, payments received by the Kansas payment center which cannot be matched to any account nor returned to the payor shall be transferred to the state treasurer in accordance with the unclaimed property act.

(2) Except as otherwise provided in this subsection, disbursements which cannot be delivered to the payee after a good faith effort to locate the payee shall be transferred to the state treasurer in accordance with the unclaimed property act.

(3) To the extent that the ~~secretary of social and rehabilitation services~~ *for children and families* would be required to treat as federal program income any amount transferable to the state treasurer pursuant to this subsection or the unclaimed property act, such amount shall not be presumed abandoned but shall be held by the secretary until the amount may be delivered to the true owner. The secretary and the state treasurer shall collaborate on procedures for locating the true owner and confirming claims to amounts so held.

Sec. 118. K.S.A. 2013 Supp. 39-7,138 is hereby amended to read as follows: 39-7,138. The following definitions shall apply in any IV-D administrative proceeding related to K.S.A. 39-7,137 through 39-7,152, and amendments thereto, except where the context requires otherwise.

(a) “Account” means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money-market mutual fund account.

(b) “Arrearages” means past due support under any support order of any tribunal of this or any other state, including but not limited to the unpaid balance of any costs awarded, public assistance debt or accrued interest.

(c) “Business day” means a day on which state offices in Kansas are open for regular business.

(d) “Cash asset” means any intangible property that consistently maintains a fair market value of one dollar per unit. It shall be presumed that any account held by a financial institution and from which the obligor may make cash withdrawals, with or without penalty, consists entirely of cash assets.

(e) “Current support” includes but is not limited to the duty to provide for a child’s ongoing medical needs through cash, insurance coverage or other means. “Current support” does not include any periodic amount specified to defray arrearages.

(f) “Custodial parent” means the parent or other person receiving IV-D services on the child’s behalf and may include an agency acting in loco parentis, a guardian, or a blood or adoptive relative with whom the child resides.

(g) “Duty of support” means any duty to support another person that is imposed or imposable by law or by any order, decree or judgment of any tribunal, whether interlocutory or final or whether incidental to a proceeding for divorce, judicial separation, separate maintenance or otherwise, including but not limited to the duty to provide current support, the duty to provide medical support, the duty to pay birth expenses, the duty to pay a public assistance debt and the duty to pay arrearages.

(h) “Financial institution” means any financial institution as defined in 469A of the federal social security act, 42 U.S.C. § 469A, and amendments thereto.

(i) “Holder” means any person who is or may be in possession or control of any cash asset of the responsible parent.

(j) “IV-D” or “title IV-D” means part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto, as in effect on May 1, 1997. “IV-D services” means those services the secretary provides pursuant to title IV-D.

(k) “Party” means the secretary, the responsible parent, the custodial parent or the child or any assignee or other successor in interest to any of them.

(l) “Public assistance debt” means the obligation to reimburse public assistance as described in K.S.A. 39-718b or 39-719, and amendments thereto, or in any similar law of this or any other state.

(m) “Responsible parent” means, if a child is receiving or has received IV-D services from the secretary, the mother, father or alleged father of the child.

(n) “Secretary” means the secretary of ~~social and rehabilitation services~~ *for children and families* or a designee of the secretary.

(o) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term “state” includes an Indian tribe and includes any jurisdiction declared a foreign reciprocating country by the United States secretary of state and any foreign jurisdiction that has established procedures for issuance and enforcement of child support orders which are substantially similar to the procedures of this state. It shall be presumed that a foreign jurisdiction which is the subject of an unrevoked declaration by the attorney general pursuant to K.S.A. 2013 Supp. 23-3601, and amendments thereto, is a state as defined in this subsection.

(p) “Support order” means any order by which a person’s duty of support is established, including but not limited to any order modifying a prior support order.

(q) “Tribunal” means any court, administrative agency or quasi-judicial entity authorized to establish, modify or enforce support orders or to determine parentage. With respect to support orders entered in this state, the courts are the tribunals in Kansas.

Sec. 119. K.S.A. 39-7,139 is hereby amended to read as follows: 39-7,139. (a) The powers and remedies provided in this section are cumulative and do not affect any other powers of the secretary or the availability of remedies under other law.

(b) In any case for which the secretary is providing IV-D services, the secretary, subject to de novo court review as provided in subsection (c), may:

- (1) Obtain access to information as authorized by law;
- (2) subpoena records pursuant to K.S.A. 39-7,144, and amendments thereto;
- (3) order genetic tests pursuant to K.S.A. 39-7,145, and amendments thereto;
- (4) order minimum payments to defray arrearages pursuant to K.S.A. 39-7,146, and amendments thereto;
- (5) enforce any duty of support by income withholding pursuant to the income withholding act and K.S.A. 39-7,147 et seq., and amendments thereto;
- (6) enforce any duty of support by administrative levy pursuant to K.S.A. 39-7,150, and amendments thereto;
- (7) perfect any lien against property;
- (8) order executions against property pursuant to K.S.A. 60-2401, and amendments thereto; and
- (9) change the payee of any support order pursuant to K.S.A. 39-7,151, and amendments thereto.

(c) In any action by the secretary pursuant to subsection (b), an aggrieved person has the right to file a petition with the district court pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, for de novo court review of such action by the secretary. An aggrieved person shall not be required to first exhaust administrative remedies that may be available to such person. If such person files a petition for de novo review and a request for an administrative hearing has already been docketed, such administrative hearing shall be stayed until the court

has reviewed and rendered a decision on such petition. The secretary ~~of social and rehabilitation services for children and families~~ shall be a necessary party to the action. In any action under this subsection, the court may grant relief that would have been available to the parties in an administrative hearing conducted pursuant to K.S.A. 75-3306, and amendments thereto.

(d) In any action by the secretary pursuant to subsection (b), the secretary shall give written notice to the party, clearly and conspicuously, of the right to a de novo court review pursuant to subsection (c).

(e) The secretary may designate employees of the secretary to serve as authorized agents to exercise powers of the secretary in IV-D administrative proceedings. By written contract, the secretary may designate other persons to serve as authorized agents to exercise specific powers of the secretary in IV-D cases.

Sec. 120. K.S.A. 2013 Supp. 39-7,151 is hereby amended to read as follows: 39-7,151. (a) Nothing in this section shall be construed to prevent the secretary from redirecting support payments by filing a notice of assignment pursuant to K.S.A. 39-754, and amendments thereto, or to require the secretary to issue an order to change payee in lieu of filing such a notice of assignment.

(b) If a support order has been entered in any IV-D case, the secretary may enter an order to change the payee. The order may be directed to the clerk of court or any other payer under the support order and shall require payments to be made and disbursed as provided in the order to change payee until further notice. The order to change payee shall be served on the clerk of the court or other payer by only personal service or registered mail, return receipt requested. The secretary shall serve a copy of the order to change payee on the responsible parent and the custodial parent and, if the previous payee is a real party in interest, upon the previous payee by only personal service or registered mail, return receipt requested. An order to change payee may be entered pursuant to this section only if the payer is subject, or may be made subject, to the jurisdiction of the courts of this state. The jurisdiction of the secretary over the payer for purposes of this section shall commence when the payer is served with the order to change payee and shall continue so long as the order to change payee is in effect and has not been superseded.

(c) If an order to change payee is directed to any payer other than the clerk of court, a copy shall also be filed with the tribunal that issued the support order.

(d) If the underlying support order was entered or has been registered in this state, no order to change payee issued by any IV-D agency shall be effective to require any payer, other than a clerk of court, to send payments to any location other than to the clerk of court where the support order was entered or registered, a location specified in the support order or a location specified by court rule. If the clerk of court receives an order to change payee from anyone other than the secretary and a notice of assignment pursuant to K.S.A. 39-754, and amendments thereto, or a conflicting order to change payee is still in effect, the clerk of court may at any time request an administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, by complying with procedures established by the secretary.

(e) If the underlying support order was not entered and has not been registered in this state, any person whose interest may be prejudiced by the order to change payee may request: (1) An administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, by complying with procedures established by the secretary within 10 days after entry of the order being contested; or (2) a de novo court review pursuant to K.S.A. 39-7,139, and amendments thereto. If the order is served on the person by mail, the person's time for requesting review shall be extended by three days.

(f) An order to change payee issued by a IV-D agency in another state shall have the same force and effect in this state, and be subject to the same limitations, as an order to change payee issued by the secretary under this section. Upon request of a IV-D agency in another state, the secretary may enforce such an order to change payee as though it had been issued by the secretary ~~of social and rehabilitation services for children and families~~. By serving an order to change payee related to a sup-

port order entered in this state, such IV-D agency shall be deemed to have consented to the jurisdiction of this state to determine how payments will be directed to maintain accurate payment records and rapid disbursement of support collections.

(g) As used in this section, “clerk of court” includes any district court trustee generally designated to process support payments and includes any disbursement unit or entity that may be established by court rule to process support payments.

(h) In an administrative hearing pursuant to K.S.A. 75-3306, and amendments thereto, the effect of an order to change payee may be stayed only upon request and only if the new payee is a person or entity other than the clerk of the court.

(i) An order issued pursuant to this section whose effect has not been stayed may be enforced pursuant to the civil enforcement provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, after the time for compliance with the order has expired.

Sec. 121. K.S.A. 2013 Supp. 39-7,155 is hereby amended to read as follows: 39-7,155. (a) The secretary of revenue shall restrict a person’s driving privileges pursuant to K.S.A. 8-255, and amendments thereto, upon request of the secretary of social and rehabilitation services for children and families if the secretary of social and rehabilitation services for children and families certifies, as provided in this section, that the person owes past due support or has failed to comply with a warrant or subpoena in a title IV-D case. The secretary of social and rehabilitation services for children and families shall provide the secretary of revenue identifying information about each person so certified. When this section requires the division to place restrictions on a person’s driving privileges, the division shall restrict the person’s driving privileges only under the circumstances provided by subsections (a)(1), (a)(2), (a)(3) and (a)(4) of K.S.A. 8-292, and amendments thereto.

(b) A restriction of driving privileges under this section shall continue until the secretary of social and rehabilitation services for children and families decertifies the person and the person meets requirements for receiving a driver’s license.

(c) The secretary of social and rehabilitation services for children and families is authorized to certify a person to the secretary of revenue for restriction of the person’s driving privileges if:

(1) The person owes past due support in a title IV-D case equal to or greater than \$500 or has failed, after appropriate notice, to comply with an outstanding warrant or subpoena directed to the person in a title IV-D case; and

(2) at least 30 days have elapsed from the date written notice of the proposed certification was mailed to the person and no timely request for review has been made or such review has been resolved in favor of the secretary of social and rehabilitation services for children and families.

(d) The secretary of social and rehabilitation services for children and families shall mail to the person a notice of the proposed certification to restrict driving privileges by certified mail, return receipt requested, addressed to the person at the person’s last known address. The notice shall describe the basis of the proposed certification, compliance actions that the person may take to prevent certification, how the person may request a fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, the time frame the person shall meet to prevent certification, how the person may be decertified once certification occurs and how the person may obtain additional information.

(e) If, within the time frame stated in the notice, the person demonstrates to the secretary of social and rehabilitation services for children and families that the person has met applicable requirements of subsection (a) of K.S.A. 2013 Supp. 39-7,156, and amendments thereto, the secretary shall not certify the person under this section so long as the person remains in compliance. Nothing in this subsection shall be construed to prevent the secretary from issuing a new notice of proposed certification if the person ceases to be in compliance, owes past due support equal to or greater than \$500 in a different title IV-D case or fails to comply with a different warrant or subpoena in a title IV-D case.

(f) If a timely request for fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, is made, certification by the secretary of social



~~and rehabilitation services for children and families~~ shall be stayed pending resolution of the fair hearing.

(g) As used in this section, “title IV-D case” means a case being administered by the secretary ~~of social and rehabilitation services for children and families~~ pursuant to part D of title IV of the federal social security act ~~(, 42 U.S.C. § 651 et seq.)~~.

Sec. 122. K.S.A. 2013 Supp. 39-7,156 is hereby amended to read as follows: 39-7,156.(a) A person may prevent certification pursuant to subsection (e) of K.S.A. 2013 Supp. 39-7,155, and amendments thereto, or may request decertification if:

- (1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearage is owed;
- (2) an income withholding order in the case has been served upon the person’s current employer or payor;
- (3) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearage, together with receipt of the first minimum payment; or
- (4) the person has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn.

(b) The burden of showing that the applicable requirements of subsection (a) have been met shall be upon the person seeking to prevent certification or to be decertified. If the secretary ~~of social and rehabilitation services for children and families~~ is satisfied that the person has met the necessary requirements and the person has been certified pursuant to K.S.A. 2013 Supp. 39-7,155, and amendments thereto, the secretary shall decertify the person immediately.

Sec. 123. K.S.A. 2013 Supp. 39-7,157 is hereby amended to read as follows: 39-7,157. If a person previously certified pursuant to K.S.A. 2013 Supp. 39-7,155, and amendments thereto, is decertified by the secretary ~~of social and rehabilitation services for children and families~~, the secretary of revenue shall immediately terminate any proceedings under K.S.A. 2013 Supp. 39-7,155, and amendments thereto, and, if the person’s driving privileges have been restricted, may issue a driver’s license to the person if the person meets requirements to receive a license. Nothing in this section shall be construed to prevent or stay any proceeding by the secretary of revenue to suspend, revoke or restrict the person’s driving privileges on any other grounds.

Sec. 124. K.S.A. 2013 Supp. 39-7,158 is hereby amended to read as follows: 39-7,158. (a) The secretary ~~of social and rehabilitation services for children and families~~ and the secretary of revenue may enter into an agreement for administering the provisions of K.S.A. 2013 Supp. 39-7,155 through 39-7,157, and amendments thereto, including time frames for implementation.

(b) The secretary ~~of social and rehabilitation services for children and families~~ and the secretary of revenue may each adopt rules and regulations necessary to carry out the provisions of K.S.A. 2013 Supp. 39-7,155 through 39-7,157, and amendments thereto.

Sec. 125. K.S.A. 2013 Supp. 39-7,159 is hereby amended to read as follows: 39-7,159. (a) In the state of Kansas, long-term care services, including home and community based services, shall be provided through a comprehensive and coordinated system throughout the state.

- (b) The system shall:
- (1) Emphasize a delivery concept of self-direction, individual choice, home and community settings and privacy;
  - (2) ensure transparency, accountability, safety and high quality services;
  - (3) increase expedited eligibility determination;
  - (4) provide timely services;
  - (5) utilize informal services; and
  - (6) ensure the moneys follow the person into the community.

(c) All persons receiving services pursuant to this section shall be offered the appropriate services which are determined to be in aggregate the most economical available with regard to state general fund expenditures. For those persons moving from a nursing facility to the home and community based services, the nursing facility reimbursement shall follow the person into the community.

(d) ~~The department on aging~~ *Kansas department for aging and dis-*

ability services, the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and the department of health and environment shall design and implement the system, in consultation with stakeholders and advocates related to long-term care services.

(e) The ~~department on aging~~ *Kansas department for aging and disability services* and the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, in consultation with the department of health and environment, shall submit an annual report on the long-term care system to the governor and the legislature annually, during the first week of the regular session.

Sec. 126. K.S.A. 2013 Supp. 39-924 is hereby amended to read as follows: 39-924. The purpose of this act is the development, establishment, and enforcement of standards: (1) For the care, treatment, health, safety, welfare and comfort of individuals in adult care homes licensed by the secretary ~~of aging~~ *for aging and disability services*; and (2) for the construction, general hygiene, maintenance and operation of said adult care homes, which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of such individuals in adult care homes.

Sec. 127. K.S.A. 2013 Supp. 39-926 is hereby amended to read as follows: 39-926. It shall be unlawful for any person or persons acting jointly or severally to operate an adult care home within this state except upon license first had and obtained for that purpose from the secretary ~~of aging~~ *for aging and disability services* as the licensing agency upon application made therefor as provided in this act, and compliance with the requirements, standards, rules and regulations, promulgated under its provisions.

Sec. 128. K.S.A. 2013 Supp. 39-930 is hereby amended to read as follows: 39-930. (a) The fee for license to operate an adult care home shall be a base amount plus an additional amount for each bed of such home which shall be paid to the secretary ~~of aging~~ *for aging and disability services* before the license is issued. The fee shall be fixed by rules and regulations of the secretary ~~of aging~~ *for aging and disability services*. The amount received for the license fee shall be deposited in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the state licensure fee fund, which is hereby created in the state treasury and which shall be administered by the ~~department on aging~~ *Kansas department for aging and disability services*.

(b) If the evaluation and inspection was made by a county, city-county or multicounty health department at the direction of the secretary ~~of aging~~ *for aging and disability services* and the papers required are completed and filed with the secretary, then the amount equal to 40% of the fee collected shall be paid to such county, city-county or multicounty health department. If a facility has a change of administrator after the commencement of the licensing period, the fee shall be \$15 and shall be deposited in the state treasury and credited to the state licensure fee fund.

(c) All expenditures from the state licensure fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary ~~of aging~~ *for aging and disability services* or by the secretary's designee.

Sec. 129. K.S.A. 2013 Supp. 39-935 is hereby amended to read as follows: 39-935. (a) Inspections shall be made and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the county, city-county and multicounty health departments as often and in the manner and form prescribed by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any adult care home at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act, and failure to provide such access shall constitute grounds for denial or revocation of license. A copy of any inspection reports required by this section shall be furnished to the applicant, except that a copy of the preliminary inspection report signed jointly by a representative of the adult care home and the inspector shall be left with the applicant when an inspection under this section is completed. This preliminary inspection report shall constitute the final record of deficiencies assessed against the adult care home during the

inspection, all deficiencies shall be specifically listed and no additional deficiencies based upon the data developed at that time shall be assessed at a later time. An exit interview shall be conducted in conjunction with the joint signing of the preliminary inspection report.

(b) The authorized agents and representatives of the licensing agency shall conduct at least one unannounced inspection of each adult care home within 15 months of any previous inspection for the purpose of determining whether the adult care home is complying with applicable statutes and rules and regulations relating to the health and safety of the residents of the adult care home. The statewide average interval between inspections shall not exceed 12 months.

(c) Every adult care home shall post in a conspicuous place a notice indicating that the most recent inspection report and related documents may be examined in the office of the administrator of the adult care home. Upon request, every adult care home shall provide to any person a copy of the most recent inspection report and related documents, provided the person requesting such report agrees to pay a reasonable charge to cover copying costs.

(d) Each nursing facility that provides skilled nursing care, nursing facility for mental health that provides skilled nursing care or assisted living facility may establish and maintain a risk management program which shall consist of: (1) A system for investigation and analysis of the frequency and causes of reportable incidents within the facility; (2) measures to minimize the occurrence of reportable incidents and the resulting injuries within the facility; and (3) a reporting system based upon the duty of all health care providers staffing the facility and all agents and employees of the facility directly involved in the delivery of health care services to report reportable incidents to the chief of the medical staff, chief administrative officer or risk manager of the facility. Any reports and records reviewed, obtained or prepared by the ~~department on aging~~ *Kansas department for aging and disability services* in connection with any reportable incidents referred for investigation under such risk management program, including any reports and records reflecting the results of an inspection or survey under this chapter or in accordance with the regulations, guidelines and procedures issued by the United States secretary of health and human services under Titles XVIII and XIX of the “Social Security Act,” 49 Stat. 620 (1935), 42 U.S.C. § 301, as amended, shall not be admissible in any civil action under the laws of the state of Kansas unless the court determines on the record, following a hearing outside the presence of the jury, that the proffered evidence excerpted from any report, record, inspection or survey is relevant and substantially related to the plaintiff’s allegations and otherwise admissible under the rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes Annotated, and amendments thereto. This subsection shall not be construed to limit or impair a person’s or entity’s discovery of or access to any such report, record, inspection or survey under state or federal law; limit or impair the authority of the ~~department on aging~~ *Kansas department for aging and disability services* to investigate complaints or reportable incidents under state or federal law; or diminish or expand the department on aging’s discovery of or access to quality assessment and assurance committee records under state or federal law.

Sec. 130. K.S.A. 2013 Supp. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident’s file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and regulations prescribing the number, qualifica-

tions, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which has been granted an exception by the ~~secretary of aging for aging and disability services~~ upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the ~~secretary of health and environment for aging and disability services~~ or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the ~~secretary of health and environment for aging and disability services~~ shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the ~~secretary of health and environment for aging and disability services~~. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the ~~secretary of health and environment for aging and disability services~~ under subsection (c)(2). Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to people with intellectual disability which has been granted an exception by the ~~secretary of health and environment for aging and disability services~~ upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents and who do not meet the definition of paid nutrition ~~assistance~~ *assistant* under paragraph (a)(27) of K.S.A. 39-923, and amendments thereto, after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the ~~secretary of health and environment for aging and disability services~~ shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the ~~secretary of health and environment for aging and disability services~~, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the ~~secretary of health and environment for aging and disability services~~ to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

(3) The ~~secretary of health and environment for aging and disability services~~ shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection (c). The fee shall be

fixed by rules and regulations of the secretary of ~~health and environment~~ *for aging and disability services*. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(4) The secretary of ~~health and environment~~ *for aging and disability services* shall establish a state registry containing information about unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) No adult care home shall use an individual as an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents to complete an approved refresher course. The secretary of ~~health and environment~~ *for aging and disability services* shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as an unlicensed employee of an adult care home in another state may be so employed in this state without an examination if the secretary of ~~health and environment~~ *for aging and disability services* determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under the laws of this state and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

Sec. 131. K.S.A. 2013 Supp. 39-938 is hereby amended to read as follows: 39-938. Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary of ~~aging~~ *for aging and disability services* and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents. The administrative rules and regulations of the state board of cosmetology and of the Kansas board of barbering shall not apply to adult care homes.

Sec. 132. K.S.A. 2013 Supp. 39-940 is hereby amended to read as follows: 39-940. (a) The secretary of ~~aging~~ *for aging and disability services* may prescribe and supply necessary forms for applications, reports, records and inspections for adult care homes. All prescribed records shall

be open to inspection by the designated agents of the agencies administering this act.

- (b) It shall be unlawful to:
- (1) Make false entries in such records;
  - (2) omit any information required or make any false report concerning any adult care home; or
  - (3) file or cause to be filed such false or incomplete records or reports with the ~~department on aging~~ *Kansas department for aging and disability services* or with any agency administering this act, knowing that such records or reports are false or incomplete.

Sec. 133. K.S.A. 2013 Supp. 39-944 is hereby amended to read as follows: 39-944. Notwithstanding the existence or pursuit of any other remedy, the secretary ~~of aging~~ *for aging and disability services*, as the licensing agency, in the manner provided by the Kansas judicial review act, may maintain an action in the name of the state of Kansas for injunction or other process against any person or agency to restrain or prevent the operation of an adult care home without a license under this act.

Sec. 134. K.S.A. 2013 Supp. 39-945 is hereby amended to read as follows: 39-945. A correction order may be issued by the secretary ~~of aging~~ *for aging and disability services* or the secretary's designee to a person licensed to operate an adult care home whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary ~~of aging~~ *for aging and disability services* inspects or investigates an adult care home and determines that the adult care home is not in compliance with the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated or rules and regulations promulgated thereunder which individually or jointly affects significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the specific deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and shall specify the time allowed for correction.

Sec. 135. K.S.A. 2013 Supp. 39-946 is hereby amended to read as follows: 39-946. (a) If upon reinspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary ~~of aging~~ *for aging and disability services*, which reinspection shall be conducted within 14 days from the day the correction order is served upon the licensee, it is found that the licensee of the adult care home which was issued a correction order has not corrected the deficiency or deficiencies specified in the order, the secretary ~~of aging~~ *for aging and disability services* may assess a civil penalty in an amount not to exceed \$500 per day per deficiency against the licensee of an adult care home for each day subsequent to the day following the time allowed for correction of the deficiency as specified in the correction order that the adult care home has not corrected the deficiency or deficiencies listed in the correction order, but the maximum assessment shall not exceed \$2,500. A written notice of assessment shall be served upon the licensee of an adult care home either personally or by certified mail, return receipt requested.

(b) Before the assessment of a civil penalty, the secretary ~~of aging~~ *for aging and disability services* shall consider the following factors in determining the amount of the civil penalty to be assessed: (1) The severity of the violation; (2) the good faith effort exercised by the adult care home to correct the violation; and (3) the history of compliance of the ownership of the adult care home with the rules and regulations. If the secretary ~~of aging~~ *for aging and disability services* finds that some or all deficiencies cited in the correction order have also been cited against the adult care home as a result of any inspection or investigation which occurred within 18 months prior to the inspection or investigation which resulted in such correction order, the secretary ~~of aging~~ *for aging and disability services* may double the civil penalty assessed against the licensee of the adult care home, the maximum not to exceed \$5,000.

(c) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the licensee, unless a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary ~~of aging~~ *for aging and*

*disability services* may file a certified copy of the notice of assessment with the clerk of the district court in the county where the adult care home is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

Sec. 136. K.S.A. 2013 Supp. 39-947 is hereby amended to read as follows: 39-947. Any licensee against whom a civil penalty has been assessed under K.S.A. 39-946, and amendments thereto, may appeal such assessment within 10 days after receiving a written notice of assessment by filing with the secretary of aging for aging and disability services written notice of appeal specifying why such civil penalty should not be assessed. Such appeal shall not operate to stay the payment of the civil penalty. Upon receipt of the notice of appeal, the secretary of aging for aging and disability services shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. If the secretary of aging for aging and disability services sustains the appeal, any civil penalties collected shall be refunded forthwith to the appellant licensee with interest at the rate established by K.S.A. 16-204, and amendments thereto, from the date of payment of the civil penalties to the secretary of aging for aging and disability services. If the secretary of aging for aging and disability services denies the appeal and no appeal from the secretary is taken to the district court in accordance with the provisions of the Kansas judicial review act, the secretary of aging for aging and disability services shall dispose of any civil penalties collected as provided in K.S.A. 39-949, and amendments thereto.

Sec. 137. K.S.A. 2013 Supp. 39-947a is hereby amended to read as follows: 39-947a. (a) Upon receipt of a statement of deficiencies, an adult care home administrator may within 10 calendar days after receipt of a statement make a written request to the secretary of aging for aging and disability services for informal dispute resolution by an independent review panel. The administrator may make one request for informal dispute resolution per inspection to dispute any deficiencies with which such administrator disagrees. The informal dispute resolution may be based upon the statement of deficiencies and any other materials submitted; however, the department shall provide the administrator with a face to face informal dispute resolution meeting upon request by the administrator.

(b) A written request for informal dispute resolution shall:

- (1) State the specific deficiencies being disputed;
- (2) provide a detailed explanation of the basis for the dispute; and
- (3) include any supporting documentation, including any information that was not available at the time of the inspection.

(c) Upon receipt of the written request provided for in subsection (a), the secretary of aging for aging and disability services shall appoint a panel of three persons to compose the independent review panel. One member shall be an employee from the department on aging Kansas department for aging and disability services adult care home survey unit, provided that the individual did not participate in the survey in dispute. Two members shall be appointed from outside of the survey unit and may be employees of the department on aging Kansas department for aging and disability services, or a health care professional or consumer not employed by the department on aging Kansas department for aging and disability services.

(d) A request for informal dispute resolution shall not delay the timely correction of any deficiency. A facility may not seek a delay of any enforcement action against it on the grounds that the informal dispute resolution has not been completed before the effective date of the enforcement action. Any decision or proposed resolution of the independent review panel shall be advisory to the secretary of aging.

(e) Costs of the panel including traveling expenses and other expenses of the review shall be paid by the department on aging Kansas department for aging and disability services.

(f) The secretary of aging for aging and disability services shall by rules and regulations implement the provisions of this section.

(g) This act shall be a part of and supplemental to the adult care home licensure act.

Sec. 138. K.S.A. 2013 Supp. 39-948 is hereby amended to read as follows: 39-948. (a) A licensee may appeal to the district court from a decision of the secretary of aging for aging and disability services under

K.S.A. 39-947, and amendments thereto. The appeal shall be tried in accordance with the provisions of the Kansas judicial review act.

(b) An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty. If the court sustains the appeal, the secretary of ~~aging for aging and disability services~~ shall refund forthwith the payment of any civil penalties to the licensee with interest at the rate established by K.S.A. 16-204, and amendments thereto, from the date of payment of the civil penalties to the secretary. If the court denies the appeal, the secretary of ~~aging for aging and disability services~~ shall dispose of any civil penalties collected as provided in K.S.A. 39-949, and amendments thereto.

Sec. 139. K.S.A. 2013 Supp. 39-950 is hereby amended to read as follows: 39-950. The secretary of ~~aging for aging and disability services~~ may adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 140. K.S.A. 2013 Supp. 39-951 is hereby amended to read as follows: 39-951. The authority granted to the secretary of ~~aging for aging and disability services~~ under this act is in addition to other statutory authority the secretary of ~~aging for aging and disability services~~ has to require the licensing and operation of adult care homes and is not to be construed to limit any of the powers and duties of the secretary of ~~aging for aging and disability services~~ under article 9 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*.

Sec. 141. K.S.A. 2013 Supp. 39-952 is hereby amended to read as follows: 39-952. The secretary of ~~aging for aging and disability services~~ or the secretary's designee shall not issue a correction order to a person licensed to operate an adult care home because of a violation of a provision of article 9 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, or a rule and regulation adopted thereunder which was caused by any person licensed by the state board of healing arts to practice a branch of the healing arts if such person licensed by the state board of healing arts is not an owner, operator or employee of the adult care home and if the person licensed to operate the adult care home shows that such person has exercised reasonable diligence in notifying the person licensed by the state board of healing arts to practice a branch of the healing arts of such person's duty to the residents of the adult care home.

Sec. 142. K.S.A. 2013 Supp. 39-953a is hereby amended to read as follows: 39-953a. (a) At any time the secretary of ~~aging for aging and disability services~~ initiates any action concerning an adult care home in which it is alleged that there has been a substantial failure to comply with the requirements, standards or rules and regulations established under the adult care home licensure act, that conditions exist in the adult care home which are life threatening or endangering to the residents of the adult care home, that the adult care home is insolvent, or that the adult care home has deficiencies which significantly and adversely affect the health, safety, nutrition or sanitation of the adult care home residents, the secretary of ~~aging for aging and disability services~~ may issue an order, pursuant to the emergency proceedings provided for under the Kansas administrative procedure act, prohibiting any new admissions into the adult care home until further determination by the secretary of ~~aging for aging and disability services~~. This remedy granted to the secretary of ~~aging for aging and disability services~~ is in addition to any other statutory authority the secretary of ~~aging for aging and disability services~~ has relating to the licensure and operation of adult care homes and is not to be construed to limit any of the powers and duties of the secretary of ~~aging for aging and disability services~~ under the adult care home licensure act.

(b) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 143. K.S.A. 2013 Supp. 39-954 is hereby amended to read as follows: 39-954. (a) The secretary of ~~aging for aging and disability services~~, the owner of an adult care home, or the person licensed to operate an adult care home may file an application with the district court for an order appointing the secretary of ~~aging for aging and disability services~~ or the designee of the secretary as receiver to operate an adult care home whenever: (1) Conditions exist in the adult care home that are life threatening or endangering to the residents of the adult care home; (2) the



adult care home is insolvent; or (3) the secretary ~~of aging~~ *for aging and disability services* has issued an order revoking the license of the adult care home.

(b) The secretary ~~of aging~~ *for aging and disability services* may adopt rules and regulations setting forth the necessary qualifications of persons to be designated receivers and a method for selecting designees.

Sec. 144. K.S.A. 2013 Supp. 39-958 is hereby amended to read as follows: 39-958. (a) The application for receivership shall be given priority by the district court and shall be heard no later than the seventh day following the filing of the application. A continuance of no more than 10 days may be granted by the district court for good cause. The district court shall give all parties who have filed an answer the opportunity to present evidence pertaining to the application. If the district court finds that the facts warrant the granting of the application, the court shall appoint the secretary ~~of aging~~ *for aging and disability services* or the designee of the secretary as receiver to operate the home.

(b) Upon the appointment of a receiver under this section, the receiver shall be granted a license by the licensing agency to operate an adult care home as provided under the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated, and ~~acts amending the provisions thereof or acts supplemental amendments~~ *thereof*. The provisions of article 9 of chapter 39 of the Kansas Statutes Annotated, and ~~acts amending the provisions thereof and acts supplemental amendments~~ *thereof*, relating to inspection prior to granting a license to operate an adult care home and relating to payment of license fees shall not apply to a license granted to a receiver under this section, and such license shall remain in effect during the existence of the receivership and shall expire on the termination of the receivership. The receiver shall make application for the license on forms provided for this purpose by the licensing agency.

Sec. 145. K.S.A. 39-960 is hereby amended to read as follows: 39-960. The secretary ~~of social and rehabilitation~~ *for aging and disability services*, upon request of a receiver, may authorize expenditures from moneys appropriated for purposes set forth in this act if incoming payments from the operation of the adult care home are less than the cost incurred by the receiver in the performance of the receiver's functions as receiver or for purposes of initial operating expenses of the receivership. Any payments made by the secretary ~~of social and rehabilitation~~ *for aging and disability services* pursuant to this section shall be owed by the owner or licensee and repaid to the secretary ~~of social and rehabilitation~~ *for aging and disability services* when the receivership is terminated pursuant to K.S.A. 39-963, and amendments thereto, and until repaid shall constitute a lien against all non-exempt personal and real property of the owner or licensee.

Sec. 146. K.S.A. 2013 Supp. 39-961 is hereby amended to read as follows: 39-961. (a) The personnel and facilities of the ~~department on aging~~ *Kansas department for aging and disability services* shall be available to the receiver for the purposes of carrying out the receiver's duties as receiver as authorized by the secretary ~~of aging~~ *for aging and disability services*.

(b) The ~~department on aging~~ *Kansas department for aging and disability services* shall itemize and keep a ledger showing costs of personnel and other expenses establishing the receivership and assisting the receiver and such amount shall be owed by the owner or licensee to the ~~department on aging~~ *Kansas department for aging and disability services*. Such department shall submit a bill for such expenses to the receiver for inclusion in the receiver's final accounting. Any amount so billed and until repaid shall constitute a lien against all nonexempt personal and real property of the owner or licensee.

Sec. 147. K.S.A. 2013 Supp. 39-963 is hereby amended to read as follows: 39-963. (a) The court shall terminate the receivership only under any of the following circumstances:

- (1) Twenty-four months after the date on which the receivership was ordered;
- (2) a new license, other than the license granted to the receiver under K.S.A. 39-958, and amendments thereto, has been granted to operate the adult care home; or
- (3) at such time as all of the residents in the adult care home have

been provided alternative modes of health care, either in another adult care home or otherwise.

(b) (1) At the time of termination of the receivership, the receiver shall render a full and complete accounting to the district court and shall make disposition of surplus money at the direction of the district court.

(2) The court may make such additional orders as are appropriate to recover the expenses and costs to the ~~department on aging~~ *Kansas department for aging and disability services* and the secretary of ~~social and rehabilitation services for children and families~~ incurred pursuant to K.S.A. 39-960 or 39-961, and amendments thereto.

Sec. 148. K.S.A. 2013 Supp. 39-965 is hereby amended to read as follows: 39-965. (a) If the secretary of ~~aging~~ *aging for aging and disability services* determines that an adult care home is in violation of or has violated any requirements, standards or rules and regulations established under the adult care home licensure act which violation can reasonably be determined to have resulted in, caused or posed serious physical harm to a resident, the secretary of ~~aging~~ *aging for aging and disability services* in accordance with proceedings under the Kansas administrative procedure act, may assess a civil penalty against the licensee of such adult care home in an amount of not to exceed \$1,000 per day per violation for each day the secretary finds that the adult care home was not in compliance with such requirements, standards or rules and regulations but the maximum assessment shall not exceed \$10,000.

(b) All civil penalties assessed shall be due and payable in accordance with subsection (c) of K.S.A. 39-946 and K.S.A. 39-947, and amendments thereto.

(c) The secretary of ~~aging~~ *aging for aging and disability services* may adopt rules and regulations which shall include due process procedures for the issuance of civil penalties relating to nursing facilities.

(d) The authority to assess civil penalties granted to the secretary of ~~aging~~ *aging for aging and disability services* under this section is in addition to any other statutory authority of the secretary relating to the licensure and operation of adult care homes and is not to be construed to limit any of the powers and duties of the secretary of ~~aging~~ *aging for aging and disability services* under the adult care home licensure act.

(e) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 149. K.S.A. 2013 Supp. 39-968 is hereby amended to read as follows: 39-968. (a) To achieve a quality of life for Kansans with long-term care needs in an environment of choice that maximizes independent living capabilities and recognizes diversity, this act establishes a program which is intended to encourage a wide array of quality, cost-effective and affordable long-term care choices. This program shall be known as client assessment, referral and evaluation (CARE). The purposes of CARE is for data collection and individual assessment and referral to community-based services and appropriate placement in long-term care facilities.

(b) As used in this section:

(1) “Assessment services” means evaluation of an individual’s health and functional status to determine the need for long-term care services and to identify appropriate service options which meet these needs utilizing the client assessment, referral and evaluation (CARE) form.

(2) “Health care data governing board” means the board abolished by K.S.A. 65-6803, and amendments thereto.

(3) “Medical care facility” shall have the meaning ascribed to such term under K.S.A. 65-425, and amendments thereto.

(4) “Nursing facility” shall have the meaning ascribed to such term under K.S.A. 39-923, and amendments thereto.

(5) “Secretary” means the secretary of ~~aging~~ *aging for aging and disability services*.

(c) There is hereby established the client assessment, referral and evaluation (CARE) program. The CARE program shall be administered by the secretary of ~~aging~~ *aging for aging and disability services* and shall be implemented on a phased-in basis in accordance with the provisions of this section.

(d) All rules and regulations adopted by the health care data governing board relating to client assessment, referral and evaluation (CARE) data entry form shall be deemed to be the rules and regulations of the

department of health and environment until revised, revoked or nullified pursuant to law. The purpose of this form is for data collection and referral services. Such form shall be concise and questions shall be limited to those necessary to carry out the stated purposes. The client assessment, referral and evaluation (CARE) data entry form shall include, but not be limited to, the preadmission screening and annual resident review (PASARR) questions. Prior to the adoption of the client assessment, referral and evaluation (CARE) data entry form by the health care data governing board, the secretary of ~~aging for aging and disability services~~ shall approve the form. The client assessment, referral and evaluation (CARE) data entry form shall be used by all persons providing assessment services.

(e) (1) Each individual prior to admission to a nursing facility as a resident of the facility shall receive assessment services to be provided by the secretary of ~~aging for aging and disability services~~, with the assistance of area agencies on aging, except: (A) Such assessment services shall be provided by a medical care facility to a patient of the medical care facility who is considering becoming a resident of a nursing facility upon discharge from the medical care facility; and (B) as authorized by rules and regulations adopted by the secretary of ~~aging for aging and disability services~~ pursuant to subsection (i).

(2) The provisions of this subsection (e) shall not apply to any individual exempted from preadmission screening and annual resident review under 42 code of federal regulations 483.106.

(f) The secretary of ~~aging for aging and disability services~~ shall cooperate with the area agencies on aging providing assessment services under this section.

(g) The secretary of ~~aging for aging and disability services~~ shall assure that each area agency on aging shall compile comprehensive resource information for use by individuals and agencies related to long-term care resources including all area offices of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and local health departments. This information shall include, but not be limited to, resources available to assist persons to choose alternatives to institutional care.

(h) Nursing facilities and medical care facilities shall make available information referenced in subsection (g) to each person seeking admission or upon discharge as appropriate. Any person licensed to practice the healing arts as defined in K.S.A. 65-2802, and amendments thereto, shall make the same resource information available to any person identified as seeking or needing long-term care. Each senior center and each area agency on aging shall make available such information.

(i) The secretary shall adopt rules and regulations to govern such matters as the secretary deems necessary for the administration of this act.

(j) (1) There is hereby established an eleven-member voluntary oversight council which shall meet monthly for the purpose of assisting the secretary of ~~aging for aging and disability services~~ in restructuring the assessment and referral program in a manner consistent with this act and shall meet quarterly thereafter for the purpose of monitoring and advising the secretary regarding the CARE program. The council shall be advisory only, except that the secretary of ~~aging for aging and disability services~~ shall file with the council each six months the secretary's response to council comments or recommendations.

(2) The secretary of ~~aging for aging and disability services~~ shall appoint two representatives of hospitals, two representatives of nursing facilities, two consumers and two representatives of providers of home and community-based services. The secretary of health and environment and the secretary of ~~social and rehabilitation services for children and families~~, or their ~~designee designees~~, shall be members of the council in addition to the eight appointed members. The secretary of ~~aging for aging and disability services~~ shall serve as chairperson of the council. The appointive members of the council shall serve at the pleasure of their appointing authority. Members of the voluntary oversight council shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings, or subcommittee meetings, of the council.

(k) The secretary of ~~aging for aging and disability services~~ shall report to the governor and to the legislature on or before December 31, 1995,

and each year thereafter on or before such date, an analysis of the information collected under this section. In addition, the ~~secretary of aging~~ *secretary for aging and disability services* shall provide data from the CARE data forms to the department of health and environment. Such data shall be provided in such a manner so as not to identify individuals.

Sec. 150. K.S.A. 2013 Supp. 39-969 is hereby amended to read as follows: 39-969. (a) ~~The secretary of health and environment~~ *secretary for aging and disability services* shall upon request receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of an operator.

(b) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 151. K.S.A. 2013 Supp. 39-970 is hereby amended to read as follows: 39-970. (a) (1) No person shall knowingly operate an adult care home if, in the adult care home, there works any person who has been convicted of or has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 2013 Supp. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 2013 Supp. 21-5402, and amendments thereto, second degree murder, pursuant to subsection (a) of K.S.A. 21-3402, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5403, and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 2013 Supp. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013 Supp. 21-5407, and amendments thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2013 Supp. 21-5417, and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5505, and amendments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, and amendments thereto, an attempt to commit any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2013 Supp. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection (a)(2)(C) shall not apply to any person who is employed by an adult care home on July 1, 2010, and while continuously employed by the same adult care home.

(2) A person operating an adult care home may employ an applicant who has been convicted of any of the following if five or more years have elapsed since the applicant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if five or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever

time is longer: A felony conviction for a crime which is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, except those crimes listed in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2013 Supp. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 2013 Supp. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

(b) No person shall operate an adult care home if such person has been found to be in need of a guardian or conservator, or both as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto. The provisions of this subsection shall not apply to a minor found to be in need of a guardian or conservator for reasons other than impairment.

(c) ~~The secretary of health and environment~~ *for aging and disability services* shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, concerning persons working in an adult care home. The secretary shall have access to these records for the purpose of determining whether or not the adult care home meets the requirements of this section. The Kansas bureau of investigation may charge to ~~the department of health and environment~~ *Kansas department for aging and disability services* a reasonable fee for providing criminal history record information under this subsection.

(d) For the purpose of complying with this section, the operator of an adult care home shall request from ~~the department of health and environment~~ *Kansas department for aging and disability services* information regarding any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, and which relates to a person who works in the adult care home, or is being considered for employment by the adult care home, for the purpose of determining whether such person is subject to the provision of this section. For the purpose of complying with this section, the operator of an adult care home shall receive from any employment agency which provides employees to work in the adult care home written certification that such employees are not prohibited from working in the adult care home under this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the ~~secretary of health and environment~~ *for aging and disability services* determines the search for such information could reasonably be performed and the information obtained within a two-week period. For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for employment on a

conditional basis pending the results from the ~~department of health and environment~~ *Kansas department for aging and disability services* of a request for information under this subsection. No adult care home, the operator or employees of an adult care home or an employment agency, or the operator or employees of an employment agency, shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such adult care home's compliance with the provisions of this section if such adult care home or employment agency acts in good faith to comply with this section.

(e) The secretary of ~~health and environment~~ *for aging and disability services* shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted to the department under this section.

(f) (1) The secretary of ~~health and environment~~ *for aging and disability services* shall provide each operator requesting information under this section with the criminal history record information concerning any criminal history information and convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary of ~~health and environment~~ *for aging and disability services* shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 2013 Supp. 38-2326, and amendments thereto, except for adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-5801, and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information and whether such information contains adjudications of a juvenile offender for an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-5801, and amendments thereto.

(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100.

(g) No person who works for an adult care home and who is currently licensed or registered by an agency of this state to provide professional services in the state and who provides such services as part of the work

which such person performs for the adult care home shall be subject to the provisions of this section.

(h) A person who volunteers in an adult care home shall not be subject to the provisions of this section because of such volunteer activity.

(i) An operator may request from the ~~department of health and environment~~ *Kansas department for aging and disability services* criminal history information on persons employed under subsections (g) and (h).

(j) No person who has been employed by the same adult care home since July 1, 1992, shall be subject to the provisions of this section while employed by such adult care home.

(k) The operator of an adult care home shall not be required under this section to conduct a background check on an applicant for employment with the adult care home if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the adult care home. The operator of an adult care home where the applicant was the subject of such background check may release a copy of such background check to the operator of an adult care home where the applicant is currently applying.

(l) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in nonpatient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.

(m) For purposes of this section, the Kansas bureau of investigation shall report any criminal history information, convictions under K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2013 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto, to the ~~secretary of health and environment~~ *for aging and disability services* when a background check is requested.

(n) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 152. K.S.A. 2013 Supp. 39-971 is hereby amended to read as follows: 39-971. (a) Notwithstanding any provision of law to the contrary, and within the limits of appropriations therefor, the ~~secretary of social and rehabilitation services~~ *health and environment* and the ~~secretary on aging~~ *for aging and disability services* shall establish a quality enhancement wage pass-through program as part of the state medicaid plan to allow nursing facilities electing to participate in such program a payment option of not to exceed \$4 per resident day designed to increase salaries or benefits, or both, for those employees providing direct care and support services to residents of nursing facilities. The categories of employees eligible to receive the wage pass-through are the following: Nurse aides, medication aides, restorative-rehabilitation aides, licensed mental health technicians, plant operating and maintenance personnel, nonsupervisory dietary personnel, laundry personnel, housekeeping personnel and non-supervisory activity staff. The program shall establish a pass-through wage payment system designed to reimburse facilities during the reimbursement period in which the pass-through wage payment costs are incurred.

(b) Nursing facilities shall have the option to elect to participate in the quality enhancement wage pass-through program. The wage pass-through moneys are to be paid to nursing facilities outside of cost center limits or occupancy penalties as a pass-through labor cost reimbursement. The pass-through cost shall be included in the cost report base.

(c) The quality enhancement wage pass-through program shall require quarterly wage audits for all nursing facilities participating in the program. The quarterly wage audits will require facilities to submit cost information within 45 days of the end of each quarter reporting on the use of the wage pass-through payment under the quality enhancement wage pass-through program. This quarterly wage audit process shall be used to assure that the wage pass-through payment was used to increase salaries and benefits to direct care and other support staff as specified in

this subsection or to hire additional staff that fall into the eligible personnel categories specified in this subsection.

(d) No wage pass-through moneys shall be expended to increase management compensation or facility profits. A nursing facility participating in the quality enhancement wage pass-through program which fails to file quarterly enhancement audit reports shall be terminated from the program and shall repay all amounts which the nursing facility has received under the quality enhancement wage pass-through program for that reporting period.

(e) All expenditures for the quality enhancement wage pass-through program shall be made only from moneys specifically appropriated therefor.

(f) As used in this section, “nursing facility” means a nursing facility as defined under K.S.A. 39-923, and amendments thereto, or an intermediate care facility for people with intellectual disability as defined under K.S.A. 39-923, and amendments thereto.

Sec. 153. K.S.A. 2013 Supp. 39-1002 is hereby amended to read as follows: 39-1002. The ~~secretary of social and rehabilitation services for children and families~~ hereinafter referred to as the secretary is hereby designated as the official of this state authorized to accept and disburse funds made available to the secretary for grants-in-aid to eligible local community organizations for day care programs for children with intellectual or other disabilities. The secretary is authorized to accept any moneys made available to the state by the federal government or any agency thereof and to accept and account for state appropriations, gifts and donations from any other sources.

Sec. 154. K.S.A. 2013 Supp. 39-1202 is hereby amended to read as follows: 39-1202. The ~~secretary of social and rehabilitation for aging and disability~~ services, hereinafter referred to as the secretary, is hereby designated as the official of this state authorized to accept and disburse funds made available to said secretary for grants in aid to eligible local community organizations for rehabilitation facilities and half-way houses for adults with intellectual and other disabilities. The secretary is authorized to accept any moneys made available to the state by the federal government or any agency thereof, and to accept and account for state appropriations, gifts and donations from any other sources.

Sec. 155. K.S.A. 39-1208 is hereby amended to read as follows: 39-1208. The ~~secretary of social and rehabilitation services for children and families~~, subject to appropriations made for such purposes by the legislature, is hereby authorized to enter into agreements with and to make grants-in-aid to organizations or institutions engaging in charitable and benevolent activities, with the purpose of developing employment for ~~the physically handicapped persons with physical disabilities~~ in Kansas, including ~~severely handicapped cerebral palsied adults~~ *adults with severe cerebral palsy*. Contracts entered into by the ~~secretary of social and rehabilitation services for children and families~~ may provide for the purchase of land, including improved property, construction or alteration of improvements thereon, and the purchase or lease of equipment required for operation of facilities for the use of disabled persons.

Sec. 156. K.S.A. 39-1209 is hereby amended to read as follows: 39-1209. If articles or products are purchased by a local governmental agency or a state agency from an institution or organization approved for a grant-in-aid under this act, the ~~secretary of social and rehabilitation services for children and families~~ may request waiver of competitive bid requirements and in the case of state agencies the director of purchases is authorized to waive such conditions if he determines that it would be in the public interest to negotiate at current supply prices. All such purchases by state agencies shall be made through the division of purchases of the state department of administration.

Sec. 157. K.S.A. 39-1302 is hereby amended to read as follows: 39-1302. The ~~secretary of social and rehabilitation services for children and families~~, referred to in this act as secretary, is hereby designated as the official agency of this state authorized to accept and disburse funds made available to the secretary or the commissioner of juvenile justice for grants-in-aid to eligible local community organizations for community based group boarding homes for children and youth or to eligible local community based services for children and youth. The secretary may ac-



cept any moneys made available to the state by the federal government or any agency thereof and accept and account for state appropriations, gifts and donations from any other sources.

Sec. 158. K.S.A. 2013 Supp. 39-1402 is hereby amended to read as follows: 39-1402. (a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, a chief administrative officer of a medical care facility, an adult care home administrator or operator, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a teacher, a bank trust officer and any other officers of financial institutions, a legal representative or a governmental assistance provider who has reasonable cause to believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services, shall report immediately such information or cause a report of such information to be made in any reasonable manner to the ~~department on aging~~ *Kansas department for aging and disability services* with respect to residents defined under subsection (a)(1) of K.S.A. 39-1401, and amendments thereto, to the department of health and environment with respect to residents defined under subsection (a)(2) of K.S.A. 39-1401, and amendments thereto, and to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and appropriate law enforcement agencies with respect to all other residents. Reports made to one department which are required by this subsection to be made to the other department shall be referred by the department to which the report is made to the appropriate department for that report, and any such report shall constitute compliance with this subsection. Reports shall be made during the normal working week days and hours of operation of such departments. Reports shall be made to law enforcement agencies during the time the departments are not open for business. Law enforcement agencies shall submit the report and appropriate information to the appropriate department on the first working day that such department is open for business. A report made pursuant to K.S.A. 65-4923 or 65-4924, and amendments thereto, shall be deemed a report under this section.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the resident, the name and address of the involved resident, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the resident, if known, and any other information which the person making the report believes might be helpful in an investigation of the case and the protection of the resident.

(c) Any other person, not listed in subsection (a), having reasonable cause to suspect or believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services may report such information to the ~~department on aging~~ *Kansas department for aging and disability services* with respect to residents defined under subsection (a)(1) of K.S.A. 39-1401, and amendments thereto, to the department of health and environment with respect to residents defined under subsection (a)(2) of K.S.A. 39-1401, and amendments thereto, and to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* with respect to all other residents. Reports made to one department which are to be made to the other department under this section shall be referred by the department to which the report is made to the appropriate department for that report.

(d) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult care home and medical care facility in this state.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report to be made shall be guilty of a class B misdemeanor.

Sec. 159. K.S.A. 2013 Supp. 39-1404 is hereby amended to read as

follows: 39-1404. (a) The department of health and environment or the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* upon receiving a report that a resident is being, or has been, abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services shall:

(1) When a criminal act has occurred or has appeared to have occurred, immediately notify, in writing, the appropriate law enforcement agency;

(2) make a personal visit with the involved resident:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved resident;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger; or

(C) within five working days for all reports of neglect or exploitation when the information from the reporter indicates no imminent danger.

(3) Complete, within 30 working days of receiving a report, a thorough investigation and evaluation to determine the situation relative to the condition of the involved resident and what action and services, if any, are required. The investigation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case; and

(4) prepare, upon a completion of the evaluation of each case, a written assessment which shall include an analysis of whether there is or has been abuse, neglect or exploitation; recommended action; a determination of whether protective services are needed; and any follow up.

(b) The department which investigates the report shall inform the complainant, upon request of the complainant, that an investigation has been made and, if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken if required upon completion of the investigation or sooner if such measures do not jeopardize the investigation.

(c) The ~~department on aging~~ *Kansas department for aging and disability services* may inform the chief administrative officer of a facility as defined by K.S.A. 39-923, and amendments thereto, within 30 days of confirmed findings of resident abuse, neglect or exploitation.

Sec. 160. K.S.A. 2013 Supp. 39-1405 is hereby amended to read as follows: 39-1405. (a) The ~~secretary of aging for aging and disability services~~ shall forward to the ~~secretary of social and rehabilitation services~~ *Kansas department for children and families* any finding with respect to residents defined under (a)(1) of K.S.A. 39-1401, and amendments thereto, who may be in need of protective services. The secretary of health and environment shall forward to the ~~secretary of social and rehabilitation services~~ *Kansas department for children and families* any finding with respect to residents defined under (a)(2) of K.S.A. 39-1401, and amendments thereto, who may be in need of protective services. If the ~~secretary of social and rehabilitation services for children and families~~ determines that a resident is in need of protective services, the ~~secretary of social and rehabilitation services for children and families~~ shall provide the necessary protective services, if a resident consents, or if the resident lacks capacity to consent, the secretary may obtain consent from such resident's legal representative. If a resident or such resident's legal representative, or both, fails to consent and the ~~secretary of social and rehabilitation services for children and families~~ has reason to believe that such a resident lacks capacity to consent, the ~~secretary of social and rehabilitation services for children and families~~ shall determine pursuant to K.S.A. 39-1408, and amendments thereto, whether a petition for appointment of a guardian or conservator, or both, should be filed.

(b) If the caretaker or legal representative, or both, of a resident who has consented to the receipt of reasonable and necessary protective services refuses to allow the provision of such services to such resident, the ~~secretary of social and rehabilitation services for children and families~~ may seek to obtain an injunction enjoining the caretaker or legal representative, or both, from interfering with the provision of protective services to the resident. The petition in such action shall allege specific facts sufficient to show that the resident is in need of protective services and consents to their provision and that the caretaker or legal representative,

or both, refuses to allow the provision of such services. If the judge, by clear and convincing evidence, finds that the resident is in need of protective services and has been prevented by the caretaker or legal representative, or both, from receiving such services, the judge shall issue an order enjoining the caretaker or legal representative, or both, from interfering with the provision of protective services to the resident. The court may appoint a new legal representative if the court deems that it is in the best interest of the resident.

Sec. 161. K.S.A. 2013 Supp. 39-1406 is hereby amended to read as follows: 39-1406. Any person, department or agency authorized to carry out the duties enumerated in this act, including investigating law enforcement agencies and the long-term care ombudsman shall have access to all relevant records. The authority of the secretary of ~~social and rehabilitation services for children and families~~, the secretary of health and environment, and the secretary of ~~aging for aging and disability services~~ under this act shall include, but not be limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety and welfare of any resident, subject to any specific requirement for individual consent of the resident.

Sec. 162. K.S.A. 2013 Supp. 39-1407 is hereby amended to read as follows: 39-1407. If a resident does not consent to the receipt of reasonable and necessary protective services, or if such person withdraws the consent, such services shall not be provided or continued, except that if the secretary of ~~social and rehabilitation services for children and families~~ has reason to believe that such resident lacks capacity to consent, the secretary may seek court authorization to provide necessary services, as provided in K.S.A. 39-1408, and amendments thereto.

Sec. 163. K.S.A. 2013 Supp. 39-1408 is hereby amended to read as follows: 39-1408. (a) If the secretary of ~~social and rehabilitation services for children and families~~ finds that a resident is being or has been abused, neglected or exploited or is in a condition which is the result of such abuse, neglect or exploitation and lacks capacity to consent to reasonable and necessary protective services, the secretary may petition the district court for appointment of a guardian or conservator, or both, for the resident pursuant to the provisions of the act for obtaining a guardian or conservator, or both, in order to obtain such consent.

(b) In any proceeding in district court pursuant to provisions of this act, the district court shall appoint an attorney to represent the resident if the resident is without other legal representation.

Sec. 164. K.S.A. 2013 Supp. 39-1409 is hereby amended to read as follows: 39-1409. In performing the duties set forth in this act, the secretary of ~~social and rehabilitation services for children and families~~, the secretary of health and environment, the secretary of ~~aging for aging and disability services~~ or an appropriate law enforcement agency may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health departments and may utilize any other public or private agency, group or individual who is appropriate and who may be available to assist such department or agency in the investigation and determination of whether a resident is being, or has been, abused, neglected or exploited or is in a condition which is a result of such abuse, neglect or exploitation, except that any internal investigation conducted by any caretaker under investigation shall be limited to the least serious category of report as specified by the secretary of health and environment, the secretary of ~~aging for aging and disability services~~ or the secretary of ~~social and rehabilitation services for children and families~~, as applicable.

Sec. 165. K.S.A. 39-1410 is hereby amended to read as follows: 39-1410. Subsequent to the authorization for the provision of necessary protective services, the secretary of ~~social and rehabilitation services for children and families~~ shall initiate a review of each case within ~~forty five (45)~~ 45 days, to determine whether continuation of, or modification in, the services provided is warranted. A decision to continue the provision of such services should be made in concert with appropriate personnel from other involved state and local groups, agencies and departments, and shall comply with the consent provisions of this act. Reevaluations of such case shall be made not less than every six months thereafter.

Sec. 166. K.S.A. 2013 Supp. 39-1411 is hereby amended to read as follows: 39-1411. (a) The secretary ~~of aging~~ *for aging and disability services* shall maintain a register of the reports received and investigated by the ~~department on aging~~ *Kansas department for aging and disability services* under K.S.A. 39-1402 and 39-1403, and amendments ~~to such sections~~ *thereto*, and the findings, evaluations and actions recommended by the ~~department on aging~~ *Kansas department for aging and disability services* with respect to such reports. The secretary of health and environment shall maintain a register of the reports received and investigated by the department of health and environment under K.S.A. 39-1402 and 39-1403, and amendments thereto, and the findings, evaluations and actions recommended by the department of health and environment with respect to such reports. The findings, evaluations and actions shall be subject to the Kansas administrative procedure act and any requirements of state or federal law relating thereto except that the secretary shall not be required to conduct a hearing in cases forwarded to the appropriate state authority under subsection (b). The register shall be available for inspection by personnel of the department of health and environment or the ~~department on aging~~ *Kansas department for aging and disability services* as specified by the secretary of health and environment or the secretary ~~of aging~~ *for aging and disability services* and to such other persons as may be required by federal law and designated by the secretary of health and environment or the secretary ~~of aging~~ *for aging and disability services* by rules and regulations. Information from the register shall be provided as specified in K.S.A. 65-6205, and amendments thereto.

(b) The secretary ~~of aging~~ *for aging and disability services* shall forward any finding of abuse, neglect or exploitation alleged to be committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The secretary of health and environment shall forward any finding of abuse, neglect or exploitation alleged to be committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The appropriate state regulatory authority, after notice to the alleged perpetrator and a hearing on such matter if requested by the alleged perpetrator, may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority. The secretary ~~of aging~~ *for aging and disability services* may consider the finding of abuse, neglect or exploitation in any licensing action taken with respect to any adult care home or medical care facility under the jurisdiction of the secretary ~~of aging~~ *for aging and disability services*. The secretary of health and environment may consider the finding of abuse, neglect or exploitation in any licensing action taken with respect to any medical care facility under the jurisdiction of the secretary of health and environment.

(c) If the investigation of the department of health and environment or the ~~department on aging~~ *Kansas department for aging and disability services* indicates reason to believe that the resident is in need of protective services, that finding and all information relating to that finding shall be forwarded by the secretary of health and environment or the secretary ~~of aging~~ *for aging and disability services* to the secretary ~~of social and rehabilitation services~~ *for children and families*.

(d) Except as otherwise provided in this section, the report received by the department of health and environment or the ~~department on aging~~ *Kansas department for aging and disability services* and the written findings, evaluations and actions recommended shall be confidential and shall not be subject to the open records act. Except as otherwise provided in this section, the name of the person making the original report to the department of health and environment or the ~~department on aging~~ *Kansas department for aging and disability services* or any person mentioned in such report shall not be disclosed unless such person specifically requests or agrees in writing to such disclosure or unless a judicial or administrative proceeding results therefrom. In the event that an administrative or judicial action arises, no use of the information shall be made until the judge or presiding officer makes a specific finding, in writing, after a hearing, that under all the circumstances the need for the information outweighs the need for confidentiality. Except as otherwise pro-

vided in this section, no information contained in the register shall be made available to the public in such a manner as to identify individuals.

Sec. 167. K.S.A. 2013 Supp. 39-1430 is hereby amended to read as follows: 39-1430. As used in this act:

(a) “Adult” means an individual 18 years of age or older alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through their own action or inaction when: (1) Such person is residing in such person’s own home, the home of a family member or the home of a friend; (2) such person resides in an adult family home as defined in K.S.A. 39-1501, and amendments thereto; or (3) such person is receiving services through a provider of community services and affiliates thereof operated or funded by the ~~department of social and rehabilitation services or the department on aging~~ *Kansas department for children and families or the Kansas department for aging and disability services* or a residential facility licensed pursuant to K.S.A. 75-3307b, and amendments thereto. Such term shall not include persons to whom K.S.A. 39-1401 et seq., and amendments thereto, apply.

(b) “Abuse” means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult, including:

- (1) Infliction of physical or mental injury;
- (2) any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
- (3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;
- (4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician’s orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult;
- (5) a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult;
- (6) fiduciary abuse; or
- (7) omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

(c) “Neglect” means the failure or omission by one’s self, caretaker or another person with a duty to supply or provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

(d) “Exploitation” means misappropriation of an adult’s property or intentionally taking unfair advantage of an adult’s physical or financial resources for another individual’s personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person.

(e) “Fiduciary abuse” means a situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of such person’s trust or benefit.

(f) “In need of protective services” means that an adult is unable to provide for or obtain services which are necessary to maintain physical or mental health or both.

(g) “Services which are necessary to maintain physical or mental health or both” include, but are not limited to, the provision of medical care for physical and mental health needs, the relocation of an adult to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in this act.

(h) “Protective services” means services provided by the state or other governmental agency or by private organizations or individuals

which are necessary to prevent abuse, neglect or exploitation. Such protective services shall include, but shall not be limited to, evaluation of the need for services, assistance in obtaining appropriate social services, and assistance in securing medical and legal services.

(i) “Caretaker” means a person who has assumed the responsibility, whether legally or not, for an adult’s care or financial management or both.

(j) “Secretary” means the secretary ~~of social and rehabilitation services~~ *for the Kansas department for children and families*.

(k) “Report” means a description or accounting of an incident or incidents of abuse, neglect or exploitation under this act and for the purposes of this act shall not include any written assessment or findings.

(l) “Law enforcement” means the public office which is vested by law with the duty to maintain public order, make arrests for crimes, investigate criminal acts and file criminal charges, whether that duty extends to all crimes or is limited to specific crimes.

(m) “Involved adult” means the adult who is the subject of a report of abuse, neglect or exploitation under this act.

(n) “Legal representative,” “financial institution” and “governmental assistance provider” shall have the meanings ascribed thereto in K.S.A. 39-1401, and amendments thereto.

No person shall be considered to be abused, neglected or exploited or in need of protective services for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

Sec. 168. K.S.A. 2013 Supp. 39-1431 is hereby amended to read as follows: 39-1431. (a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the ~~department of social and rehabilitation services~~ *Kansas department for aging and disability services* or licensed under K.S.A. 75-3307b, and amendments thereto, who has reasonable cause to believe that an adult is being or has been abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner. An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection. Other state agencies receiving reports that are to be referred to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time ~~social and rehabilitation services are~~ *the Kansas department for children and families is* not in operation. Law enforcement shall submit the report and appropriate information to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* on the first working day that ~~social and rehabilitation services~~ *the Kansas department for children and families* is in operation after receipt of such information.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker

caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

(c) Any other person, not listed in subsection (a), having reasonable cause to suspect or believe that an adult is being or has been abused, neglected or exploited or is in need of protective services may report such information to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. Reports shall be made to law enforcement agencies during the time ~~social and rehabilitation services are~~ *the Kansas department for children and families is* not in operation.

(d) A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and amendments thereto.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report not to be made shall be guilty of a class B misdemeanor.

(f) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult family home as defined in K.S.A. 39-1501, and amendments thereto, and every provider of community services and affiliates thereof operated or funded by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* or other facility licensed under K.S.A. 75-3307b, and amendments thereto, and other institutions included in subsection (a).

Sec. 169. K.S.A. 2013 Supp. 39-1432 is hereby amended to read as follows: 39-1432. (a) Anyone participating in the making of any report pursuant to this act, or in any follow-up activity to the report, including providing records upon request of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, or investigation of such report or who testifies in any administrative or judicial proceeding arising from such report shall not be subject to any civil liability on account of such report, investigation or testimony, unless such person acted in bad faith or with malicious purpose.

(b) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report, or cooperated with an investigation, under this act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

Sec. 170. K.S.A. 2013 Supp. 39-1433 is hereby amended to read as follows: 39-1433. (a) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* upon receiving a report that an adult is being, or has been abused, neglected, or exploited or is in need of protective services, shall:

(1) When a criminal act has occurred or has appeared to have occurred, immediately notify, in writing, the appropriate law enforcement agency;

(2) make a personal visit with the involved adult:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved adult;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger;

(C) within five working days for all reports of neglect or exploitation when the information from the reporter indicates no imminent danger.

(3) Complete, within 30 working days of receiving a report, a thorough investigation and evaluation to determine the situation relative to the condition of the involved adult and what action and services, if any, are required. The evaluation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case. If conducting the investigation within 30 working days would interfere with an ongoing criminal investigation, the time period for the investigation shall be extended, but the investigation and evaluation shall

be completed within 90 working days. If a finding is made prior to the conclusion of the criminal investigation, the investigation and evaluation may be reopened and a new finding made based on any additional evidence provided as a result of the criminal investigation. If the alleged perpetrator is licensed, registered or otherwise regulated by a state agency, such state agency also shall be notified upon completion of the investigation or sooner if such notification does not compromise the investigation.

(4) Prepare, upon completion of the investigation of each case, a written assessment which shall include an analysis of whether there is or has been abuse, neglect or exploitation, recommended action, a determination of whether protective services are needed, and any follow-up.

(b) ~~The secretary of social and rehabilitation services for children and families~~ shall forward any finding of abuse, neglect or exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The appropriate state regulatory authority may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority.

(c) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* shall inform the complainant, upon request of the complainant, that an investigation has been made and if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken, upon completion of the investigation or sooner, if such measures do not jeopardize the investigation.

(d) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* may inform the chief administrative officer of community facilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, of confirmed findings of resident abuse, neglect or exploitation.

Sec. 171. K.S.A. 39-1434 is hereby amended to read as follows: 39-1434. (a) ~~The secretary of social and rehabilitation services for children and families~~ shall maintain a statewide register of the reports, assessments received and the analyses, evaluations and the actions recommended. The register shall be available for inspection by personnel of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and as provided in K.S.A. 2000 Supp. 65-6205, and amendments thereto.

(b) Neither the report, assessment or the written evaluation analysis shall be deemed a public record or be subject to the provisions of the open records act. The name of the person making the original report or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests or agrees in writing to such disclosure or unless a judicial proceeding results therefrom. No information contained in the statewide register shall be made available to the public in such a manner as to identify individuals.

Sec. 172. K.S.A. 39-1435 is hereby amended to read as follows: 39-1435. In performing the duties set forth in this act, the ~~secretary of social and rehabilitation services for children and families~~ may request the assistance of all state departments, agencies and commissions and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available. Law enforcement shall be contacted to assist the ~~department of social and rehabilitation services~~ *Kansas department for children and families* when the information received on the report indicates that an adult, residing in such adult's own home or the home of another individual, an adult family home, a community development disabilities facility or residential facility is in a life threatening situation.

Sec. 173. K.S.A. 2013 Supp. 39-1436 is hereby amended to read as follows: 39-1436. (a) As provided in this section, any person or agency which maintains records relating to the involved adult which are relevant to any investigation conducted by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or a law enforcement agency under this act shall provide the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or a law enforcement agency with the necessary records to assist in in-



vestigations. In order to provide such records, the person or agency maintaining the records shall receive from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*:

- (1) A written request for information;
- (2) a written notice that an investigation is being conducted by the department; and
- (3) certification or confirmation that the department has sent written notice to the involved adult or the involved adult's guardian. Any such information shall be subject to the confidentiality requirements of K.S.A. 39-1434, and amendments thereto.

(b) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* or a law enforcement agency shall have access to all relevant records in accordance with the provisions of subsection (a).

Sec. 174. K.S.A. 2013 Supp. 39-1443 is hereby amended to read as follows: 39-1443. (a) *Investigation of adult abuse.* The ~~state department of social and rehabilitation services~~ *Kansas department for children and families* and law enforcement officers shall have the duty to receive and investigate reports of adult abuse, neglect, exploitation or fiduciary abuse for the purpose of determining whether the report is valid and whether action is required to protect the adult from further abuse or neglect. If the department and such officers determine that no action is necessary to protect the adult but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of adult neglect, adult abuse, exploitation or fiduciary abuse indicates: (1) That there is serious physical injury to or serious deterioration or sexual abuse or exploitation of the adult; and (2) that action may be required to protect the adult, the investigation may be conducted as a joint effort between the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and the appropriate law enforcement agency or agencies, with a free exchange of information between such agencies. Upon completion of the investigation by the law enforcement agency, a full report shall be provided to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

(c) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of adult abuse, neglect, exploitation or fiduciary abuse, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(d) *Investigations concerning certain facilities.* Any investigation by a law enforcement agency involving a facility subject to licensing or regulation by the secretary of health and environment shall be reported promptly to the state secretary of health and environment, upon conclusion of the investigation or sooner if such report does not compromise the investigation.

(e) *Cooperation between agencies.* Law enforcement agencies and the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall assist each other in taking action which is necessary to protect the adult regardless of which party conducted the initial investigation.

Sec. 175. K.S.A. 39-1501 is hereby amended to read as follows: 39-1501. As used in this act:

(a) "Adult family home" means a private residence in which care is provided for not less than 24 hours in any week for one or two adult clients who: (1) Are not related within the third degree of relationship to the owner or provider by blood or marriage; and (2) by reason of aging, illness, disease or physical or mental infirmity are unable to live independently but are essentially capable of managing their own care and affairs. The home does not furnish skilled nursing care, supervised nursing care or personal care. Adult family home does not mean adult care home.

(b) "Skilled nursing care," "supervised nursing care" and "personal care" have the meanings respectively ascribed thereto in K.S.A. 39-923, and amendments thereto.

(c) "Physician" means any person licensed by the state board of healing arts to practice medicine and surgery.

(d) “Secretary” means the secretary ~~of social and rehabilitation for aging and disability~~ services.

Sec. 176. K.S.A. 39-1602 is hereby amended to read as follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612, and amendments thereto:

(a) “Targeted population” means the population group designated by rules and regulations of the secretary as most in need of mental health services which are funded, in whole or in part, by state or other public funding sources, which group shall include adults with severe and persistent mental illness, severely emotionally disturbed children and adolescents, and other individuals at risk of requiring institutional care.

(b) “Community based mental health services” includes, but is not limited to, evaluation and diagnosis, case management services, mental health inpatient and outpatient services, prescription and management of psychotropic medication, prevention, education, consultation, treatment and rehabilitation services, twenty-four-hour emergency services, and any facilities required therefor, which are provided within one or more local communities in order to provide a continuum of care and support services to enable mentally ill persons, including targeted population members, to function outside of inpatient institutions to the extent of their capabilities. Community based mental health services also include assistance in securing employment services, housing services, medical and dental care, and other support services.

(c) “Mental health center” means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto.

(d) “Secretary” means the secretary ~~of social and rehabilitation for aging and disability~~ services.

(e) “Department” means the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services.

(f) “State psychiatric hospital” means Osawatomie state hospital, Rainbow mental health facility, ~~Topoka state hospital~~ or Larned state hospital.

(g) “Mental health reform phased program” means the program in three phases for the implementation of mental health reform in Kansas as follows:

(1) The first phase covers the counties in the Osawatomie state hospital catchment area and is to commence on July 1, 1990, and is to be completed by June 30, 1994;

(2) the second phase covers the counties in the Topeka state hospital catchment area and is to commence on July 1, 1992, and is to be completed by June 30, 1996; and

(3) the third phase covers the counties in the Larned state hospital catchment area and is to commence on July 1, 1993, and is to be completed by June 30, 1997.

(h) “Screening” means the process performed by a participating community mental health center, pursuant to a contract entered into with the secretary under K.S.A. 39-1610, and amendments thereto, to determine whether a person, under either voluntary or involuntary procedures, can be evaluated or treated, or can be both evaluated and treated, in the community or should be referred to the appropriate state psychiatric hospital for such treatment or evaluation or for both treatment and evaluation.

(i) “Osawatomie state hospital catchment area” means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613, and amendments thereto, the area composed of the following counties: Allen, Anderson, Atchison, Bourbon, *Brown*, Butler, *Chase*, Chautauqua, Cherokee, *Clay*, *Coffey*, Cowley, Crawford, *Doniphan*, *Douglas*, Elk, Franklin, *Geary*, *Greenwood*, *Jackson*, Jefferson, *Jewell*, Johnson, Labette, Leavenworth, Linn, *Lyon*, *Marshall*, Miami, *Mitchell*, Montgomery, *Morris*, *Nemaha*, Neosho, *Osage*, *Pottawatomie*, *Republic*, *Riley*, *Sedgwick*, *Shawnee*, *Wabaunsee*, *Washington*, Wilson, Woodson and Wyandotte.

(j) ~~“Topoka state hospital catchment area” means, except as otherwise~~

~~defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613 and amendments thereto, the area composed of the following counties: Brown, Chase, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Ellsworth, Geary, Greenwood, Harvey, Jackson, Jewell, Lincoln, Lyon, Marion, Marshall, McPherson, Mitchell, Morris, Nemaha, Osage, Ottawa, Pottawatomie, Republic, Riley, Saline, Sedgwick, Shawnee, Wabaunsee and Washington.~~

~~(k)~~ “Larned state hospital catchment area” means, except as otherwise defined by rules and regulations of the secretary adopted pursuant to K.S.A. 39-1613, and amendments thereto, the area composed of the following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, *Dickinson*, Edwards, Ellis, *Ellsworth*, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Harper, *Harvey*, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Lane, *Lincoln*, Logan, *Marion*, *McPherson*, Meade, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno, Rice, Rooks, Rush, Russell, *Saline*, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and Wichita.

~~(k)~~ (k) “Catchment area” means the Osawatomie state hospital catchment area, ~~the Topeka state hospital catchment area~~ or the Larned state hospital catchment area.

~~(l)~~ (l) “Participating mental health center” means a mental health center which has entered into a contract with the secretary ~~of social and rehabilitation for aging and disability~~ services to provide screening, treatment and evaluation, court ordered evaluation and other treatment services pursuant to the care and treatment act for mentally ill persons, in keeping with the phased concept of the mental health reform act.

Sec. 177. K.S.A. 39-1603 is hereby amended to read as follows: 39-1603. In addition to powers and duties otherwise provided by law, the secretary shall have the following powers and duties:

(a) To function as the sole state agency to develop a comprehensive plan to meet the needs of persons who have mental illness;

(b) to evaluate and coordinate all programs, services and facilities for persons who have mental illness presently provided by agencies receiving state and federal funds and to make appropriate recommendations regarding such services, programs and facilities to the governor and the legislature;

(c) to evaluate all programs, services and facilities within the state for persons who have mental illness and determine the extent to which present public or private programs, services and facilities meet the needs of such persons;

(d) to solicit, accept, hold and administer on behalf of the state any grants, devises or bequests of money, securities or property to the state of Kansas for services to persons who have mental illness or purposes related thereto;

(e) to provide consultation and assistance to communities and groups developing local and area services for persons who have mental illness;

(f) to assist in the provision of services for persons who are mentally ill in local communities whenever possible, with primary control and responsibility for the provision of services with mental health centers, and to assure that such services are provided in the least restrictive environment;

(g) to adopt rules and regulations for targeted population members which provide that, within the limits of appropriations therefor, no person shall be inappropriately denied necessary mental health services from any mental health center or state psychiatric hospital and that each targeted population member shall be provided such services in the least restrictive manner;

(h) to establish and implement policies and procedures within the programs and activities of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services so that funds from the state shall follow persons who are mentally ill from state facilities into community programs;

(i) to provide the least restrictive treatment and most appropriate community based care as well as rehabilitation for Kansas residents who are mentally ill persons through coordinated utilization of the existing network of mental health centers and state psychiatric hospitals;

(j) to establish standards for the provision of community support services and for other community based mental health services provided by mental health centers in consultation with representatives of mental health centers, consumers of mental health services and family members of consumers of mental health services;

(k) to assure the establishment of specialized programs within each mental health center throughout the state in order to provide appropriate care for designated targeted population members;

(l) to establish service requirements for programs within mental health centers which will ensure that targeted population members receive the most effective community treatment possible;

(m) to ensure the development and continuation of high quality community based mental health services, including programs for targeted population members, in each mental health center service delivery area through the provision of technical assistance, consultation and funding;

(n) to establish standards for the provision of community based mental health programs through community programs in consultation with representatives of mental health centers, private and public service providers, families and consumer advocates;

(o) to monitor the establishment and the continuing operation of all state funded community based mental health services to ensure that programs providing these services comply with established standards;

(p) to review and approve the annual coordinated services plan of each mental health center during each fiscal year ending after June 30, 1991, and to withhold state funds from any mental health center which is not being administered substantially in accordance with the provisions of the annual coordinated services plan and budget submitted to the secretary by the mental health center;

(q) to establish state policies for the disbursement of federal funds within the state and for state administration of federal programs providing services or other assistance to persons who have mental illness consistent with relevant federal law, rules and regulations, policies and procedures;

(r) to adopt rules and regulations to ensure the protection of persons receiving mental health services, which shall include an appeal procedure at the state and local levels;

(s) to establish procedures and systems to evaluate the results and outcomes pursuant to K.S.A. 39-1610, and amendments thereto, and as otherwise provided for under this act; and

(t) to adopt such rules and regulations as may be necessary to administer the provisions of K.S.A. 39-1601 through 39-1612, and amendments thereto, which are consistent with appropriations available for the administration of such provisions.

Sec. 178. K.S.A. 39-1604 is hereby amended to read as follows: 39-1604. (a) On or before October 1, 1991, and in accordance with rules and regulations adopted under K.S.A. 39-1603, and amendments thereto, the secretary shall develop and adopt a state assessment of needs and a plan to develop and operate a state system to provide mental health services for persons who are residents of Kansas, including all targeted population members designated by rules and regulations adopted by the secretary. The plan for the state system shall include coordinating and assisting in the provision of community based mental health services in the service delivery areas of mental health centers, including the services provided by state psychiatric hospitals and the provision of state financial assistance. On or before March 1, 1992, the secretary shall adopt a state plan for an integrated system to coordinate and assist in the provision of community based mental health services within Kansas. The assessment of needs and plan for the state shall be reviewed and updated by the secretary on an annual basis.

(b) The secretary shall assist and coordinate the development by each mental health center of a community assessment of needs and a plan for the community system to provide community based mental health services for persons who reside in the service delivery area of the mental health center, including all targeted population members. The secretary shall review and approve, or return, with recommendations for revision and resubmittal, all such assessments of needs and plans in accordance with criteria prescribed by rules and regulations adopted under K.S.A. 39-1603, and amendments thereto. If necessary services for a service de-

livery area cannot be provided by the mental health center or in order to ensure that a continuum of services will be provided in a service delivery area, the secretary may require the provision of services for a service delivery area through contracts between two or more mental health centers.

(c) Each mental health center shall annually review and update such assessment of needs and plan for the service delivery area. If the assessment of needs or the plan for the community system to provide community based mental health services are not in compliance with the criteria prescribed by rules and regulations under K.S.A. 39-1603, and amendments thereto, the secretary shall withhold all or part of the state financial assistance provided to the mental health center.

(d) On or before October 1, 1991, and annually on or before such date thereafter, each mental health center shall submit a coordinated services plan addressing the service needs of the targeted population to the secretary ~~of social and rehabilitation~~ *for aging and disability* services for review and approval. The annual coordinated services plan shall be developed according to the standards established by rules and regulations adopted by the secretary ~~of social and rehabilitation~~ *for aging and disability* services.

Sec. 179. K.S.A. 39-1612 is hereby amended to read as follows: 39-1612. Nothing in the mental health reform act shall authorize the secretary or the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services to require that mental health centers make expenditures other than expenditures approved for the mental health center by the governing board of the center.

Sec. 180. K.S.A. 39-1613 is hereby amended to read as follows: 39-1613. (a) The secretary ~~of social and rehabilitation~~ *for aging and disability* services is hereby authorized to adopt rules and regulations to define and redefine the Osawatomie state hospital catchment area, ~~Topeka state hospital catchment area~~ and Larned state hospital catchment area as may be necessary in the opinion of the secretary ~~of social and rehabilitation~~ *for aging and disability* services to accommodate shifts in populations in need of mental health services within available community mental health facility and state institution capacities and resources and in accordance with the following:

- (1) Each such catchment area shall be defined by contiguous counties that are designated by name;
- (2) no county shall be included in more than one such catchment area;
- (3) each county shall be included in the Osawatomie state hospital catchment area, ~~Topeka state hospital catchment area~~ or Larned state hospital catchment area; and
- (4) No designated community mental health center shall be included in more than one such catchment area.

(b) Each rule and regulation adopted, amended or revived under this section shall be published in its entirety in the Kansas register in the first issue published after such adoption, amendment or revival.

Sec. 181. K.S.A. 39-1703 is hereby amended to read as follows: 39-1703. There is hereby established a system of regional interagency councils to coordinate or assure delivery of services for children and adolescents who require multiple levels and kinds of specialized services which are beyond the capability of one agency. The secretary ~~of social and rehabilitation~~ *for aging and disability* services shall adopt rules and regulations to implement the provisions of this act.

Sec. 182. K.S.A. 39-1704 is hereby amended to read as follows: 39-1704. (a) Subject to the provisions of subsection (b), the director, or an appointed designee of the director, of each area office of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall convene a regional interagency council to coordinate or assure delivery of services at such area office to children and adolescents who require multiple levels and kinds of specialized services which are beyond the capability of one agency. The director, or the appointed designee of the director, shall serve as chairperson of the council convened by such director or designee.

(b) In those areas where the secretary ~~of social and rehabilitation~~ *services for children and families* determines that councils or committees

already exist for the purpose of enhancing interagency cooperation and collaboration of service delivery, a regional interagency council as described in subsection (a) need not be convened.

(c) Each regional interagency council shall consist of: (1) Authorized decision makers who are representative of agencies; (2) parents; (3) community business representatives; and (4) such other persons as directors of area offices of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* may determine.

(d) Each regional interagency council shall establish its own internal procedures and shall meet as often as needed to:

(1) Review all cases referred to them by one of the agencies represented or by a family member;

(2) develop a plan, negotiated with a family member and, where appropriate, the child or adolescent, for the provision of services to the child or adolescent and family whose case has been referred. This plan shall include a description of each needed service and shall specify the agency responsible for providing the service within the timeline specified by the council;

(3) maintain information sufficient to assess the effectiveness of the interagency council in meeting the service needs of children and adolescents and their families;

(4) make an annual report to the joint committee on children and families and to the Kansas commission on children, youth and families regarding the local assessment;

(5) determine what service needs are not being met in their region and develop and plan to meet these service needs;

(6) make an annual report to the joint committee on children and families and to the Kansas commission on children, youth and families regarding the service needs which are not being met and the plan to meet these service needs;

(7) establish interagency agreements as necessary for coordination of services to children and adolescents and their families who are served by more than one agency;

(8) refer any problems with service coordination to the joint committee on children and families and to the Kansas commission on children, youth and families; and

(9) ensure that members of the council receive training in collaborative teaming as needed.

(e) Each regional interagency council and its members are responsible for maintaining confidentiality by securing appropriate authorizations from a parent or person acting as parent of a child or adolescent for release of confidential information received by the council.

Sec. 183. K.S.A. 2013 Supp. 39-1803 is hereby amended to read as follows: 39-1803. As used in the developmental disabilities reform act:

(a) “Adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of that person’s age, cultural group and community.

(b) “Affiliate” means an entity or person that meets standards set out in rules and regulations adopted by the secretary relating to the provision of services and that contracts with a community developmental disabilities organization.

(c) “Community services” means services provided to meet the needs of persons with developmental disabilities relating to work, living in the community, and individualized supports and services.

(d) “Community developmental disability organization” means any community facility for people with intellectual disability that is organized pursuant to K.S.A. 19-4001 through 19-4015, and amendments thereto.

(e) “Community service provider” means a community developmental disability organization or affiliate thereof.

(f) “Developmental disability” means:

(1) Intellectual disability; or

(2) a severe, chronic disability, which:

(A) Is attributable to a mental or physical impairment, a combination of mental and physical impairments or a condition which has received a dual diagnosis of intellectual disability and mental illness;

(B) is manifest before 22 years of age;

(C) is likely to continue indefinitely;

(D) results, in the case of a person five years of age or older, in a substantial limitation in three or more of the following areas of major life functioning: Self-care, receptive and expressive language development and use, learning and adapting, mobility, self-direction, capacity for independent living and economic self-sufficiency;

(E) reflects a need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are lifelong, or extended in duration and are individually planned and coordinated; and

(F) does not include individuals who are solely and severely emotionally disturbed or seriously or persistently mentally ill or have disabilities solely as a result of the infirmities of aging.

(g) “Institution” means state institution for people with intellectual disability as defined by subsection (c) of K.S.A. 76-12b01, and amendments thereto, or intermediate care facility for people with intellectual disabilities of nine beds or more as defined by subsection (a)(4) of K.S.A. 39-923, and amendments thereto.

(h) “Intellectual disability” means substantial limitations in present functioning that is manifested during the period from birth to age 18 years and is characterized by significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior including related limitations in two or more of the following applicable adaptive skill areas: Communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work.

(i) “Secretary” means the secretary ~~of social and rehabilitation~~ *for aging and disability* services.

Sec. 184. K.S.A. 39-1804 is hereby amended to read as follows: 39-1804. (a) Except as otherwise specifically provided in this act and subject to appropriations of federal and state funds, the secretary, after consultation with representatives of community developmental disability organizations, community service providers, families and consumer advocates, shall implement and administer the provisions of the developmental disabilities reform act in accordance with the following policies. Persons with developmental disabilities shall:

(1) Be provided assistance to obtain food, housing, clothing and medical care; protection from abuse, neglect and exploitation; and a range of services and supports which assist in the determination of individual needs; and

(2) receive assistance in determining their needs; be provided information about all service options available to meet those needs; have coordination of services delivered; be assisted and supported in living with their families, or independently; be assisted in finding transportation to support access to the community; and receive individually planned habilitation, education, training, employment and recreation subject to supports and services available in the community of their choice.

(b) To accomplish the policies set forth in subsection (a), the secretary, subject to the provisions of appropriation acts, shall annually propose and implement a plan including, but not limited to, financing thereof which shall: (1) Provide for an organized network of community services for persons with developmental disabilities; (2) maximize the availability of federal resources to supplement state and local funding for such systems; and (3) reduce reliance on separate, segregated settings in institutions or the community for persons with developmental disabilities.

(c) The secretary shall report to the legislature the number of persons with developmental disabilities eligible to receive community services and shall make a progress report on the implementation of the annual plans and the progress made to accomplish a comprehensive community services system for persons with developmental disabilities.

(d) The secretary shall prepare and submit budget estimates for the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services to the division of the budget and the legislature and shall establish and implement policies and procedures within the programs and activities of the department so that funds for state-level programs and activities for persons who are developmentally disabled are

allocated between services delivered in institutions and community services.

(e) Subject to the provisions of this act and appropriation acts, the secretary shall administer and disburse funds to each community developmental disability organization for the coordination and provision of community services.

(f) The secretary shall establish procedures and systems to evaluate the results and outcomes of the implementation of this act to assure the attainment of maximum quality and efficient delivery of community services.

Sec. 185. K.S.A. 2013 Supp. 40-2,111 is hereby amended to read as follows: 40-2,111. As used in K.S.A. 40-2,111 through 40-2,113, and amendments thereto: (a) “Adverse underwriting decision” means: Any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

- (1) A declination of insurance coverage;
- (2) a termination of insurance coverage;
- (3) an offer to insure at higher than standard rates, with respect to life, health or disability insurance coverage; or
- (4) the charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished, with respect to property or casualty insurance coverage.

(b) “Declination of insurance coverage” means a denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

(c) “Health care institution” means any medical care facility, adult care home, drug abuse and alcoholic treatment facility, home-health agency certified for federal reimbursement, mental health center or mental health clinic licensed by the secretary of social and rehabilitation for aging and disability services, kidney disease treatment center, county, city-county or multicounty health departments and health-maintenance organization.

(d) “Health care provider” means any person licensed to practice any branch of the healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, licensed advanced practice registered nurse, licensed optometrist, licensed physical therapist, licensed social worker, licensed physician assistant, licensed podiatrist or licensed psychologist.

(e) “Institutional source” means any natural person, corporation, association, partnership or governmental or other legal entity that provides information about an individual to an agent or insurance company, other than:

- (1) An agent;
- (2) the individual who is the subject of the information; or
- (3) a natural person acting in a personal capacity rather than a business or professional capacity.

(f) “Insurance transaction” means any transaction involving insurance, but not including group insurance coverage, primarily for personal, family or household needs rather than business or professional needs.

(g) “Medical-record information” means personal information which:

- (1) Relates to an individual’s physical or mental condition, medical history or medical treatment; and
- (2) is obtained from a health care provider or health care institution, from the individual, or from the individual’s spouse, parent or legal guardian.

(h) “Termination of insurance coverage” or “termination of an insurance policy” means either a cancellation, nonrenewal or lapse of an insurance policy, in whole or in part, for any reason other than:

- (1) The failure to pay a premium as required by the policy; or
- (2) at the request or direction of the insured.

Sec. 186. K.S.A. 40-2d02 is hereby amended to read as follows: 40-2d02. (a) Except as provided in paragraph (b), every domestic health organization shall prepare and submit to the commissioner, on or before March 1, a report of its RBC levels as of the end of the calendar year just ended in a form and containing such information as is required by the RBC instructions. In addition, every domestic health organization shall file its RBC report:

- (1) With the NAIC in accordance with the RBC instructions; and



(2) with the insurance commissioner in any state in which the health organization is authorized to do business, if such insurance commissioner has notified the health organization of its request in writing, in which case, the health organization shall file its RBC report not later than the later of:

(A) 15 days from the receipt of notice to file its RBC report with that state; or

(B) the filing date otherwise specified in this subsection.

(b) The risk-based capital requirements of this section shall not apply to any health organization contracting with the Kansas department of ~~social and rehabilitation services~~ *Kansas department for children and families* to provide services provided under title XIX and title XXI of the social security act or any other public benefits, provided the public benefit contracts represent at least 90% of the premium volume of the health organization.

Sec. 187. K.S.A. 2013 Supp. 40-2134 is hereby amended to read as follows: 40-2134. (a) Subject to the provisions of subsection (e), the department of health and environment in conjunction with the Kansas department of insurance shall establish a long-term care partnership program in Kansas to provide for the financing of long-term care through a combination of private insurance and medical assistance. The long-term care partnership program shall:

(1) Provide incentives for individuals to insure against the costs of providing for their long-term care needs;

(2) provide a mechanism for individuals to qualify for coverage under medical assistance while having certain assets disregarded for eligibility determinations and recovery; and

(3) reduce the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives using qualified long-term care partnership insurance policies.

(b) An individual who is a beneficiary of a Kansas long-term care partnership program policy shall be eligible for assistance under the state's medical assistance program using the asset disregard as provided under subsection (e).

(c) The department of health and environment shall pursue reciprocal agreements with other states to extend the asset disregard to Kansas residents who purchased long-term care partnership policies in other states that are compliant with title VI, section 6021 of the federal deficit reduction act of 2005, public law 109-171, and any applicable federal regulations or guidelines.

(d) As provided under subsection (e), certain assets of an individual who has received benefits from a qualified long-term care partnership policy shall not be considered when determining:

(1) The individual's medical assistance eligibility; and

(2) any subsequent recovery by the state for a payment for medical services or long-term care services made by the medical assistance program on behalf of the individual.

(e) Under the individual's long-term care insurance policy if the individual is a beneficiary of a qualified long-term care partnership program policy at the time the individual applies for benefits under the Kansas medical assistance program, the assets an individual may own and retain under Kansas medical assistance program and still qualify for benefits under the program shall be increased dollar-for-dollar for each dollar paid out after the effective date of the state plan amendment, or after the issue date of a policy exchanged, whichever is later.

(f) If the long-term care partnership program established by this act is discontinued, any individual who purchased a Kansas long-term care partnership program policy before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by title VI, section 6021 of the federal deficit reduction act of 2005, public law 109-171.

(g) The department of health and environment, the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, the ~~department on aging~~ *Kansas department for aging and disability services* and the department of insurance shall post, on their respective websites, information on how to access the national clearinghouse established under the federal deficit reduction act of 2005, public law 109-171, when the national clearinghouse becomes available to consumers.

Sec. 188. K.S.A. 40-2256 is hereby amended to read as follows: 40-2256. (a) The provisions of this section and the income withholding act shall apply to all health benefit plans, as defined in this section, which are administered in this state, including, but not limited to, all health benefit plans governed by the federal employee retirement income security act (29 U.S.C. § 1161 et seq.), except to the extent specifically preempted by federal law, and to all employers, sponsors and other administrators of health benefit plans doing business in this state.

(b) As used in this section:

(1) “Health benefit plan” means any benefit plan, other than public assistance, which is able to provide hospital, surgical, medical, dental or any other health care or benefits for a child, whether through insurance or otherwise, and which is available through a parent’s employment or other group plan.

(2) “Participating parent” means a parent who is eligible for single coverage under a health benefit plan as defined in this section, regardless of the type of coverage actually in effect, if any.

(3) “Nonparticipating parent” means, if one parent is a participating parent as defined in this section, the other parent.

(c) No employer, sponsor or other administrator of a health benefit plan shall deny enrollment of a child under the health coverage of the child’s parent on the basis that: (1) The child was born out of wedlock; (2) the child is not claimed as a dependent on the parent’s federal income tax return; (3) the child does not reside with the parent or in the plan’s service area; or (4) the child is receiving, is eligible for or may become eligible for medical assistance.

(d) (1) A health benefit plan, in determining or making any payment for benefits of a child who is a participant or beneficiary under the plan, shall not take into account the fact that the child is receiving, is eligible for or may become eligible for medical assistance pursuant to Title XIX of the federal social security act.

(2) A health benefit plan shall pay for benefits with respect to a child who is a participant or beneficiary under the plan in accordance with any assignment of rights made by or on behalf of the child as required by K.S.A. 39-709, and amendments thereto, or by another state’s plan for medical assistance pursuant to Title XIX of the federal social security act.

(3) A health benefit plan shall not impose requirements on an agency or official, assigned the rights of a child eligible for medical assistance under Title XIX of the federal social security act and covered by the health benefit plan, that are different from requirements applicable to an agent or assignee of any other individual covered by the health benefit plan.

(4) If payment has been made by the ~~secretary of social and rehabilitation~~ *secretary of aging and disability* services for medical assistance and a health benefit plan is liable to pay for any item or service constituting any part of the medical assistance, the health benefit plan shall make payment for benefits under the plan to the ~~secretary of social and rehabilitation~~ *secretary of aging and disability* services to the extent of the secretary’s rights pursuant to K.S.A. 39-719a, and amendments thereto.

(e) In addition to other duties specified in a health benefit plan, when a child is covered by the health benefit plan of a participating parent the employer, sponsor or other administrator of the health benefit plan: (1) Shall provide information necessary for the child to obtain benefits to the nonparticipating parent or, upon request, to the nonparticipating parent’s assignee or to a representative designated in a medical withholding order; (2) shall permit the nonparticipating parent, the nonparticipating parent’s assignee, or a provider properly authorized by the nonparticipating parent or assignee to submit claims for covered services without the approval of the participating parent; and (3) shall make payment on claims submitted in accordance with subsection (e)(2) directly to the nonparticipating parent, assignee or provider.

(f) Nothing in this section or the income withholding act and amendments thereto shall limit alteration of a health benefit plan’s coverage or terms, so long as the resulting plan meets the requirements of this section or the income withholding act and amendments thereto.

(g) Any amendment to a health benefit plan required to conform to the requirements of this section or the income withholding act and amendments thereto shall not be required to be effective before the first plan year beginning on or after July 1, 1994, if: (1) During the period

from July 1, 1994, until the beginning of the first plan year, the plan is operated in accordance with the requirements of this section or the income withholding act and amendments thereto; and (2) the plan amendment applies retroactively to July 1, 1994, as well as prospectively. A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this subsection.

(h) This section shall be part of and supplemental to chapter 40 of the Kansas Statutes Annotated, *and amendments thereto*.

Sec. 189. K.S.A. 40-22a05 is hereby amended to read as follows: 40-22a05. (a) There is hereby created an advisory committee which shall assist the commissioner in the adoption of rules and regulations to implement the provisions of this act. The advisory committee shall consist of 13 persons appointed by the commissioner as follows:

(1) The commissioner, or the designee of the commissioner, who shall be the chairperson;

(2) one member appointed from the public at large;

(3) four members who are representatives of utilization review organizations; and

(4) seven members who are representatives of health care providers, one of which shall be a representative of a Kansas hospital, and two of which shall be persons licensed to practice medicine and surgery in Kansas.

(b) Members of the advisory committee shall be appointed for a term of three years, except that the first term of office of two members representing utilization review organizations and two members representing health care providers shall be for a term of two years, and the first term for two members representing health care providers and one member representing utilization review organizations shall be for a term of one year.

(c) The advisory committee shall be attached to the insurance department, and all administrative functions of the advisory committee shall be under the direction and supervision of the commissioner. Within available appropriations therefor, members of the advisory committee shall be paid subsistence allowances, mileage and other expenses as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(d) Before adopting rules and regulations to carry out the provisions of this act, the commissioner with the advice of the advisory committee shall:

(1) Establish utilization review standards which provide for uniformity in the procedures for interaction between utilization review organizations and health care providers, payors and consumers of health care;

(2) establish utilization review procedures that prevent unnecessary and inappropriate disruption to the health care delivery system;

(3) strive to achieve an efficient process for the certification of utilization review organizations; and

(4) specify the kinds of insurance or types of insurance products to which the standards apply and the scope of such application.

(e) This act shall not apply to:

(1) Utilization review of health care services provided to patients under the authority of the Kansas workers compensation act, ~~K.S.A. 44-501 et seq., and amendments thereto;~~

(2) reviews conducted by any insurance company, health maintenance organization, prepaid service plan, group-funded self-insured plan or similar entity solely for the purpose of determining compliance with the specific terms and conditions of an insurance policy, agreement or contract as a part of the normal claim settlement process; or

(3) any medical programs operated by the secretary ~~of social and rehabilitation~~ *for aging and disability* services or any entity to the extent it is acting under contract with the secretary.

Sec. 190. K.S.A. 40-3227 is hereby amended to read as follows: 40-3227. (a) Except as provided in paragraph (e), before issuing any certificate of authority, the commissioner shall require that the health maintenance organization have an initial net worth of \$1,500,000 and shall thereafter maintain the minimum net worth required under subsection (b).

(b) Except as provided in subsections (c) and (d) of this section, every

health maintenance organization shall maintain a minimum net worth equal to the greater of:

- (1) \$1,000,000; or
- (2) two percent of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first \$150,000,000 of premium and 1% of annual premium on the premium in excess of \$150,000,000; or
- (3) an amount equal to the sum of three months uncovered health care expenditures as reported on the most recent financial statement filed with the commissioner; or
- (4) an amount equal to the sum of:
  - (A) Eight percent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the commissioner; and
  - (B) four percent of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the commissioner.

(c) A health maintenance organization licensed on or before the day preceding the effective date of this section must maintain a minimum net worth of:

- (1) Twenty-five percent of the amount required by subsection (b) by December 31, 2000;
- (2) 50% of the amount required by subsection (b) by December 31, 2001;
- (3) 75% of the amount required by subsection (b) by December 31, 2002; and
- (4) 100% of the amount required by subsection (b) by December 31, 2003.

(d) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. An interest obligation relating to the repayment of any subordinated debt shall be similarly subordinated. The interest expenses relating to the repayment of a fully subordinated debt shall be considered covered expenses. A debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.

(e) The net worth requirements of subsections (a) through (d) shall not apply to any health organization contracting with the Kansas department of ~~social and rehabilitation services~~ *health and environment* to provide services provided under title XIX and title XXI of the social security act or any other public benefits, provided the public benefit contracts represent at least 90% of the premium volume of the health organization.

(f) Unless otherwise provided below, each health maintenance organization doing business in this state shall deposit with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities or any combination of these or other measures, for the benefit of all of the enrollees of the health maintenance organization, that are acceptable in the amount of \$150,000 for a medical group or staff model health maintenance organization or \$300,000 for an individual practice association.

(g) The commissioner may waive any of the deposit requirements set forth in subsection (f) whenever satisfied that: (1) The organization has sufficient net worth and an adequate history of generating net income to assure its financial viability for the next year; or (2) the organization's performance and obligations are guaranteed by an organization with sufficient net worth and an adequate history of generating net income; or (3) the assets of the organization or its contracts with insurers, hospital or medical service corporations, governments or other organizations are reasonably sufficient to assure the performance of its obligations.

(h) The deposit requirements imposed by this act shall not apply to health maintenance organizations not organized under the laws of this state to the extent an amount equal to or exceeding that required by this act has been deposited with the commissioner or an organization or trustee acceptable to the department of insurance of its state of domicile for the benefit of Kansas enrollees.

(i) All income from deposits shall belong to the depositing organization and shall be paid to it as it becomes available. A health maintenance organization that has made a securities deposit may withdraw that deposit

or any part thereof after making a substitute deposit of cash, securities or any combination of these or other measures of equal amount and value. Any securities shall be approved by the commissioner before being substituted.

(j) Every health maintenance organization, when determining liability, shall include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures that have been incurred, whether reported or unreported, that are unpaid and for which the organization is or may be liable, and to provide for the expense of adjustment or settlement of those claims.

(k) The commissioner shall require that each health maintenance organization have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits. In considering such a plan, the commissioner may require:

- (1) Insurance to cover the expenses to be paid for continued benefits after an insolvency;
- (2) provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health maintenance organization's insolvency for which premium payment has been made and until the enrollees' discharge from inpatient facilities;
- (3) insolvency reserves;
- (4) acceptable letters of credit; or
- (5) any other arrangements to assure that benefits are continued as specified in this subsection (k).

Sec. 191. K.S.A. 2013 Supp. 40-4704 is hereby amended to read as follows: 40-4704. The health partnership shall develop and offer two or more health benefit plans to small employers. In any health benefit plan developed under this act, any carrier may contract for coverage within the scope of this act notwithstanding any mandated coverages otherwise required by state law. Except for preventative and health screening services, the provisions of K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be mandatory with respect to any health benefit plan developed under this act. In performing these duties, the health partnership shall:

- (a) Develop and offer two or more lower-cost benefit plans such that:
  - (1) Each health benefit plan is consistent with any criteria established by the health partnership;
  - (2) each health benefit plan shall be offered by all participating carriers except that no participating carrier shall be required to offer any health benefit plan, or portion thereof, which such participating carrier is not licensed or authorized to offer in this state;
  - (3) no participating carrier shall offer any health benefit plan developed under this act to any small employer unless such small employer is covered through the health partnership.
- (b) Develop and make available one or more supplemental health benefit plans or one or more other benefit options so that the total package of health benefits available to all children eligible for the state children's health insurance program established pursuant to K.S.A. 68-2001 et seq., and amendments thereto, meets, at a minimum, standards established by the federal health insurance program.
- (c) Offer coverage to any qualifying small employer.
- (d) Offer eligible employees of participating small employers a choice of participating carriers where feasible.
- (e) (1) Include centralized and consolidated enrollment, billing and customer service functions;
- (2) use one standard enrollment form for all participating carriers; and
- (3) submit one consolidated bill to the small employer.
- (f) Issue or cause to be issued a request for proposals and contract with a qualified vendor for any administrative or other service not performed by the health committee or provided to the health committee under subsection (b) of K.S.A. 40-4702, and amendments thereto.
- (g) Issue a request for proposals and selectively contract with carriers.

(h) Establish conditions of participation for small employers that conform with K.S.A. 40-2209b et seq., and amendments thereto, and the health insurance portability and accountability act of 1996 (Public Law 104-191).

(i) Enroll small employers and their eligible employees and dependents in health benefit plans developed under this act.

(j) Bill and collect premiums from participating small employers including any share of the premium paid by such small employer's enrolled employees.

(k) Remit funds collected under subsection (h) to the appropriate contracted carriers.

(l) Provide that each low-or-modest wage employee shall be permitted to enroll in such employee's choice of participating carrier where available.

(m) Develop premium rating policies for small employers.

(1) In consultation with the health committee, the health partnership shall ensure, to the maximum extent possible, that the combined effect of the premium rating and subsidy policies is that subsidized eligible employees and the dependents of such subsidized eligible employees can afford coverage.

(2) Any rating policy developed under this subsection may vary with respect to subsidy status of eligible employees and the dependents of such eligible employees.

(n) Be authorized to contract for additional group vision, dental and life insurance plans, and other limited insurance products.

(o) Take whatever action is necessary to assure that any eligible employee or dependent of such eligible employee who receives health benefit coverage through the health partnership and who is eligible for the state medical assistance program shall remain eligible to participate in the state health insurance premium payment program.

(p) Coordinate with the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services to assure that any funds available for the coverage of infants and pregnant women under the state medical assistance program are also available for the benefit of eligible infants and pregnant women who receive health benefit coverage through the health partnership as an eligible employee or dependent of such eligible employee.

(q) Work with the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services office of medical policy and medicaid to develop a single employee application that may be used by the health plan and the medicaid and state children's health insurance program to determine eligibility.

(r) Screen employee applications for subsidy eligibility and dependent children for medicaid and state children's health insurance program premium support eligibility.

Sec. 192. K.S.A. 2013 Supp. 41-2622 is hereby amended to read as follows: 41-2622. (a) At the time application is made to the director for a license pursuant to the club and drinking establishment act, the applicant shall pay the following license fee in the manner provided by K.S.A. 41-2606, and amendments thereto:

(1) For a class A club which is a bona fide nonprofit fraternal or war veterans' club, as defined by rules and regulations of the secretary, \$500;

(2) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has not more than 500 members, \$1,000;

(3) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has more than 500 members, \$2,000;

(4) for a class B club, \$2,000;

(5) for a caterer, \$1,000;

(6) for a drinking establishment, \$2,000;

(7) for a hotel of which the entire premises are licensed as a drinking establishment, \$6,000;

(8) for a drinking establishment/caterer, \$3,000;

(9) for a drinking establishment/caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, \$7,000;

(10) for a public venue with a maximum capacity of not more than 10,000 persons, \$5,000;

(11) for a public venue with a maximum capacity of not more than 25,000 persons, \$7,500; and

(12) for a public venue with a maximum capacity exceeding 25,000 persons, \$10,000.

(b) In addition to the fee provided by subsection (a), any city where the licensed premises of a club or drinking establishment are located or, if such licensed premises are not located in a city, the board of county commissioners of the county where the licensed premises are located may levy and collect a biennial occupation or license tax from the licensee in an amount equal to not less than \$200 nor more than \$500.

(c) In addition to the fee provided by subsection (a), any city where the licensed premises of a public venue is located or, if such licensed premises is not located in a city, the board of county commissioners of the county where the licensed premises is located may levy and collect a biennial occupation or license tax from the licensee in an amount not more than \$1,000.

(d) No occupational or excise tax or license fee other than that authorized by subsection (b) or (c) shall be levied by any city or county against or collected from a licensed public venue, club or drinking establishment.

(e) The director shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each such deposit, 50% shall be credited to the state general fund, and the remaining 50% shall be credited to the other state fees fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*. In addition to other purposes for which expenditures may be made from the other state fees fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*, expenditures may be made by the secretary of ~~social and rehabilitation~~ *for aging and disability services* for the purpose of implementing the powers and duties of the secretary under the provisions of K.S.A. 65-4006 and 65-4007, and amendments thereto.

Sec. 193. K.S.A. 2013 Supp. 44-508 is hereby amended to read as follows: 44-508. As used in the workers compensation act:

(a) “Employer” includes: (1) Any person or body of persons, corporate or unincorporated, and the legal representative of a deceased employer or the receiver or trustee of a person, corporation, association or partnership; (2) the state or any department, agency or authority of the state, any city, county, school district or other political subdivision or municipality or public corporation and any instrumentality thereof; and (3) for the purposes of community service work, the entity for which the community service work is being performed and the governmental agency which assigned the community service work, if any, if either such entity or such governmental agency has filed a written statement of election with the director to accept the provisions under the workers compensation act for persons performing community service work and in such case such entity and such governmental agency shall be deemed to be the joint employer of the person performing the community service work and both shall have the rights, liabilities and immunities provided under the workers compensation act for an employer with regard to the community service work, except that the liability for providing benefits shall be imposed only on the party which filed such election with the director, or on both if both parties have filed such election with the director; for purposes of community service work, “governmental agency” shall not include any court or any officer or employee thereof and any case where there is deemed to be a “joint employer” shall not be construed to be a case of dual or multiple employment.

(b) “Workman” or “employee” or “worker” means any person who has entered into the employment of or works under any contract of service or apprenticeship with an employer. Such terms shall include, but not be limited to: Executive officers of corporations; professional athletes; persons serving on a volunteer basis as duly authorized law enforcement officers, attendants, as defined in subsection (f) of K.S.A. 65-6112, and

amendments thereto, drivers of ambulances as defined in subsection (d) of K.S.A. 65-6112, and amendments thereto, firefighters, but only to the extent and during such periods as they are so serving in such capacities; persons employed by educational, religious and charitable organizations, but only to the extent and during the periods that they are paid wages by such organizations; persons in the service of the state, or any department, agency or authority of the state, any city, school district, or other political subdivision or municipality or public corporation and any instrumentality thereof, under any contract of service, express or implied, and every official or officer thereof, whether elected or appointed, while performing official duties; persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 48-3302, and amendments thereto; volunteers in any employment, if the employer has filed an election to extend coverage to such volunteers; minors, whether such minors are legally or illegally employed; and persons performing community service work, but only to the extent and during such periods as they are performing community service work and if an election has been filed an election to extend coverage to such persons. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to the employee's dependents, to the employee's legal representatives, or, if the employee is a minor or an incapacitated person, to the employee's guardian or conservator. Unless there is a valid election in effect which has been filed as provided in K.S.A. 44-542a, and amendments thereto, such terms shall not include individual employers, limited liability company members, partners or self-employed persons.

(c) (1) "Dependents" means such members of the employee's family as were wholly or in part dependent upon the employee at the time of the accident or injury.

(2) "Members of a family" means only surviving legal spouse and children; or if no surviving legal spouse or children, then parents or grandparents; or if no parents or grandparents, then grandchildren; or if no grandchildren, then brothers and sisters. In the meaning of this section, parents include stepparents, children include stepchildren, grandchildren include stepgrandchildren, brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. In the meaning of this section, a surviving spouse shall not be regarded as a dependent of a deceased employee or as a member of the family, if the surviving spouse shall have for more than six months willfully or voluntarily deserted or abandoned the employee prior to the date of the employee's death.

(3) "Wholly dependent child or children" means:

(A) A birth child or adopted child of the employee except such a child whose relationship to the employee has been severed by adoption;

(B) a stepchild of the employee who lives in the employee's household;

(C) any other child who is actually dependent in whole or in part on the employee and who is related to the employee by marriage or consanguinity; or

(D) any child as defined in subsection (c)(3)(A), (3)(B) or (3)(C) who is less than 23 years of age and who is not physically or mentally capable of earning wages in any type of substantial and gainful employment or who is a full-time student attending an accredited institution of higher education or vocational education.

(d) "Accident" means an undesigned, sudden and unexpected traumatic event, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. An accident shall be identifiable by time and place of occurrence, produce at the time symptoms of an injury, and occur during a single work shift. The accident must be the prevailing factor in causing the injury. "Accident" shall in no case be construed to include repetitive trauma in any form.

(e) "Repetitive trauma" refers to cases where an injury occurs as a result of repetitive use, cumulative traumas or microtraumas. The repetitive nature of the injury must be demonstrated by diagnostic or clinical tests. The repetitive trauma must be the prevailing factor in causing the injury. "Repetitive trauma" shall in no case be construed to include oc-



cupational disease, as defined in K.S.A. 44-5a01, and amendments thereto.

In the case of injury by repetitive trauma, the date of injury shall be the earliest of:

- (1) The date the employee, while employed for the employer against whom benefits are sought, is taken off work by a physician due to the diagnosed repetitive trauma;
- (2) the date the employee, while employed for the employer against whom benefits are sought, is placed on modified or restricted duty by a physician due to the diagnosed repetitive trauma;
- (3) the date the employee, while employed for the employer against whom benefits are sought, is advised by a physician that the condition is work-related; or
- (4) the last day worked, if the employee no longer works for the employer against whom benefits are sought.

In no case shall the date of accident be later than the last date worked.

(f) (1) “Personal injury” and “injury” mean any lesion or change in the physical structure of the body, causing damage or harm thereto. Personal injury or injury may occur only by accident, repetitive trauma or occupational disease as those terms are defined.

(2) An injury is compensable only if it arises out of and in the course of employment. An injury is not compensable because work was a triggering or precipitating factor. An injury is not compensable solely because it aggravates, accelerates or exacerbates a preexisting condition or renders a preexisting condition symptomatic.

(A) An injury by repetitive trauma shall be deemed to arise out of employment only if:

- (i) The employment exposed the worker to an increased risk or hazard which the worker would not have been exposed in normal non-employment life;
- (ii) the increased risk or hazard to which the employment exposed the worker is the prevailing factor in causing the repetitive trauma; and
- (iii) the repetitive trauma is the prevailing factor in causing both the medical condition and resulting disability or impairment.

(B) An injury by accident shall be deemed to arise out of employment only if:

- (i) There is a causal connection between the conditions under which the work is required to be performed and the resulting accident; and
- (ii) the accident is the prevailing factor causing the injury, medical condition, and resulting disability or impairment.

(3) (A) The words “arising out of and in the course of employment” as used in the workers compensation act shall not be construed to include:

- (i) Injury which occurred as a result of the natural aging process or by the normal activities of day-to-day living;
- (ii) accident or injury which arose out of a neutral risk with no particular employment or personal character;
- (iii) accident or injury which arose out of a risk personal to the worker;

or

(iv) accident or injury which arose either directly or indirectly from idiopathic causes.

(B) The words “arising out of and in the course of employment” as used in the workers compensation act shall not be construed to include injuries to the employee occurring while the employee is on the way to assume the duties of employment or after leaving such duties, the proximate cause of which injury is not the employer’s negligence. An employee shall not be construed as being on the way to assume the duties of employment or having left such duties at a time when the worker is on the premises owned or under the exclusive control of the employer or on the only available route to or from work which is a route involving a special risk or hazard connected with the nature of the employment that is not a risk or hazard to which the general public is exposed and which is a route not used by the public except in dealings with the employer. An employee shall not be construed as being on the way to assume the duties of employment, if the employee is a provider of emergency services responding to an emergency.

(C) The words, “arising out of and in the course of employment” as used in the workers compensation act shall not be construed to include injuries to employees while engaged in recreational or social events under

circumstances where the employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer.

(g) "Prevailing" as it relates to the term "factor" means the primary factor, in relation to any other factor. In determining what constitutes the "prevailing factor" in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.

(h) "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record unless a higher burden of proof is specifically required by this act.

(i) "Director" means the director of workers compensation as provided for in K.S.A. 75-5708, and amendments thereto.

(j) "Health care provider" means any person licensed, by the proper licensing authority of this state, another state or the District of Columbia, to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry, audiology or psychology.

(k) "Secretary" means the secretary of labor.

(l) "Construction design professional" means any person who is an architect, professional engineer, landscape architect or land surveyor who has been issued a license by the state board of technical professions to practice such technical profession in Kansas or any corporation organized to render professional services through the practice of one or more of such technical professions in Kansas under the professional corporation law of Kansas or any corporation issued a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to practice one or more of such technical professions in Kansas.

(m) "Community service work" means: (1) Public or community service performed as a result of a contract of diversion or of assignment to a community corrections program or conservation camp or suspension of sentence or as a condition of probation or in lieu of a fine imposed by court order; or (2) public or community service or other work performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary ~~of social and rehabilitation services~~ *for children and families*.

(n) "Utilization review" means the initial evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on accepted standards of the health care profession involved. Such evaluation is accomplished by means of a system which identifies the utilization of health care services above the usual range of utilization for such services, which is based on accepted standards of the health care profession involved, and which refers instances of possible inappropriate utilization to the director for referral to a peer review committee.

(o) "Peer review" means an evaluation by a peer review committee of the appropriateness, quality and cost of health care and health services provided a patient, which is based on accepted standards of the health care profession involved and which is conducted in conjunction with utilization review.

(p) "Peer review committee" means a committee composed of health care providers licensed to practice the same health care profession as the health care provider who rendered the health care services being reviewed.

(q) "Group-funded self-insurance plan" includes each group-funded workers compensation pool, which is authorized to operate in this state under K.S.A. 44-581 through 44-592, and amendments thereto, each municipal group-funded pool under the Kansas municipal group-funded pool act which is covering liabilities under the workers compensation act, and any other similar group-funded or pooled plan or arrangement that provides coverage for employer liabilities under the workers compensation act and is authorized by law.

(r) On and after the effective date of this act, "workers compensation board" or "board" means the workers compensation appeals board established under K.S.A. 44-555c, and amendments thereto.

(s) "Usual charge" means the amount most commonly charged by health care providers for the same or similar services.

(t) “Customary charge” means the usual rates or range of fees charged by health care providers in a given locale or area.

(u) “Functional impairment” means the extent, expressed as a percentage, of the loss of a portion of the total physiological capabilities of the human body as established by competent medical evidence and based on the fourth edition of the American medical association guides to the evaluation of impairment, if the impairment is contained therein.

(v) “Authorized treating physician” means a licensed physician or other health care provider authorized by the employer or insurance carrier or both, or appointed pursuant to court-order to provide those medical services deemed necessary to diagnose and treat an injury arising out of and in the course of employment.

(w) “Mail” means the use of the United States postal service or other land based delivery service or transmission by electronic means, including delivery by fax, e-mail or other electronic delivery method designated by the director of workers compensation.

Sec. 194. K.S.A. 2013 Supp. 44-575 is hereby amended to read as follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and amendments thereto, “state agency” means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority, any political subdivision of the state or the district court with regard to district court officers or employees whose total salary is payable by counties.

(b) For the purposes of providing for the payment of compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto, there is hereby established the state workers compensation self-insurance fund in the state treasury. The name of the state workmen’s compensation self-insurance fund is hereby changed to the state workers compensation self-insurance fund. Whenever the state workmen’s compensation self-insurance fund is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the state workers compensation self-insurance fund.

(c) The state workers compensation self-insurance fund shall be liable to pay: (1) All compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto; (2) the amount that all state agencies are liable to pay of the “carrier’s share of expense” of the administration of the office of the director of workers’ compensation as provided in K.S.A. 74-712 through 74-719, and amendments thereto, for each fiscal year; (3) all compensation for claims remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the ~~division of mental health and retardation services of the department of social and rehabilitation~~ *commission of community services and programs of the Kansas department for aging and disability services*; (4) the cost of administering the state workers compensation self-insurance fund including the defense of such fund and any costs assessed to such fund in any proceeding to which it is a party; and (5) the cost of establishing and operating the state workplace health and safety program under subsection (f). For the purposes of K.S.A. 44-575 through 44-580, and amendments thereto, all state agencies are hereby deemed to be a single employer whose liabilities specified in this section are hereby imposed solely upon the state workers compensation self-insurance fund and such employer is hereby declared to be a fully authorized and qualified self-insurer under K.S.A. 44-532, and amendments thereto, but such employer shall not be required to make any reports thereunder.

(d) The secretary of health and environment shall administer the state workers compensation self-insurance fund and all payments from such fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or a person or persons designated by the secretary. The director of accounts and reports may issue warrants pursuant to vouchers approved by the secretary for payments from the state workers compensation self-insurance fund notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated

for the fiscal year in which the state workers compensation self-insurance fund first became liable to make such payments.

(e) The secretary of health and environment shall remit all moneys received by or for the secretary in the capacity as administrator of the state workers compensation self-insurance fund, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state workers compensation self-insurance fund.

(f) There is hereby established the state workplace health and safety program within the state workers compensation self-insurance program of the department of health and environment. The secretary of health and environment shall implement and the division of industrial health and safety of the Kansas department of labor shall assist in administering the state workplace health and safety program for state agencies. The state workplace health and safety program shall include, but not be limited to:

- (1) Workplace health and safety hazard surveys in all state agencies, including onsite interviews with employees;
- (2) workplace health and safety hazard prevention services, including inspection and consultation services;
- (3) procedures for identifying and controlling workplace hazards;
- (4) development and dissemination of health and safety informational materials, plans, rules and work procedures; and
- (5) training for supervisors and employees in healthful and safe work practices.

Sec. 195. K.S.A. 2013 Supp. 44-577 is hereby amended to read as follows: 44-577. (a) All claims for compensation under the workers compensation act against any state agency for claims arising on and after July 1, 1974, and claims for compensation remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the ~~division of mental health and retardation services of the department of social and rehabilitation~~ *commission of community services and programs of the Kansas department for aging and disability services* shall be made against the state workers compensation self-insurance fund. Such claims shall be served upon the secretary of health and environment in the secretary's capacity as administrator of the state workers compensation self-insurance fund in the manner provided for claims against other employers under the workers compensation act. The chief attorney for the department of health and environment, or another attorney of the department of health and environment designated by the chief attorney, shall represent and defend the state workers compensation self-insurance fund in all proceedings under the workers compensation act.

(b) The secretary of health and environment shall investigate, or cause to be investigated, each claim for compensation against the state workers compensation self-insurance fund. For the purposes of such investigations, the secretary of health and environment is authorized to obtain expert medical advice regarding the injuries, occupational diseases and disabilities involved in such claims. If, based upon such investigation and any other available information, the secretary of health and environment finds that there is no material dispute as to any issue involved in the claim, that the claim is valid and that the claim should be settled by agreement, the secretary of health and environment may proceed to enter into such an agreement with the claimant, for the state workers compensation self-insurance fund. Any such agreement may provide for lump-sum settlements subject to approval by the director and all such agreements shall be filed in the office of the director for approval as provided in K.S.A. 44-527, and amendments thereto. All other claims for compensation against such fund shall be paid in accordance with the workers compensation act pursuant to final awards or orders of an administrative law judge or the board or pursuant to orders and findings of the director under the workers compensation act.

(c) For purposes of the workers compensation act, a volunteer member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, shall be considered a person in the service of the state in connection with authorized training and upon activation for emergency response, except when such duties arise in the

course of employment or as a volunteer for an employer other than the state.

Sec. 196. K.S.A. 2013 Supp. 46-922 is hereby amended to read as follows: 46-922. (a) As used in this section and in K.S.A. 46-923, and amendments thereto, the term “state agency” shall have the meaning ascribed thereto in K.S.A. 75-3701, and amendments thereto.

(b) The head of any state agency is authorized to make payment to the officers or employees of such state agency for property damage or loss occurring while that officer or employee is acting within the scope of such office or employment if such property loss or damage, in the opinion of the state agency head, did not occur as a result of negligence of the claimant.

(c) Except as otherwise provided by this section, the head of any state agency is authorized to make payment to any other person for personal injury or property damage or loss occurring under circumstances which establish, in the state agency head’s opinion, that such damage or loss was caused by the negligence of the state or any agency, officer or employee thereof. The secretary of social and rehabilitation services for children and families is authorized to make payment from funds appropriated to the secretary for the homemaker program to any person for personal injury or property damage or loss caused by an act of a homemaker employed by the secretary.

(d) Except as otherwise provided by this section, no payment shall be made under this section on any claim for an amount in excess of \$1,000 or in any amount on a claim by a person who is an insurer and who is making the claim as a subrogee for all or part of any amount paid to such person’s insured.

(e) The vice-chancellor of the university of Kansas medical center is authorized to make payment in an amount of not more than \$2,500 to any other person for a claim made against the hospital of the university of Kansas medical center for personal injury or property damage or loss occurring under circumstances which establish, in the vice-chancellor’s opinion, that ~~(1)~~ such damage or loss was caused by the negligence of the hospital of the university of Kansas medical center or any officer or employee thereof or ~~(2)~~ that such damage or loss occurred at the hospital of the university of Kansas medical center and it is in the best interests of such hospital to make such payment. No payment shall be made under this subsection in any amount on a claim by a person who is an insurer and who is making the claim as a subrogee for all or part of any amount paid to such person’s insured.

(f) No payment shall be made under this section for any loss sustained to a state employee’s personal conveyance, or any related expense, when the conveyance was used on official state business.

(g) The superintendent of the Kansas highway patrol is authorized to make payment in an amount of not more than \$2,500 to any other person for a claim made against the Kansas highway patrol for personal injury or property damage or loss occurring under circumstances which establish, in the superintendent’s opinion, that such damage or loss occurred during law enforcement efforts by the Kansas highway patrol to persons who were not negligent during such effort. No information filed pursuant to this subsection, testimony or evidence presented to the Kansas highway patrol, or determination, finding or recommendation of the superintendent shall be admissible in any subsequent civil or criminal proceeding. The Kansas highway patrol is authorized to adopt rules and regulations to implement this subsection.

Sec. 197. K.S.A. 2013 Supp. 46-2801 is hereby amended to read as follows: 46-2801. (a) There is hereby created the joint committee on corrections and juvenile justice oversight which shall be within the legislative branch of state government and which shall be composed of no more than seven members of the senate and seven members of the house of representatives.

(b) The senate members shall be appointed by the president and the minority leader. The two major political parties shall have proportional representation on such committee. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding .5 shall receive representation as though such fraction were a whole number.

(c) The seven representative members shall be appointed as follows:

(1) Two members shall be members of the majority party who are members of the house committee on appropriations and shall be appointed by the speaker;

(2) two members shall be members of the majority party who are members of the house committee on judiciary and shall be appointed by the speaker; and

(3) three members shall be members of the minority party who are members of the house committee on appropriations or the house committee on judiciary and shall be appointed by the minority leader.

(d) Any vacancy in the membership of the joint committee on corrections and juvenile justice oversight shall be filled by appointment in the manner prescribed by this section for the original appointment.

(e) All members of the joint committee on corrections and juvenile justice oversight shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The joint committee shall organize annually and elect a chairperson and vice-chairperson in accordance with this subsection. During odd-numbered years, the chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the senate members elected by the members of the joint committee. During even-numbered years, the chairperson shall be one of the senate members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of chairperson or vice-chairperson, a member of the joint committee, who is a member of the same house as the member who vacated the office, shall be elected by the members of the joint committee to fill such vacancy. Within 30 days after the effective date of this act, the joint committee shall organize and elect a chairperson and a vice-chairperson in accordance with the provisions of this act.

(f) A quorum of the joint committee on corrections and juvenile justice oversight shall be eight. All actions of the joint committee shall be by motion adopted by a majority of those present when there is a quorum.

(g) The joint committee on corrections and juvenile justice oversight may meet at any time and at any place within the state on the call of the chairperson, vice-chairperson and ranking minority member of the house of representatives when the chairperson is a representative or of the senate when the chairperson is a senator.

(h) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on corrections and juvenile justice oversight to the extent that the same do not conflict with the specific provisions of this act applicable to the joint committee.

(i) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on corrections and juvenile justice oversight.

(j) The joint committee on corrections and juvenile justice oversight may introduce such legislation as it deems necessary in performing its functions.

(k) In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee on corrections and juvenile justice oversight shall:

(1) Monitor the inmate population and review and study the programs, activities and plans of the department of corrections regarding the duties of the department of corrections that are prescribed by statute, including the implementation of expansion projects, the operation of correctional, food service and other programs for inmates, community corrections, parole and the condition and operation of the correctional institutions and other facilities under the control and supervision of the department of corrections;

(2) monitor the establishment of the juvenile justice authority and review and study the programs, activities and plans of the juvenile justice authority regarding the duties of the juvenile justice authority that are prescribed by statute, including the responsibility for the care, custody,

control and rehabilitation of juvenile offenders and the condition and operation of the state juvenile correctional facilities under the control and supervision of the juvenile justice authority;

(3) review and study the adult correctional programs and activities and facilities of counties, cities and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders;

(4) review and study the juvenile offender programs and activities and facilities of counties, cities, school districts and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency, the programs and activities of private entities operating community juvenile programs and facilities and the condition and operation of local governmental residential or custodial facilities for the care, treatment or training of juvenile offenders;

(5) study the progress and results of the transition of powers, duties and functions from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, office of judicial administration and department of corrections to the juvenile justice authority; and

(6) make an annual report to the legislative coordinating council as provided in K.S.A. 46-1207, and amendments thereto, and such special reports to committees of the house of representatives and senate as are deemed appropriate by the joint committee.

Sec. 198. K.S.A. 59-2006 is hereby amended to read as follows: 59-2006. (a) A person's spouse and the parents of a person who is a minor shall be bound by law to support the person if the person is committed to, admitted to, transferred to or received as a patient at a state institution. Payment for the maintenance, care and treatment of any patient in a state institution irrespective of the manner of such patient's admission shall be paid by the patient, by the conservator of such patient's estate or by any person bound by law to support such patient. The ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services may recover the basic maximum charge established as provided for in subsection (a) of K.S.A. 59-2006b, and amendments thereto, or the actual per patient costs established as provided in subsection (b) of K.S.A. 59-2006b, and amendments thereto, as compensation for the maintenance, care and treatment of a patient from such patient when no legal disability exists, or from the estate of such patient or from any person bound by law to support such patient.

(b) The ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services shall periodically and not less than once during each fiscal year make written demand upon the patient or person liable for the amount claimed by the secretary to have accrued since the last demand was made, and no action shall be commenced by the secretary against such patient or such patient's responsible relatives for the recovery thereof unless such action is commenced within three years after the date of such written demand. When any part of the amount claimed to be due has been paid or any acknowledgment of an existing liability, debt or claim, or any promise to pay the same has been made by the obligor, an action may be brought in such case within three years after such payment, acknowledgment or promise, but such acknowledgment or promise must be in writing signed by the party to be charged thereby. If there are two or more joint debtors, no one of whom is entitled to act as the agent of the others, no such joint debtor shall lose the benefit of the statute of limitations so as to be chargeable by reason of any acknowledgment, promise or payment made by any other or others of them, unless done with the knowledge and consent of, or ratified by, the joint debtor sought to be charged. The secretary may accept voluntary payments from patients or relatives or from any source, even though the payments are in excess of required amounts and shall deposit the same as provided by law.

(c) The ~~secretary of social and rehabilitation~~ *secretary of social and rehabilitation for aging and disability* services shall have the power to compromise and settle any claim due or claimed to be due from such patient or such patient's relatives who are liable for the patient's care, maintenance and treatment and upon payment of a valuable consideration by the patient or the persons bound by law to support such patient, may discharge and release the patient or

relative of any or all past liability herein. Whenever the secretary shall negotiate a compromise agreement to settle any claim due or claimed to be due from a patient or such patient's relatives responsible under this act to support the patient, no action shall thereafter be brought or claim made for any amounts due for the care, maintenance and treatment of such patient incurred prior to the effective date of the agreement entered into, except for the amounts provided for in the agreement if the provisions of such compromise agreement are faithfully performed. In the event the terms and conditions of such compromise agreement are not complied with, such failure to comply shall serve to revive and reinstate the original amount of the claim due before negotiation of such compromise agreement, less amounts paid on the claim.

(d) The secretary of ~~social and rehabilitation~~ *for aging and disability* services may contract with an attorney admitted to practice in this state or with any debt collection agency doing business within or without this state to assist in the collection of amounts claimed to be due under the provisions of this section. The fee for services of such attorney or debt collection agency shall be based on the amount of moneys actually collected. No fee shall be in excess of 50% of the total amount of moneys actually collected. All funds collected less the fee for services as provided in the contract shall be remitted to the secretary of ~~social and rehabilitation~~ *for aging and disability* services within 45 days from the date of collection.

Contracts entered pursuant to this section may be negotiated by the secretary of ~~social and rehabilitation~~ *for aging and disability* services and shall not be subject to the competitive bid requirements of K.S.A. 75-3739 through 75-3741, and amendments thereto.

(e) Before entering into a contract with a debt collection agency under subsection (d), the secretary of ~~social and rehabilitation~~ *for aging and disability* services shall require a bond from the debt collection agency in an amount not in excess of \$100,000 guaranteeing compliance with the terms of the contract.

(f) A debt collection agency entering into a contract with the secretary of ~~social and rehabilitation~~ *for aging and disability* services for the collection of amounts claimed to be due under this section shall agree that it is receiving income from sources within the state or doing business in the state for purposes of the Kansas income tax act.

(g) As used in this section, "state institution" has the meaning provided by K.S.A. 59-2006b, and amendments thereto.

(h) When a minor becomes a patient of a state institution, an assignment of all past, present and future support rights of the minor which are possessed by either parent or any other person entitled to receive support payments for the minor is conveyed by operation of law to the secretary of ~~social and rehabilitation~~ *for aging and disability* services. The assignment of support rights shall be effective upon the minor's admission as a patient of any state institution, regardless of the manner of admission, without the requirement that any written assignment or similar document be signed by the parent or other person entitled to receive support payments for the minor. When a minor becomes a patient of a state institution, the parent or other person entitled to receive support payments for the minor is also deemed to have appointed the secretary of ~~social and rehabilitation~~ *for aging and disability* services or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments on behalf of the minor. This limited power of attorney shall remain in effect until the assignment of support rights has been terminated in full. For any minor who is a patient of a state institution on the effective date of this act and whose past, present and future support rights are not assigned to the secretary of ~~social and rehabilitation~~ *for aging and disability* services, the assignment of support rights and limited power of attorney shall be effective on the effective date of this act if notice of the assignment is sent to the person otherwise entitled to receive support payments for the minor.

The assignment of support rights provided in this section shall remain in full force and effect until the minor is no longer a patient of a state institution. When the minor is no longer a patient of a state institution, the assignment shall remain in effect as to unpaid support obligations due and owing as of the last day of the month in which the minor ceases to



be a patient, until the claim of the secretary of ~~social and rehabilitation~~ *for aging and disability* services for the maintenance, care and treatment of the minor is satisfied. Nothing in this section shall affect or limit the rights of the secretary of ~~social and rehabilitation~~ *for aging and disability* services under any assignment pursuant to K.S.A. 39-709, and amendments thereto.

Sec. 199. K.S.A. 59-2006b is hereby amended to read as follows: 59-2006b. (a) At least annually, the secretary of ~~social and rehabilitation~~ *for aging and disability* services shall establish the basic maximum rate of charge for treatment of patients in each state institution, except that such rates shall not exceed projected hospital costs of the state institution, including the allocated costs of services by other state agencies, as determined by application of generally acceptable hospital accounting principles. In determining these rates, the secretary shall compute the average daily projected operating cost of treatment of all patients in each state institution and shall set a basic maximum rate of charge for each and every patient in each state institution and each such patient's responsible relatives at the average daily projected operating cost of each institution so computed. When established pursuant to this section, each such rate shall be published in the Kansas register by the secretary and thereafter, until a subsequent rate is published as provided in this section, the rates last published shall be the legal rate of charge. All courts in this state shall recognize and take judicial notice of the procedure and the rates established under this section.

(b) In lieu of the procedure for computing the basic maximum rate of charge established under subsection (a), the secretary of ~~social and rehabilitation~~ *for aging and disability* services may authorize any state institution to compute an individual patient charge on the basis of rates for services based on cost incurred by such state institution as determined by application of generally acceptable hospital accounting principles.

(c) As used in this section, "state institution" means the ~~Topoka state hospital,~~ Osawatomie state hospital, Rainbow mental health facility, Larned state hospital, including the state security hospital, ~~Norton state hospital,~~ ~~Winfield state hospital and training center,~~ Parsons state hospital and training center and the Kansas neurological institute.

Sec. 200. K.S.A. 59-2006c is hereby amended to read as follows: 59-2006c. Any patient or his or her relative liable for his or her support under this act may appeal to the secretary of ~~social and rehabilitation~~ *for aging and disability* services pursuant to K.S.A. 75-3306, *and amendments thereto*, from any decision of the state hospital or employee of the ~~Kansas department of social and rehabilitation~~ *for aging and disability* services in compromising or refusing to compromise a claim against said patient or relative for the cost of treatment of such patient.

Sec. 201. K.S.A. 2013 Supp. 59-2122 is hereby amended to read as follows: 59-2122. (a) The files and records of the court in adoption proceedings shall not be open to inspection or copy by persons other than the parties in interest and their attorneys, representatives of the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*, and the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto, except upon an order of the court expressly permitting the same. As used in this section, "parties in interest" shall not include genetic parents once a decree of adoption is entered.

(b) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* may contact the adoptive parents of the minor child or the adopted adult at the request of the genetic parents in the event of a health or medical need. The ~~department of social and rehabilitation services~~ *Kansas department for children and families* may contact the adopted adult at the request of the genetic parents for any reason. Identifying information shall not be shared with the genetic parents without the permission of the adoptive parents of the minor child or the adopted adult. The ~~department of social and rehabilitation services~~ *Kansas department for children and families* may contact the genetic parents at the request of the adoptive parents of the minor child or the adopted adult in the event of a health or medical need. The ~~department of social and rehabilitation services~~ *Kansas department for children and*

*families* may contact the genetic parents at the request of the adopted adult for any reason.

Sec. 202. K.S.A. 2013 Supp. 59-2123 is hereby amended to read as follows: 59-2123. (a) Except as otherwise provided in this section:

(1) Any person who advertises that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;

(2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and

(3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.

(b) The provisions of subsection (a)(1) shall not apply to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or to an individual seeking to adopt a child.

(c) As used in this section:

(1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.

(2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.

(3) "Maternity center" means the same as provided in K.S.A. 65-502, and amendments thereto.

(d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each violation.

Sec. 203. K.S.A. 59-2130 is hereby amended to read as follows: 59-2130. (a) The following information shall be filed with the petition in an independent or agency adoption: (1) A complete written genetic, medical and social history of the child and the parents;

(2) the names, dates of birth, addresses, telephone numbers, and social security numbers of each of the child's parents, if known;

(3) any hospital records pertaining to the child or a properly executed authorization for release of those records; and

(4) the child's birth verification, which shall include the date, time and place of birth and the name of the attending physician.

(b) The genetic, medical and social history required by this section shall be in conformity with the rules and regulations adopted by the ~~secretary of social and rehabilitation services~~ *secretary for children and families* and on forms provided by the secretary.

(c) If any information required to be filed under this section is not available, an affidavit explaining the reasons why it is not available shall be filed with the petition for adoption.

(d) The ~~secretary of social and rehabilitation services~~ *secretary for children and families* shall adopt rules and regulations establishing procedures for updating a child's genetic, medical and social history if new information becomes known at a later date. The agency or person conducting the investigation under K.S.A. 59-2132, *and amendments thereto*, shall advise in writing each of the child's biological parents, if known, of those procedures.

(e) Any employee or agent of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, a child-placing agency or a district court who intentionally destroys any information required to be filed under this section is guilty of a class C misdemeanor.

Sec. 204. K.S.A. 2013 Supp. 59-2132 is hereby amended to read as follows: 59-2132. (a) Except as provided in subsection (h), in independent and agency adoptions, the court shall require the petitioner to obtain an assessment of the advisability of the adoption by a court approved:

(1) (A) Licensed social worker, licensed specialist social worker, licensed specialist clinical social worker, licensed masters social worker, licensed baccalaureate social worker or licensed associate social worker licensed by the behavioral sciences regulatory board;

(B) licensed clinical marriage and family therapist as defined in K.S.A. 65-6402, and amendments thereto;

(C) licensed marriage and family therapist as defined in K.S.A. 65-6402, and amendments thereto;

(D) licensed clinical professional counselor as defined in K.S.A. 65-5802, and amendments thereto;

(E) licensed professional counselor as defined in K.S.A. 65-5802, and amendments thereto;

(F) licensed psychologist as defined in K.S.A. 65-6319, and amendments thereto;

(G) licensed masters level psychologist as defined in K.S.A. 74-5362, and amendments thereto;

(H) licensed clinical psychotherapist as defined in K.S.A. 74-5363, and amendments thereto; or

(I) a licensed child-placing agency.

(2) Any person performing an assessment pursuant to this subsection shall:

(A) Possess a minimum of two years experience in adoption services or be supervised by a person with such experience; or

(B) if licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders in independent practice, possess a minimum of one year of experience in adoption services or be supervised by a person with such experience.

(b) The petitioner shall file with the court, not less than 10 days before the hearing on the petition, a report of the assessment and, if necessary, confirmation or clarification of the information filed under K.S.A. 59-2130, and amendments thereto.

(c) If there is no one authorized pursuant to this section available to make the assessment and report to the court, the court may use the ~~department of social and rehabilitation services~~ *Kansas department for children and families* for that purpose.

(d) The costs of making the assessment and report may be assessed as court costs in the case as provided in article 20 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(e) In making the assessment, the person authorized pursuant to this section or ~~department of social and rehabilitation services~~ *Kansas department for children and families* is authorized to observe the child in the petitioner's home, verify financial information of the petitioner, shall clear the name of the petitioner with the child abuse and neglect registry through the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and, when appropriate, with a similar registry in another state or nation, shall determine whether the petitioner has been convicted of a felony for any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or, within the last five years been convicted of a felony violation of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, and, when appropriate, any similar conviction in another jurisdiction, and to contact the agency or individuals consenting to the adoption and confirm and, if necessary, clarify any genetic and medical history filed with the petition. This information shall be made a part of the report to the court. The report to the court by any person authorized pursuant to this section to perform this assessment shall include the results of the investigation of the petitioner, the petitioner's home and the ability of the petitioner to care for the child.

(f) In the case of a nonresident who is filing a petition to adopt a child in Kansas, the assessment and report required by this section must be completed in the petitioner's state of residence by a person authorized in that state to conduct such assessments. Such report shall be filed with the court not less than 10 days before the hearing on the petition.

(g) The assessment and report required by this section shall comply with any applicable rules and regulations of the department of health and environment and shall have been completed not more than one year prior to the filing of the petition for adoption.

(h) The assessment and report required by this section may be waived

by the court upon: (1) Review of a petition requesting such waiver by a relative of the child; or

(2) the court's own motion.

Sec. 205. K.S.A. 59-2135 is hereby amended to read as follows: 59-2135. The clerk of each district court shall provide a copy of the decree of adoption, a copy of the report of adoption required in K.S.A. 59-2119, *and amendments thereto*, and a copy of the information required in K.S.A. 59-2130, *and amendments thereto*, pertaining to any adoption of a minor to the secretary of social and rehabilitation services for children and families. All information pertaining to adoptions of minors required to be provided to the secretary of social and rehabilitation services for children and families shall be maintained by the secretary and shall be subject to disclosure to the same extent as files and records of the court under K.S.A. 59-2122, *and amendments thereto*.

Sec. 206. K.S.A. 59-2801 is hereby amended to read as follows: 59-2801. If any otherwise qualified applicant for, or recipient of old age assistance, aid to the blind, aid to the permanently and totally disabled, or general assistance or payee in the case of aid to dependent children, is or shall become unable to manage the assistance payments, or otherwise fails so to manage, to the extent that deprivation or hazard to himself or herself or others results, or, in the case of aid to dependent children, the payment is not being used for the children, a petition may be filed by the secretary of social and rehabilitation services for children and families wherein the applicant or recipient has residence before the district court of that county in the form of a verified written application for the appointment of a personal representative not an employee of the department of social and rehabilitation services *Kansas department for children and families*, for the purpose of receiving and managing public assistance payments for any such recipient or payee, which verified application shall allege one or more of the above grounds for the legal appointment of such representative.

Sec. 207. K.S.A. 59-2803 is hereby amended to read as follows: 59-2803. If the court shall find that the applicant, recipient, or payee is unable to manage the assistance payments, or otherwise fails so to manage, to the extent that deprivation or hazard to himself or herself or others results, or, in case of aid to dependent children, the payment is not being used for the children, the court may thereupon enter an order embracing said findings and appointing some responsible person not an employee of the secretary of social and rehabilitation services for children and families, as personal representative of the applicant, recipient or payee for the purpose set forth herein. The appointment shall not have the effect of adjudication that the applicant, recipient or payee is an incapacitated person.

Sec. 208. K.S.A. 2013 Supp. 59-2946 is hereby amended to read as follows: 59-2946. When used in the care and treatment act for mentally ill persons:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-2950, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-2973, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) (1) "Mental health center" means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 through 65-215, and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and amendments thereto, or K.S.A. 17-6001 through 17-6010, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto.

(2) "Participating mental health center" means a mental health center which has entered into a contract with the secretary of social and rehabilitation for aging and disability services pursuant to the provisions of K.S.A. 39-1601 through 39-1612, and amendments thereto.

(e) “Mentally ill person” means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

(f) (1) “Mentally ill person subject to involuntary commitment for care and treatment” means a mentally ill person, as defined in subsection (e), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; intellectual disability; organic personality syndrome; or an organic mental disorder.

(2) “Lacks capacity to make an informed decision concerning treatment” means that the person, by reason of the person’s mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) “Likely to cause harm to self or others” means that the person, by reason of the person’s mental disorder: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state’s interest in protecting the property from such harm outweighs the person’s interest in personal liberty; or (B) is substantially unable, except for reason of indigency, to provide for any of the person’s basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person’s ability to function on the person’s own.

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state’s interest in protecting the property from such harm outweighs the person’s interest in personal liberty.

(g) “Patient” means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) “Voluntary patient” means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

(2) “Proposed patient” means a person for whom a petition pursuant to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

(3) “Involuntary patient” means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 59-2954, and amendments thereto.

(h) “Physician” means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) “Psychologist” means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(j) “Qualified mental health professional” means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed masters level psychologist, a licensed clinical psychotherapist, a licensed marriage and family thera-

pist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(1) “Direction” means monitoring and oversight including regular, periodic evaluation of services.

(2) “Licensed master social worker” means a person licensed as a master social worker by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318, and amendments thereto.

(3) “Licensed specialist social worker” means a person licensed in a social work practice specialty by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318, and amendments thereto.

(4) “Licensed masters level psychologist” means a person licensed as a licensed masters level psychologist by the behavioral sciences regulatory board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

(5) “Registered nurse” means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through 65-1164, and amendments thereto.

(k) “Secretary” means the secretary ~~of social and rehabilitation for aging and disability~~ services.

(l) “State psychiatric hospital” means Larned state hospital, Osawatomie state hospital, *or* Rainbow mental health facility ~~or Topeka state hospital~~.

(m) “Treatment” means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner.

(n) “Treatment facility” means any mental health center or clinic, psychiatric unit of a medical care facility, state psychiatric hospital, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

(o) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

Sec. 209. K.S.A. 59-2963 is hereby amended to read as follows: 59-2963. (a) Notice as required by subsection (a)(6) of K.S.A. 59-2960, and amendments thereto, shall be given to the proposed patient named in the petition, the proposed patient’s legal guardian if there is one, the attorney appointed to represent the proposed patient, the proposed patient’s spouse or nearest relative and to such other persons as the court directs. The notice shall also be given to the participating mental health center for the county where the proposed patient resides.

(b) The notice shall state:

(1) That a petition has been filed, alleging that the proposed patient is a mentally ill person subject to involuntary commitment for care and treatment under the act and requesting that the court order treatment;

(2) the date, time and place of the trial;

(3) the name of the attorney appointed to represent the proposed patient and the time and place where the proposed patient shall have the opportunity to consult with this attorney;

(4) that the proposed patient has a right to a jury trial if a written demand for such is filed with the court at least four days prior to the time set for trial; and

(5) that if the proposed patient demands a jury trial, the trial date may have to be continued by the court for a reasonable time in order to empanel a jury, but that this continuance will not exceed 30 days from the date of the filing of the demand.

(c) The court may order any of the following persons to serve the notice upon the proposed patient:

(1) The physician or psychologist currently administering to the proposed patient, if the physician or psychologist consents to doing so;

(2) the head of the participating mental health center or the designee thereof;

(3) the local health officer or such officer’s designee;

(4) the secretary ~~of social and rehabilitation for aging and disability~~

services or the secretary's designee if the proposed patient is being detained at a state psychiatric hospital;

(5) any law enforcement officer; or

(6) the attorney of the proposed patient.

(d) The notice shall be served personally on the proposed patient as soon as possible, but not less than six days prior to the date of the trial, and immediate return thereof shall be made to the court by the person serving notice. Unless otherwise ordered by the court, notice shall be served on the proposed patient by a nonuniformed person.

(e) Notice to all other persons may be made by mail or in such other manner as directed by the court.

Sec. 210. K.S.A. 59-2968 is hereby amended to read as follows: 59-2968. (a) All admissions to a state psychiatric hospital upon any order of a court shall be to the state psychiatric hospital designated by the secretary ~~of social and rehabilitation~~ *for aging and disability* services. The time and manner of the admission shall be arranged by the participating mental health center authorizing such admission and coordinated with the hospital and the official or agent who shall transport the person.

(b) No patient shall be admitted to a state psychiatric hospital pursuant to any of the provisions of this act, including any court-ordered admissions, if the secretary has notified the supreme court of the state of Kansas and each district court which has jurisdiction over all or part of the catchment area served by a state psychiatric hospital, that the census of a particular treatment program of that state psychiatric hospital has reached capacity and that no more patients may be admitted. Following notification that a state psychiatric hospital program has reached its capacity and no more patients may be admitted, any district court which has jurisdiction over all or part of the catchment area served by that state psychiatric hospital, and any participating mental health center which serves all or part of that same catchment area, may request that patients needing that treatment program be placed on a waiting list maintained by that state psychiatric hospital.

(c) In each such case, as a vacancy at that state psychiatric hospital occurs, the district court and participating mental health center shall be notified, in the order of their previous requests for placing a patient on the waiting list, that a patient may be admitted to the state psychiatric hospital. As soon as the state psychiatric hospital is able to admit patients on a regular basis to a treatment program for which notice has been previously given under this section, the superintendent of the state psychiatric hospital shall inform the supreme court and each affected district court that the moratorium on admissions is no longer in effect.

Sec. 211. K.S.A. 2013 Supp. 59-2972 is hereby amended to read as follows: 59-2972. (a) The secretary ~~of social and rehabilitation~~ *for aging and disability* services or the secretary's designee may transfer any patient from any state psychiatric hospital under the secretary's control to any other state psychiatric hospital whenever the secretary or the secretary's designee considers it to be in the best interests of the patient. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the hospital to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary ~~of social and rehabilitation~~ *for aging and disability* services prior to such transfer.

(b) The secretary ~~of social and rehabilitation~~ *for aging and disability* services or the designee of the secretary may transfer any involuntary patient from any state psychiatric hospital to any state institution for people with intellectual disability whenever the secretary ~~of social and rehabilitation~~ *for aging and disability* services or the designee of the secretary considers it to be in the best interests of the patient. Any patient transferred as provided for in this subsection shall remain subject to the same statutory provisions as were applicable at the psychiatric hospital from which the patient was transferred and in addition thereto shall abide by and be subject to all the rules and regulations of the institution for people with intellectual disability to which the patient has been trans-

ferred. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one has been appointed, shall be notified of the transfer, and notice shall be sent to the committing court not less than 14 days before the proposed transfer. The notice shall name the institution to which the patient is proposed to be transferred to and state that, upon request of the spouse or nearest relative or legal guardian, an opportunity for a hearing on the proposed transfer will be provided by the secretary of ~~social and rehabilitation~~ *for aging and disability* services prior to such transfer. No patient shall be transferred from a state psychiatric hospital to a state institution for people with intellectual disability unless the superintendent of the receiving institution has found, pursuant to K.S.A. 76-12b01 through 76-12b11, and amendments thereto, that the patient is a person with intellectual disability and in need of care and training and that placement in the institution is the least restrictive alternative available. Nothing in this subsection shall prevent the secretary of ~~social and rehabilitation~~ *for aging and disability* services or the designee of the secretary from allowing a patient at a state psychiatric hospital to be admitted as a voluntary resident to a state institution for people with intellectual disability, or from then discharging such person from the state psychiatric hospital pursuant to K.S.A. 59-2973, and amendments thereto, as may be appropriate.

Sec. 212. K.S.A. 2013 Supp. 59-2978 is hereby amended to read as follows: 59-2978. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

- (1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;
- (2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;
- (3) to conjugal visits if facilities are available for such visits;
- (4) to receive visitors in reasonable numbers and at reasonable times each day;
- (5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;
- (6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;
- (7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;
- (8) to communicate by letter with the secretary of ~~social and rehabilitation~~ *for aging and disability* services, the head of the treatment facility and any court, attorney, physician, psychologist, or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;
- (9) to contact or consult privately with the patient's physician or psychologist, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;
- (10) to be visited by the patient's physician, psychologist, minister of



religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

(d) The provisions of this section do not apply to persons civilly committed to a treatment facility as a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

Sec. 213. K.S.A. 59-2981 is hereby amended to read as follows: 59-2981. In each proceeding the court shall allow and order paid to any individual or treatment facility as part of the costs thereof a reasonable fee and expenses for any professional services ordered performed by the court pursuant to this act other than those performed by any individual or hospital under the jurisdiction of the secretary of social and rehabilitation for aging and disability services, and including the fee of counsel for the patient when counsel is appointed by the court and the costs of the county or district attorney incurred in cases involving change of venue. Other costs and fees shall be allowed and paid as are allowed by law for similar services in other cases. The costs shall be taxed to the estate of the patient, to those bound by law to support such patient or to the county of the residence of the patient as the court having jurisdiction shall direct, except that if a proposed patient is found not to be a mentally ill person subject to involuntary commitment under this act, the costs shall not be assessed against such patient's estate but may at the discretion of the court be assessed against the petitioner or may be paid from the general fund of the county of the residence of the proposed patient. Any district court receiving a statement of costs from another district court shall forthwith approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the ground that the patient is not a resident of that county. In such case it shall transmit the statement of costs to the secretary of social and rehabilitation for aging and disability services who shall determine the question of residence and certify the secretary's findings to each district court. Whenever a district court has sent a statement of costs to the district court of another county and such costs have not been paid within 90 days after the statement was sent, the district court that sent the statement may transmit such statement of costs to the secretary for determination and certification as provided above. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the secretary of social and rehabilitation for aging and disability services as to the residence of the patient shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the patient or from those bound by law to support such patient, unless the court shall find that the proceedings in which such

costs were incurred were instituted without probable cause and not in good faith.

Sec. 214. K.S.A. 2013 Supp. 59-29a02 is hereby amended to read as follows: 59-29a02. As used in this act:

(a) “Sexually violent predator” means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeat acts of sexual violence.

(b) “Mental abnormality” means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others.

(c) “Likely to engage in repeat acts of sexual violence” means the person’s propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(d) “Sexually motivated” means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant’s sexual gratification.

(e) “Sexually violent offense” means:

(1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto;

(2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5506, and amendments thereto;

(4) criminal sodomy, as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5504, and amendments thereto;

(6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5508, and amendments thereto;

(8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2013 Supp. 21-5510, and amendments thereto;

(9) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5505, and amendments thereto;

(10) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2013 Supp. 21-5604, and amendments thereto;

(11) any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent offense as defined in subparagraphs (1) through (11) or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this section;

(12) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 and 21-3303, prior to their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a sexually violent offense as defined in this subsection; or

(13) any act which either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this act, has been determined beyond a reasonable doubt to have been sexually motivated.

(f) “Agency with jurisdiction” means that agency which releases upon lawful order or authority a person serving a sentence or term of confinement and includes the department of corrections, the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* and the prisoner review board.

(g) “Person” means an individual who is a potential or actual subject of proceedings under this act.

(h) “Treatment staff” means the persons, agencies or firms employed by or contracted with the secretary to provide treatment, supervision or other services at the sexually violent predator facility.

(i) “Transitional release” means any halfway house, work release, sexually violent predator treatment facility or other placement designed to assist the person’s adjustment and reintegration into the community once released from commitment.

(j) “Secretary” means the secretary ~~of the department of social and rehabilitation~~ *for aging and disability* services.

Sec. 215. K.S.A. 2013 Supp. 59-29a07 is hereby amended to read as follows: 59-29a07. (a) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Such determination may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the secretary ~~of social and rehabilitation~~ *for aging and disability* services for control, care and treatment until such time as the person’s mental abnormality or personality disorder has so changed that the person is safe to be at large. Such control, care and treatment shall be provided at a facility operated by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services.

(b) At all times, persons committed for control, care and treatment by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be kept in a secure facility and such persons shall be segregated at all times from any other patient under the supervision of the secretary ~~of social and rehabilitation~~ *for aging and disability* services and commencing June 1, 1995, such persons committed pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be kept in a facility or building separate from any other patient under the supervision of the secretary. The provisions of this subsection shall apply to any facility or building utilized in any transitional release program or conditional release program.

(c) The ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the secretary of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the secretary of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

(d) If any person while committed to the custody of the secretary pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be taken into custody by any law enforcement officer as defined in K.S.A. 2013 Supp. 21-5111, and amendments thereto, pursuant to any parole revocation proceeding or any arrest or conviction for a criminal offense of any nature, upon the person’s release from the custody of any law enforcement officer, the person shall be returned to the custody of the secretary for further treatment pursuant to K.S.A. 59-29a01 et seq., and amendments thereto. During any such period of time a person is not in the actual custody or supervision of the secretary, the secretary shall be excused from the provisions of K.S.A. 59-29a08, and amendments thereto, with regard to providing that person an annual examination, annual notice and annual report to the court, except that the secretary shall give notice to the court as soon as reasonably possible after the taking of the person into custody that the person is no longer in treatment pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, and notice to the court when the person is returned to the custody of the secretary for further treatment.

(e) If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person’s release.

(f) Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. Any subsequent trial following a mistrial shall be held within 90 days of the previous trial, unless such subsequent

trial is continued as provided in K.S.A. 59-29a06, and amendments thereto.

(g) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to be released pursuant to K.S.A. 22-3305, and amendments thereto, and such person's commitment is sought pursuant to subsection (a), the court shall first hear evidence and determine whether the person did commit the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on such person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person and the strength of the prosecution's case. If after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

Sec. 216. K.S.A. 2013 Supp. 59-29a11 is hereby amended to read as follows: 59-29a11. (a) Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release or final discharge pursuant to this act. However, if a person has previously filed a petition for transitional release, conditional release or final discharge without the secretary of the department of social and rehabilitation for aging and disability services approval and the court determined either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

(b) No transitional release or conditional release facility or building shall be located within 2,000 feet of a licensed child care facility, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state institution or facility.

(c) Transitional release or conditional release facilities or buildings shall be subject to all regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, such municipality's building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(d) On and after January 1, 2009, the secretary of social and rehabilitation for aging and disability services shall place no more than eight sexually violent predators in any one county on transitional release or conditional release.

(e) The secretary of social and rehabilitation for aging and disability services shall submit an annual report to the governor and the legislature during the first week of the regular legislative session detailing activities related to the transitional release and conditional release of sexually violent predators. The report shall include the status of such predators who have been placed in transitional release or conditional release including the number of any such predators and their locations; information regarding the number of predators who have been returned to the sexually violent predator treatment program at Larned state hospital along with

the reasons for such return; and any plans for the development of additional transitional release or conditional release facilities.

Sec. 217. K.S.A. 2013 Supp. 59-29a22 is hereby amended to read as follows: 59-29a22. (a) As used in this section:

(1) “Patient” means any individual:

(A) Who is receiving services for mental illness and who is admitted, detained, committed, transferred or placed in the custody of the secretary ~~of social and rehabilitation~~ *for aging and disability* services under the authority of K.S.A. 22-3219, 22-3302, 22-3303, 22-3428a, 22-3429, 22-3430, 59-29a05, 75-5209 and 76-1306, and amendments thereto.

(B) In the custody of the secretary ~~of social and rehabilitation~~ *for aging and disability* services after being found a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, including any sexually violent predator placed on transitional release.

(2) “Restraints” means the application of any devices, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others.

(3) “Seclusion” means the placement of a patient, alone, in a room, where the patient’s freedom to leave is restricted and where the patient is not under continuous observation.

(b) Each patient shall have the following rights:

(1) Upon admission or commitment, be informed orally and in writing of the patient’s rights under this section. Copies of this section shall be posted conspicuously in each patient area, and shall be available to the patient’s guardian and immediate family.

(2) The right to refuse to perform labor which is of financial benefit to the facility in which the patient is receiving treatment or service. Privileges or release from the facility may not be conditioned upon the performance of any labor which is regulated by this subsection. Tasks of a personal housekeeping nature are not considered compensable labor. Patients may voluntarily engage in therapeutic labor which is of financial benefit to the facility if such labor is compensated in accordance with a plan approved by the department and if:

(A) The specific labor is an integrated part of the patient’s treatment plan approved as a therapeutic activity by the professional staff member responsible for supervising the patient’s treatment;

(B) the labor is supervised by a staff member who is qualified to oversee the therapeutic aspects of the activity;

(C) the patient has given written informed consent to engage in such labor and has been informed that such consent may be withdrawn at any time; and

(D) the labor involved is evaluated for its appropriateness by the staff of the facility at least once every 120 days.

(3) A right to receive prompt and adequate treatment, rehabilitation and educational services appropriate for such patient’s condition, within the limits of available state and federal funds.

(4) Have the right to be informed of such patient’s treatment and care and to participate in the planning of such treatment and care.

(5) Have the following rights, under the following procedures, to refuse medication and treatment:

(A) Have the right to refuse all medication and treatment except as ordered by a court or in a situation in which the medication or treatment is necessary to prevent serious physical harm to the patient or to others. Except when medication or medical treatment has been ordered by the court or is necessary to prevent serious physical harm to others as evidenced by a recent overt act, attempt or threat to do such harm, a patient may refuse medications and medical treatment if the patient is a member of a recognized religious organization and the religious tenets of such organization prohibit such medications and treatment.

(B) Medication may not be used as punishment, for the convenience of staff, as a substitute for a treatment program, or in quantities that interfere with a patient’s treatment program.

(C) Patients will have the right to have explained the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered.

(6) Except as provided in paragraph (2), have a right to be free from physical restraint and seclusion.

(A) Restraints or seclusion shall not be applied to a patient unless it is determined by the superintendent of the treatment facility or a physician or licensed psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraint or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraint or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a treatment facility shall not exceed three hours without medical reevaluation. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or licensed psychologist, which shall be no less than once per each 15 minutes. The superintendent of the treatment facility or a physician or licensed psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

(B) The provisions of clause (A) shall not prevent:

(i) The use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in a treatment or has become disruptive of a treatment process.

(ii) Patients may be restrained for security reasons during transport to or from the patient's building, including transport to another treatment facility. Any patient committed or transferred to a hospital or other health care facility for medical care may be isolated for security reasons within locked facilities in the hospital.

(iii) Patients may be locked or restricted in such patient's room during the night shift, if such patient resides in a unit in which each room is equipped with a toilet and sink or if the patients who do not have toilets in the rooms shall be given an opportunity to use a toilet at least once every hour, or more frequently if medically indicated.

(iv) Patients may be locked in such patient's room for a period of time no longer than one hour during each change of shift by staff to permit staff review of patient needs.

(v) Patients may also be locked in such patient's room on a unit-wide or facility-wide basis as an emergency measure as needed for security purposes to deal with an escape or attempted escape, the discovery of a dangerous weapon in the unit or facility or the receipt of reliable information that a dangerous weapon is in the unit or facility, or to prevent or control a riot or the taking of a hostage. A unit-wide or facility-wide emergency isolation order may only be authorized by the superintendent of the facility where the order is applicable or the superintendent's designee. A unit-wide or facility-wide emergency isolation order shall be approved within one hour after it is authorized by the superintendent or the superintendent's designee. An emergency order for unit-wide or facility-wide isolation may only be in effect for the period of time needed to preserve order while dealing with the situation and may not be used as a substitute for adequate staffing. During a period of unit-wide or facility-wide isolation, the status of each patient shall be reviewed every 30 minutes to ensure the safety and comfort of the patient, and each patient who is locked in a room without a toilet shall be given an opportunity to use a toilet at least once every hour, or more frequently if medically indicated. The facility shall have a written policy covering the use of isolation that ensures that the dignity of the individual is protected, that the safety of the individual is secured, and that there is regular, frequent monitoring by trained staff to care for bodily needs as may be required.

(vi) Individual patients who are referred by the court or correctional facilities for criminal evaluations may be placed in administrative confinement for security reasons and to maintain proper institutional management when treatment cannot be addressed through routine psychiatric methods. Administrative confinement of individuals shall be limited to only patients that demonstrate or threaten substantial injury to other patients or staff and when there are no clinical interventions available that will be effective to maintain a safe and therapeutic environment for both patients and staff. Administrative confinement shall not be used for any patient who is actively psychotic or likely to be psychologically harmed.

The status of each patient shall be reviewed every 15 minutes to ensure the safety and comfort of the patient. The patient shall be afforded all patient rights including being offered a minimum of one hour of supervised opportunity for personal hygiene, exercise and to meet other personal needs.

(7) The right not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose.

(8) The right to individual religious worship within the facility if the patient desires such an opportunity. The provisions for worship shall be available to all patients on a nondiscriminatory basis. No individual may be coerced into engaging in any religious activities.

(9) A right to a humane psychological and physical environment within the hospital facilities. All facilities shall be designed to afford patients with comfort and safety, to promote dignity and ensure privacy. Facilities shall also be designed to make a positive contribution to the effective attainment of the treatment goals of the hospital.

(10) The right to confidentiality of all treatment records, and as permitted by other applicable state or federal laws, have the right to inspect and to receive a copy of such records.

(11) Except as otherwise provided, have a right to not be filmed or taped, unless the patient signs an informed and voluntary consent that specifically authorizes a named individual or group to film or tape the patient for a particular purpose or project during a specified time period. The patient may specify in such consent periods during which, or situations in which, the patient may not be filmed or taped. If a patient is legally incompetent, such consent shall be granted on behalf of the patient by the patient's guardian. A patient may be filmed or taped for security purposes without the patient's consent.

(12) The right to be informed in writing upon or at a reasonable time after admission, of any liability that the patient or any of the patient's relatives may have for the cost of the patient's care and treatment and of the right to receive information about charges for care and treatment services.

(13) The right to be treated with respect and recognition of the patient's dignity and individuality by all employees of the treatment facility.

(14) Patients have an unrestricted right to send sealed mail and receive sealed mail to or from legal counsel, the courts, the secretary of ~~social and rehabilitation~~ *for aging and disability* services, the superintendent of the treatment facility, the agency designated as the developmental disabilities protection and advocacy agency pursuant to P.L. 94-103, as amended, private physicians and licensed psychologists, and have reasonable access to letter-writing materials.

(15) The right as specified under clause (A) to send and receive sealed mail, subject to the limitations specified under clause (B):

(A) A patient shall also have a right to send sealed mail and receive sealed mail to or from other persons, subject to physical examination in the patient's presence if there is reason to believe that such communication contains contraband materials or objects that threaten the security of patients or staff. The officers and staff of a facility may not read any mail covered by this clause.

(B) The above rights to send and receive sealed and confidential mail are subject to the following limitations:

(i) An officer or employee of the facility at which the patient is placed may delay delivery of the mail to the patient for a reasonable period of time to verify whether the person named as the sender actually sent the mail; may open the mail and inspect it for contraband outside the presence of the patient; or may, if the officer or staff member cannot determine whether the mail contains contraband, return the mail to the sender along with notice of the facility mail policy.

(ii) The superintendent of the facility or the superintendent's designee may, in accordance with the standards and the procedure under subsection (c) for denying a right for cause, authorize a member of the facility treatment staff to read the mail, if the superintendent or the superinten-

dent's designee has reason to believe that the mail could pose a threat to security at the facility or seriously interfere with the treatment, rights, or safety of the patient or others.

(iii) Residents may be restricted in receiving in the mail items deemed to be pornographic, offensive or which is deemed to jeopardize their individual treatment or that of others.

(16) Reasonable access to a telephone to make and receive telephone calls within reasonable limits.

(17) Be permitted to use and wear such patient's own clothing and personal possessions, including toilet articles, or be furnished with an adequate allowance of clothes if none are available. Provision shall be made to launder the patient's clothing.

(18) Be provided a reasonable amount of individual secure storage space for private use.

(19) Reasonable protection of privacy in such matters as toileting and bathing.

(20) Be permitted to see a reasonable number of visitors who do not pose a threat to the security or therapeutic climate of other patients or the facility.

(21) The right to present grievances under the procedures established by each facility on the patient's own behalf or that of others to the staff or superintendent of the treatment facility without justifiable fear of reprisal and to communicate, subject to paragraph (14), with public officials or with any other person without justifiable fear of reprisal.

(22) The right to spend such patient's money as such patient chooses, except to the extent that authority over the money is held by another, including the parent of a minor, a court-appointed guardian of the patient's estate or a representative payee. A treatment facility may, as a part of its security procedures, use a patient trust account in lieu of currency that is held by a patient and may establish reasonable policies governing patient account transactions.

(c) A patient's rights guaranteed under subsections (b)(15) to (b)(21) may be denied for cause after review by the superintendent of the facility or the superintendent's designee, and may be denied when medically or therapeutically contraindicated as documented by the patient's physician or licensed psychologist in the patient's treatment record. The individual shall be informed in writing of the grounds for withdrawal of the right and shall have the opportunity for a review of the withdrawal of the right in an informal hearing before the superintendent of the facility or the superintendent's designee. There shall be documentation of the grounds for withdrawal of rights in the patient's treatment record. After an informal hearing is held, a patient or such patient's representative may petition for review of the denial of any right under this subsection through the use of the grievance procedure provided in subsection (d).

(d) ~~The department of social and rehabilitation~~ *secretary for aging and disability* services shall establish procedures to assure protection of patients' rights guaranteed under this section.

(e) No person may intentionally retaliate or discriminate against any patient or employee for contacting or providing information to any state official or to an employee of any state protection and advocacy agency, or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized under this section.

(f) This section shall be a part of and supplemental to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 218. K.S.A. 2013 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-29b73, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) "Other facility for care or treatment" means any mental health clinic, medical care facility, nursing home, the detox units at either Osa-



watomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

(e) “Patient” means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) “Voluntary patient” means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

(2) “Proposed patient” means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

(3) “Involuntary patient” means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 59-29b54, and amendments thereto.

(f) “Person with an alcohol or substance abuse problem” means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in subsection (k); or

(2) uses alcoholic beverages or any substance as defined in subsection (k) to the extent that the person’s health may be substantially impaired or endangered without treatment.

(g) (1) “Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment” means a person with an alcohol or substance abuse problem, as defined in subsection (f), who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) “Incapacitated by alcohol or any substance” means that the person, as the result of the use of alcohol or any substance as defined in subsection (k), has impaired judgment resulting in the person: (A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate responsible decisions concerning either the person’s well-being or estate.

(3) “Likely to cause harm to self or others” means that the person, by reason of the person’s use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state’s interest in protecting the property from such harm outweighs the person’s interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person’s basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person’s ability to function on the person’s own.

(h) “Physician” means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) “Psychologist” means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(j) “State certified alcohol and drug abuse counselor” means a person approved by the secretary of ~~social and rehabilitation~~ *aging and disability* services to perform assessments using the American Society of Addiction Medicine criteria and employed at a state funded and designated assessment center.

(k) “Substance” means: (1) The same as the term “controlled substance” as defined in K.S.A. 2013 Supp. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

(l) “Treatment” means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(m) (1) “Treatment facility” means a treatment program, public or

private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b, and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607, and amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

(n) The terms defined in K.S.A. 59-3051, and amendments thereto, shall have the meanings provided by that section.

Sec. 219. K.S.A. 59-29b57 is hereby amended to read as follows: 59-29b57. (a) A verified petition to determine whether or not a person is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act may be filed in the district court of the county wherein that person resides or wherein such person may be found.

(b) The petition shall state:

(1) The petitioner's belief that the named person is a person with an alcohol or substance abuse problem subject to involuntary commitment and the facts upon which this belief is based;

(2) to the extent known, the name, age, present whereabouts and permanent address of the person named as possibly a person with an alcohol or substance abuse problem subject to involuntary commitment; and if not known, any information the petitioner might have about this person and where the person resides;

(3) to the extent known, the name and address of the person's spouse or nearest relative or relatives, or legal guardian, or if not known, any information the petitioner might have about a spouse, relative or relatives or legal guardian and where they might be found;

(4) to the extent known, the name and address of the person's legal counsel, or if not known, any information the petitioner might have about this person's legal counsel;

(5) to the extent known, whether or not this person is able to pay for medical services, or if not known, any information the petitioner might have about the person's financial circumstances or indigency;

(6) to the extent known, the name and address of any person who has custody of the person, and any known pending criminal charge or charges or of any arrest warrant or warrants outstanding or, if there are none, that fact or if not known, any information the petitioner might have about any current criminal justice system involvement with the person;

(7) the name or names and address or addresses of any witness or witnesses the petitioner believes has knowledge of facts relevant to the issue being brought before the court; and

(8) the name and address of the treatment facility to which the petitioner recommends that the proposed patient be sent for treatment if the proposed patient is found to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, or if the petitioner is not able to recommend a treatment

facility to the court, then that fact and that the secretary of ~~social and rehabilitation~~ *for aging and disability* services has been notified and requested to determine which treatment facility the proposed patient should be sent to.

(c) The petition shall be accompanied by:

(1) A signed certificate from a physician, psychologist or state certified alcohol and substance abuse counselor stating that such professional has personally examined the person and any available records and has found that the person, in such professional's opinion, is likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, unless the court allows the petition to be accompanied by a verified statement by the petitioner that the petitioner had attempted to have the person seen by a physician, psychologist or state certified alcohol and substance abuse counselor, but that the person failed to cooperate to such an extent that the examination was impossible to conduct;

(2) a statement of consent to the admission of the proposed patient to the treatment facility named by the petitioner pursuant to subsection (b)(8) signed by the head of that treatment facility or other documentation which shows the willingness of the treatment facility to admitting the proposed patient for care and treatment; and

(3) if applicable, a copy of any notice given pursuant to K.S.A. 59-29b51, and amendments thereto, in which the named person has sought discharge from a treatment facility into which they had previously entered voluntarily, or a statement from the treating physician or psychologist that the person was admitted as a voluntary patient but now lacks capacity to make an informed decision concerning treatment and is refusing reasonable treatment efforts, and including a description of the treatment efforts being refused.

(d) The petition may include a request that an ex parte emergency custody order be issued pursuant to K.S.A. 59-29b58, and amendments thereto. If such request is made the petition shall also include:

(1) A brief statement explaining why the person should be immediately detained or continue to be detained;

(2) the place where the petitioner requests that the person be detained or continue to be detained; and

(3) if applicable, because detention is requested in a facility other than the detox unit at either Osawatomie state hospital or at Larned state hospital, a statement that the facility is willing to accept and detain such person.

(e) The petition may include a request that a temporary custody order be issued pursuant to K.S.A. 59-29b59, and amendments thereto.

Sec. 220. K.S.A. 59-29b60 is hereby amended to read as follows: 59-29b60. (a) Upon the filing of the petition provided for in K.S.A. 59-29b57, and amendments thereto, the district court shall issue the following:

(1) An order fixing the time and place of the trial upon the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition. If a demand for a trial by jury is later filed by the proposed patient, the court may continue the trial and fix a new time and place of the trial at a time that may exceed beyond the 14 days but shall be fixed within a reasonable time not exceeding 30 days from the date of the filing of the demand.

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

(3) An order appointing an attorney to represent the proposed patient at all stages of the proceedings and until all orders resulting from such proceedings are terminated. The court shall give preference, in the ap-

pointment of this attorney, to any attorney who has represented the proposed patient in other matters if the court has knowledge of that prior representation. The proposed patient shall have the right to engage an attorney of the proposed patient's own choice and, in such event, the attorney appointed by the court shall be relieved of all duties by the court.

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least five days prior to the date set for the trial under K.S.A. 59-29b65, and amendments thereto.

(5) An order for an evaluation as provided for in K.S.A. 59-29b61, and amendments thereto.

(6) A notice as provided for in K.S.A. 59-29b63, and amendments thereto.

(7) If the petition also contains allegations as provided for in K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by K.S.A. 59-29b65 and K.S.A. 59-3067, and amendments thereto, may be consolidated.

(8) If the petitioner shall not have named a proposed treatment facility to which the proposed patient may be sent as provided for subsection (b)(8) of K.S.A. 59-29b57, and amendments thereto, but instead stated that the ~~secretary of social and rehabilitation~~ *secretary of aging and disability* services has been notified and requested to determine which treatment facility the proposed patient should be sent to, then the court shall issue an order requiring the secretary, or the secretary's designee, to make that determination and to notify the court of the name and address of that treatment facility by such time as the court shall specify in the court's order.

(b) Nothing in this section shall prevent the court from granting an order of continuance, for good cause shown, to any party for no longer than seven days, except that such limitation does not apply to a request for an order of continuance made by the proposed patient or to a request made by any party if the proposed patient is absent such that further proceedings can not be held until the proposed patient has been located. The court also, upon the request of any party, may advance the date of the hearing if necessary and in the best interests of all concerned.

Sec. 221. K.S.A. 59-29b63 is hereby amended to read as follows: 59-29b63. (a) Notice as required by subsection (a)(6) of K.S.A. 59-29b60, and amendments thereto, shall be given to the proposed patient named in the petition, the proposed patient's legal guardian if there is one, the attorney appointed to represent the proposed patient, the proposed patient's spouse or nearest relative and to such other persons as the court directs.

(b) The notice shall state:

(1) That a petition has been filed, alleging that the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act and requesting that the court order treatment;

(2) the date, time and place of the trial;

(3) the name of the attorney appointed to represent the proposed patient and the time and place where the proposed patient shall have the opportunity to consult with this attorney;

(4) that the proposed patient has a right to a jury trial if a written demand for such is filed with the court at least four days prior to the time set for trial; and

(5) that if the proposed patient demands a jury trial, the trial date may have to be continued by the court for a reasonable time in order to empanel a jury, but that this continuance shall not exceed 30 days from the date of the filing of the demand.

(c) The court may order any of the following persons to serve the notice upon the proposed patient:

(1) The physician or psychologist currently administering to the proposed patient, if the physician or psychologist consents to doing so;

(2) the head of the treatment facility where the proposed patient is being detained or the designee thereof;

- (3) the local health officer or such officer's designee;
  - (4) the secretary ~~of social and rehabilitation~~ *for aging and disability* services or the secretary's designee if the proposed patient is being treated at a state psychiatric hospital pursuant to any provision of K.S.A. 59-2945 et seq., and amendments thereto;
  - (5) any law enforcement officer; or
  - (6) the attorney of the proposed patient.
- (d) The notice shall be served personally on the proposed patient as soon as possible, but not less than six days prior to the date of the trial, and immediate return thereof shall be made to the court by the person serving notice. Unless otherwise ordered by the court, notice shall be served on the proposed patient by a nonuniformed person.
- (e) Notice to all other persons may be made by mail or in such other manner as directed by the court.

Sec. 222. K.S.A. 2013 Supp. 59-29b66 is hereby amended to read as follows: 59-29b66. (a) Upon the completion of the trial, if the court or jury finds by clear and convincing evidence that the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, the court shall order treatment for such person for a specified period of time not to exceed three months from the date of the trial at a treatment facility. Whenever an involuntary patient is ordered to receive treatment, the clerk of the district court shall send a copy of the order to the Kansas bureau of investigation within five days after receipt of the order. The Kansas bureau of investigation shall immediately enter the order into the national criminal information center and other appropriate databases. An order for treatment in a treatment facility shall be conditioned upon the consent of the head of that treatment facility to accepting the patient. In the event no appropriate treatment facility has agreed to provide treatment for the patient, then the secretary ~~of social and rehabilitation~~ *for aging and disability* services shall be given responsibility for providing or securing treatment for the patient.

(b) A copy of the order for treatment shall be provided to the head of the treatment facility.

(c) When the court orders treatment, it shall retain jurisdiction to modify, change or terminate such order, unless venue has been changed pursuant to K.S.A. 59-29b71, and amendments thereto, and then the receiving court shall have continuing jurisdiction.

(d) If the court finds from the evidence that the proposed patient has not been shown to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act, the court shall release the person and terminate the proceedings.

Sec. 223. K.S.A. 59-29b78 is hereby amended to read as follows: 59-29b78. (a) Every patient being treated in any treatment facility, in addition to all other rights preserved by the provisions of this act, shall have the following rights:

(1) To wear the patient's own clothes, keep and use the patient's own personal possessions including toilet articles and keep and be allowed to spend the patient's own money;

(2) to communicate by all reasonable means with a reasonable number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls, and by letter, both to mail and receive unopened correspondence, except that if the head of the treatment facility should deny a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

(3) to conjugal visits if facilities are available for such visits;

(4) to receive visitors in reasonable numbers and at reasonable times each day;

(5) to refuse involuntary labor other than the housekeeping of the patient's own bedroom and bathroom, provided that nothing herein shall be construed so as to prohibit a patient from performing labor as a part of a therapeutic program to which the patient has given their written consent and for which the patient receives reasonable compensation;

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous

treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained authority to consent to such from the court which has venue over the guardianship following a hearing held for that purpose;

(7) to have explained, the nature of all medications prescribed, the reason for the prescription and the most common side effects and, if requested, the nature of any other treatments ordered;

(8) to communicate by letter with the secretary of ~~social and rehabilitation~~ *for aging and disability* services, the head of the treatment facility and any court, attorney, physician, psychologist or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact or consult privately with the patient's physician or psychologist, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(10) to be visited by the patient's physician, psychologist, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time and if the patient is a minor, their parent;

(11) to be informed orally and in writing of their rights under this section upon admission to a treatment facility; and

(12) to be treated humanely consistent with generally accepted ethics and practices.

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such patient is a minor or has a legal guardian, and to the patient's attorney. In addition, notice of any restriction of a patient's rights shall be communicated to the patient in a timely fashion.

(c) Any person willfully depriving any patient of the rights protected by this section, except for the restriction of such rights in accordance with the provisions of subsection (b) or in accordance with a properly obtained court order, shall be guilty of a class C misdemeanor.

Sec. 224. K.S.A. 59-29b81 is hereby amended to read as follows: 59-29b81. In each proceeding the court shall allow and order paid to any individual or treatment facility as part of the costs thereof a reasonable fee and expenses for any professional services ordered performed by the court pursuant to this act, and including the fee of counsel for the patient when counsel is appointed by the court and the costs of the county or district attorney incurred in cases involving change of venue. Other costs and fees shall be allowed and paid as are allowed by law for similar services in other cases. The costs shall be taxed to the estate of the patient, to those bound by law to support such patient or to the county of the residence of the patient as the court having jurisdiction shall direct, except that if a proposed patient is found not to be a person with an alcohol or substance abuse problem subject to involuntary commitment under this act, the costs shall not be assessed against such patient's estate but may at the discretion of the court be assessed against the petitioner or may be paid from the general fund of the county of the residence of the proposed patient. Any district court receiving a statement of costs from another district court shall forthwith approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the ground that the patient is not a resident of that county. In such case it shall transmit the statement of costs to the secretary of ~~social and rehabilitation~~ *for aging and disability* services who shall determine the question of residence and certify the secretary's find-

ings to each district court. Whenever a district court has sent a statement of costs to the district court of another county and such costs have not been paid within 90 days after the statement was sent, the district court that sent the statement may transmit such statement of costs to the secretary for determination and certification as provided in this section. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the ~~secretary of social and rehabilitation~~ *secretary for aging and disability services* as to the residence of the patient shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the patient or from those bound by law to support such patient, unless the court shall find that the proceedings in which such costs were incurred were instituted without probable cause and not in good faith.

Sec. 225. K.S.A. 59-3065 is hereby amended to read as follows: 59-3065. (a) Upon the filing of a petition as provided for in K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, or at any time thereafter until the trial provided for in K.S.A. 59-3067, and amendments thereto, the court may enter any of the following:

(1) An order for an investigation and report concerning the proposed ward's or proposed conservatee's family relationships, past conduct, the nature and extent of any property or income of the proposed ward or proposed conservatee; whether the proposed ward or proposed conservatee is likely to injure self or others, or other matters as the court may specify. If requested to do so by the court, the ~~secretary of social and rehabilitation services~~ *secretary for children and families* shall conduct this investigation. Otherwise, the court may appoint any other person who is qualified to conduct this investigation, and the costs of this investigation shall be assessed as provided for in K.S.A. 59-3094, and amendments thereto.

(2) Any orders requested or authorized pursuant to K.S.A. 59-3073, and amendments thereto.

(3) For good cause shown, an order of continuance of the trial set pursuant to K.S.A. 59-3063, and amendments thereto.

(4) For good cause shown, an order of advancement of the trial set pursuant to K.S.A. 59-3063, and amendments thereto.

(5) For good cause shown, an order changing the place of the trial set pursuant to K.S.A. 59-3063, and amendments thereto.

(6) A notice in the manner provided for in K.S.A. 59-3066, and amendments thereto.

(b) Upon the filing of a petition as provided for in K.S.A. 59-3059, and amendments thereto, alleging that the proposed ward or proposed conservatee is a minor in need of a guardian or conservator, or both, the court may issue any of the following:

(1) An order of temporary custody of the minor.

(2) An order requiring that the minor appear at the time and place of the trial set pursuant to subsection (b) of K.S.A. 59-3063, and amendments thereto. If an order to appear is entered, but is later rescinded, the court shall enter in the record of the proceedings the facts upon which the court found subsequent to the issuance of the order that the presence of the minor should be excused.

(3) An order appointing an attorney to represent the minor. The court shall give preference, in the appointment of the attorney, to any attorney who has represented the minor in other matters if the court has knowledge of that prior representation, or to an attorney whom the minor, if 14 years of age or older, has requested. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed by the court if requested, in writing, by the guardian, conservator or minor, if 14 years of age or older, or upon the court's own motion.

(4) A notice in the manner provided for in K.S.A. 59-3066, and amendments thereto.

(5) An order for a psychological or other examination and evaluation of the minor as may be specified by the court. The court may order the minor to submit to such an examination and evaluation to be conducted

through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the minor. The costs of this examination and evaluation shall be assessed as provided for in K.S.A. 59-3094, and amendments thereto.

(c) Upon the filing of a petition as provided for in K.S.A. 59-3060, and amendments thereto, alleging that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both, the court may issue an order of temporary custody of the minor.

(d) Upon the filing of a petition as provided for in K.S.A. 59-3061, and amendments thereto, alleging that the proposed ward or proposed conservatee is a person who has been previously adjudged as impaired in another state, the court may issue any of the following:

(1) An order appointing an attorney to represent the proposed ward or proposed conservatee. In making this appointment, the court shall consider the appointment of any attorney who has represented the proposed ward or proposed conservatee in other matters if the court has knowledge of that prior representation. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed at any time if requested, in writing, by the ward, conservatee, guardian or conservator, or upon the court's own motion.

(2) An order requiring that the proposed ward or proposed conservatee appear at the time and place of the trial set pursuant to subsection (d) of K.S.A. 59-3063, and amendments thereto. If an order to appear is entered, but later rescinded, the court shall enter in the record of the proceedings the facts upon which the court found subsequent to the issuance of the order that the presence of the proposed ward or proposed conservatee should be excused.

(3) An order for an examination and evaluation of the proposed ward or proposed conservatee as may be specified by the court. The court may order the proposed ward or proposed conservatee to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the proposed ward or proposed conservatee. The costs of this examination and evaluation shall be assessed as provided for in K.S.A. 59-3094, and amendments thereto.

(4) A notice in the manner provided for in K.S.A. 59-3066, and amendments thereto.

(e) Upon the filing of a petition as provided for in K.S.A. 59-3062, and amendments thereto, alleging that the proposed conservatee is a person in need of an ancillary conservator and requesting the appointment of an ancillary conservator in Kansas, the court may issue any of the following:

(1) An order appointing an attorney to represent the proposed conservatee. In making this appointment, the court shall consider the appointment of any attorney who has represented the proposed conservatee in other matters if the court has knowledge of that prior representation. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed at any time if requested, in writing, by the conservatee or conservator, or upon the court's own motion.

(2) A notice in the manner provided for in K.S.A. 59-3066, and amendments thereto.

Sec. 226. K.S.A. 59-3067 is hereby amended to read as follows: 59-3067. (a) The trial upon a petition filed pursuant to K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, shall be held at the time and place specified in the court's order entered pursuant to K.S.A. 59-3063, and amendments thereto, unless an order of advancement, continuance or change of place has been issued pursuant to K.S.A. 59-3065, and amendments thereto, and may be consolidated with the trial



provided for in the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto, or the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45, and amendments thereto, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.

(b) If the petition alleges that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or conservator, or both, the trial may be held to a jury if, at least four days prior to the date of the trial, a written demand for jury trial is filed with the court by the proposed ward or proposed conservatee. In all other cases, the trial shall be held to the court.

(c) The jury, if one is demanded, shall consist of six persons and shall be selected as provided by law. Notwithstanding any provision of K.S.A. 43-166, and amendments thereto, to the contrary, a panel of prospective jurors may be assembled by the clerk upon less than 20 days notice in this circumstance. From this panel, 12 qualified jurors who have been passed for cause shall be empaneled. Prior service as a juror in any other court shall not exempt, for that reason alone, any person from jury service hereunder. From the panel so obtained, the proposed ward or proposed conservatee, or the attorney for the proposed ward or proposed conservatee, shall strike one name; then the petitioner, or the petitioner's attorney, shall strike one name; and so on alternatively until each has stricken three names so as to reach the jury of six persons. During this process, if either party neglects or refuses to aid in striking the names, the court shall strike a name on behalf of such party.

(d) The petitioner and the proposed ward or proposed conservatee shall each be afforded an opportunity to appear at the trial, to testify and to present and cross-examine witnesses. If the trial has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The trial shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the proposed ward or proposed conservatee and the testimony and written findings and recommendations of the ~~secretary of social and rehabilitation services for children and families~~ or any other person appointed by the court to conduct an investigation pursuant to K.S.A. 59-3065, and amendments thereto. Such evidence shall not be privileged for the purpose of this trial.

(e) Upon completion of the trial:

(1) If the court finds by clear and convincing evidence that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, the court, pursuant to K.S.A. 59-3068, and amendments thereto, shall appoint a qualified and suitable individual or corporation as the guardian or conservator, or both, and shall specify what duties, responsibilities, powers and authorities as provided for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078 or 59-3079, and amendments thereto, the guardian or conservator shall have. If the court appoints co-guardians or co-conservators, or both, the court shall specify whether such co-guardians or co-conservators, or both, shall have the authority to act independently, to act only in concert, or under what circumstances or with regard to what matter they may act independently and when they may act only in concert.

(2) If a jury has been demanded in the case of an adult and the jury finds by clear and convincing evidence that the proposed ward or proposed conservatee is unable to meet essential needs for physical health, safety or welfare, or is unable to manage such person's estate, then the court shall determine if the proposed ward or proposed conservatee is in need of a guardian or a conservator, or both, and if so, the court, pursuant to K.S.A. 59-3068, and amendments thereto, shall appoint a qualified and suitable individual or corporation as the guardian or conservator, or both,

and shall specify what duties, responsibilities, powers and authorities as provided for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078 or 59-3079, and amendments thereto, the guardian or conservator shall have. If the court appoints co-guardians or co-conservators, or both, the court shall specify whether such co-guardians or co-conservators, or both, shall have the authority to act independently or whether they shall be required to act only in concert.

(3) If the court finds by clear and convincing evidence that the proposed conservatee is a person in need of an ancillary conservator, the court, pursuant to K.S.A. 59-3068, and amendments thereto, shall appoint a qualified and suitable individual or corporation as the ancillary conservator, and shall specify what duties, responsibilities, powers and authorities as provided for in K.S.A. 59-3078 or 59-3079, and amendments thereto, the ancillary conservator shall have. If the court appoints co-ancillary conservators, the court shall specify whether such co-ancillary conservators shall have the authority to act independently or whether they shall be required to act only in concert.

(f) If the court does not find by clear and convincing evidence that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, or does not find that the proposed ward or proposed conservatee is in need of a guardian or a conservator, even though the jury has determined that the proposed ward or proposed conservatee is unable to meet essential needs for physical health, safety or welfare, or is unable to manage such person's estate, because other appropriate alternatives exist and are sufficient to meet those needs of the proposed ward or proposed conservatee, then the court shall deny the requested appointments.

Sec. 227. K.S.A. 2013 Supp. 59-3069 is hereby amended to read as follows: 59-3069. (a) When the court appoints an individual or a corporation as a guardian, the court shall require that the individual or a representative on behalf of the corporation file with the court an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto.

(b) When the court appoints an individual or a corporation as a conservator, except as provided for in subsections (c), (d) or (e), or in K.S.A. 59-3055, and amendments thereto, the court shall require that the individual or a representative on behalf of the corporation file with the court a bond in the amount of 125% of the combined value of the tangible and intangible personal property in the conservatee's estate and the total of any annual income from any source which the conservator may be expected to receive on behalf of the conservatee, minus any reasonably expected expenses, conditioned upon the faithful discharge of all the duties of the conservator's trust according to law, and with sufficient sureties as the court may determine necessary or appropriate.

(c) When the court appoints an individual or a corporation as a conservator pursuant to a request for a voluntary conservatorship as provided for in K.S.A. 59-3056, and amendments thereto, and the person for whom the voluntary conservatorship is established has requested that the individual or corporation appointed not be required to file a bond, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(d) If, at the time of the appointment of a conservator, there is no property in the possession of the conservatee requiring a conservatorship, but the court finds that there is likely to be such at some point in time, the court may waive the filing of a bond and order that the conservator shall immediately file a report with the court upon either the conservator coming into possession of any property of the conservatee, or if the conservatee becomes entitled to receive any property which the conservator believes should be placed within the conservatorship. Upon the filing of such a report, the court, following any hearing the court may determine appropriate, may require the conservator to file a bond as provided for herein.

(e) If the conservator appointed is the individual or corporation suggested by a testator or settlor as provided for in K.S.A. 59-3054, and

amendments thereto, and the testator or settlor has provided by will or trust that no bond should be required of such conservator, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(f) If the conservator is a bank having trust authority or a trust company organized and having its principal place of business within the state of Kansas, the court may waive the filing of a bond.

(g) If the conservator appointed is under contract with the Kansas guardianship program, the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall act as surety on the bond. The court shall order that a certified copy of the order appointing a conservator who is under contract with the Kansas guardianship program be sent to the director of the Kansas guardianship program.

(h) If the individual appointed as guardian or conservator, or both, resides outside of Kansas, the court shall require that person, and in the case of a corporation being appointed as guardian or conservator, or both, the court shall require a representative of the corporation, to appoint, in writing, a resident agent pursuant to K.S.A. 59-1706, and amendments thereto.

(i) Upon the filing of the required oath or bond, and appointment and consent of a resident agent, the court shall issue letters of guardianship to the guardian or letters of conservatorship to the conservator, or both. The court may order that a certified copy of these letters be sent to such persons or agencies as the court specifies.

(j) Every individual appointed as guardian or conservator on or after January 1, 2009, shall file with the court evidence of completion of a basic instructional program concerning the duties and responsibilities of a guardian or conservator prior to the issuance of letters of guardianship or conservatorship. The court shall have the authority to require any guardian or conservator appointed prior to January 1, 2009, to complete the basic instructional program and provide evidence thereof to the court. The materials comprising the basic instructional program shall be prepared by the judicial council.

Sec. 228. K.S.A. 59-3070 is hereby amended to read as follows: 59-3070. (a) Any corporation organized under the Kansas general corporation code may act as guardian for an individual found to be in need of a guardian under the act for obtaining a guardian or conservator, or both, if the corporation has been certified by the ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* as a suitable agency to perform the duties of a guardian.

(b) The ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* shall establish criteria for determining whether a corporation should be certified as a suitable agency to perform the duties of a guardian. The criteria shall be designed for the protection of the ward and shall include, but not be limited to, the following:

(1) Whether the corporation is capable of performing the duties of a guardian;

(2) whether the staff of the corporation is accessible and available to wards and to other persons concerned about their well-being and is adequate in number to properly perform the duties and responsibilities of a guardian;

(3) whether the corporation is a stable organization which is likely to continue in existence for some time; and

(4) whether the corporation will agree to submit such reports and answer such questions as the secretary may require in monitoring corporate guardianships.

(c) Application for certification under this section shall be made to the ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* in such manner as the secretary may direct. The ~~secretary of social and rehabilitation services~~ *secretary of social and rehabilitation services for children and families* may suspend or revoke certification of a corporation under this section, after notice and hearing, upon a finding that such corporation has failed to comply with the criteria established by rules and regulations under subsection (b). Such corporation shall not be appointed as a guardian during the period of time the certificate is suspended or revoked.

(d) No corporation shall be eligible for appointment as provided for in K.S.A. 59-3068, and amendments thereto, as the guardian of any per-

son if such corporation provides care, treatment or housing to that person or is the owner, part owner or operator of any adult care home, lodging establishment or institution utilized for the care, treatment or housing of that person.

(e) ~~The secretary of social and rehabilitation services~~ *for children and families* may adopt rules and regulations necessary to administer the provisions of this section.

Sec. 229. K.S.A. 59-3080 is hereby amended to read as follows: 59-3080. (a) At any time the conservator, or the guardian if the guardian has been granted the authority to exercise control or authority over the ward's estate pursuant to subsection (e)(8) of K.S.A. 59-3075, and amendments thereto, may file a verified petition requesting that the court grant authority to the conservator or guardian to establish an irrevocable trust which will enable the conservatee or ward to qualify for benefits from any federal, state or local government program, or which will accelerate the conservatee's or ward's qualification for such benefits.

(b) The petition shall include:

(1) The conservator's or guardian's name and address, and if the conservator is the petitioner and is both the conservator and the guardian, a statement of that fact, or if the guardian is the petitioner, a statement that the court has previously granted to the guardian the authority to exercise control or authority over the ward's estate;

(2) the conservatee's or ward's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the conservatee's or ward's permanent residence;

(3) the name and address of the conservatee's court appointed guardian, if a guardian has been appointed by the court and is different from the conservator;

(4) the names and addresses of any spouse, adult children and adult grandchildren of the conservatee or ward, and those of any parents and adult siblings of the conservatee or ward, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the conservatee, or if none, that fact. If no such names and addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(5) a statement of whether the ~~secretary of social and rehabilitation services~~ *for children and families* has an interest in the matter by virtue of the purpose of the trust being to enable the conservatee or ward to qualify for benefits from any program administered by the secretary;

(6) the names and addresses of other persons, if any, whom the petitioner knows to have an interest in the matter, or a statement that the petitioner knows of no other persons having an interest in the matter;

(7) a description of the funds or assets of the conservatee or ward which the petitioner proposes to transfer to a trust;

(8) the factual basis upon which the petitioner alleges the need for such a trust;

(9) the names and addresses of witnesses by whom the truth of this petition may be proved; and

(10) a request that the court find that the conservator or guardian should be granted such authority, and that the court grant to the conservator or guardian the authority to establish such a trust.

(c) The petition shall be accompanied by a draft of the instrument by which the trust is proposed to be established.

(d) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing upon the petition, which hearing may be held forthwith and without further notice if those persons named within the petition pursuant to the requirements of subsections (b)(4), (b)(5) and (b)(6), as applicable, have entered their appearances, waived notice and agreed to the court's granting to the conservator or guardian the authority to establish the proposed trust. Otherwise, the court shall require the petitioner to give notice of this hearing to such persons and in such manner as the court may direct, including therewith a copy of the proposed trust instrument. This notice shall advise such persons that if they have any objections to this authority being granted to the conservator or guardian, that they must file their written objections

with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the conservatee or ward in this matter similarly as provided for in subsection (a)(3) of K.S.A. 59-3063, and amendments thereto, and in such event, the court shall require the petitioner to also give this notice to that attorney.

(e) At the conclusion of the hearing, if the court finds by a preponderance of the evidence that:

(1) The establishment of such a trust will enable the conservatee or ward to qualify for benefits from any federal, state or local government program, or will accelerate the qualification of the conservatee or ward for such benefits;

(2) the conservatee or ward will be the sole beneficiary of such trust;

(3) the term of the trust will not extend beyond the lifetime of the conservatee or ward;

(4) the provisions of the trust will provide for the distribution of the trust estate for the benefit of the conservatee or ward for special needs not satisfied from governmental benefits and that such distributions made for special needs not satisfied from governmental benefits will only be made in similar manner and under similar circumstances as the conservatee's or ward's estate would otherwise have been distributed by the conservator or guardian for the benefit of the conservatee or ward had the trust not been established;

(5) if the provisions of the trust will grant discretion to the trustee to terminate the trust during the lifetime of the conservatee or ward, that such provisions shall preclude the exercise thereof if such termination of the trust will disqualify the conservatee or ward from being eligible for any governmental benefits; and

(6) the provisions of the trust will provide that, upon termination of the trust, the remaining trust estate will first be expended to reimburse the governmental entities for the benefits which have been provided to the conservatee or ward, if such reimbursement was ever required as a condition for the conservatee's or ward's qualification for such benefits, and then any remaining balance shall be paid over and assigned as follows:

(A) To the conservator, if the termination occurs during the lifetime of the conservatee and the conservatorship remains open, or to the guardian, if the termination occurs during the lifetime of the ward and the guardianship remains open, or to the conservatee or ward, in the event the conservatorship or guardianship has been terminated and the conservatee or ward has been restored to capacity; or

(B) if the termination of the trust occurs by virtue of the conservatee's or ward's death, as follows: (i) If a testamentary power of appointment was granted to the conservatee or ward in the trust instrument, pursuant to the conservatee's or ward's valid exercise of such testamentary power of appointment which specifically references such power of appointment; or (ii) in the absence of any such power of appointment or to the extent such power was not validly exercised by the conservatee or ward over the entirety of the trust assets, to: (a) The devisees and legatees the trustee determines would have otherwise received such trust assets, and in the manner they would have received it, under the provisions of the conservatee's or ward's last will and testament had such last will and testament been admitted to probate and the trust assets constituted a portion of the conservatee's or ward's estate; (b) in the absence of a valid duly probated last will and testament of the conservatee or ward, the persons who would have received such trust assets, and in the manner they would receive it, under the intestacy laws of the state of residence of the conservatee or ward at the time of the death of the conservatee or ward had such trust assets constituted a portion of the estate of the conservatee or ward; or (c) the personal representative of the estate of the conservatee or ward, then the court may grant to the conservator or guardian the authority to establish such a trust and to transfer specified property or assets from the conservatee's or ward's estate to the trust. The court shall order the conservator or guardian to report any such transfer within the conservator's or guardian's next accounting as required by K.S.A. 59-3083, and amendments thereto.

(f) The court may require as a condition of the court's granting to the conservator or guardian the authority to establish such a trust that the sole trustee of the trust be the court appointed conservator or guardian,

and that the conservator or guardian, acting as the trustee, shall be subject to the same requirements and limitations as provided for in this act concerning conservatorships and shall report and account to the court concerning the trust estate the same as if the trust estate remained within the conservatee's or ward's estate.

Sec. 230. K.S.A. 59-3094 is hereby amended to read as follows: 59-3094. (a) In each proceeding the court shall allow and order paid to any individual or institution as a part of the costs thereof a reasonable fee and expenses for any professional services ordered performed by the court pursuant to this act other than those performed by any individual or institution under the jurisdiction of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, but including the fee of counsel for the proposed ward or proposed conservatee or ward or conservatee when counsel is appointed by the court. The court may allow and order paid the fee of counsel for the petitioner and any respondent. Other costs and fees may be allowed and paid as are allowed by law for similar services in other cases. The costs shall be taxed to the estate of the proposed ward or proposed conservatee or ward or conservatee, to those bound by law to support the proposed ward or proposed conservatee or ward or conservatee, to other parties whenever it would be just and equitable to do so, or to the county of residence of the proposed ward or proposed conservatee or ward or conservatee as the court having venue shall direct.

(b) In any contested proceeding or matter the court, in its discretion, may require one or more parties to give security for the costs thereof, or in lieu thereof to file a poverty affidavit as provided for in the code of civil procedure.

(c) Any district court receiving a statement of costs from another district court shall approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the grounds that the proposed ward or proposed conservatee or ward or conservatee is not a resident of that county. In such case it shall transmit the statement of costs to the ~~secretary of social and rehabilitation services~~ *secretary for children and families* who shall determine the question of residence and certify those findings to each district court. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the ~~secretary of social and rehabilitation services~~ *secretary for children and families* as to the residence of the proposed ward or proposed conservatee or ward or conservatee shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the proposed ward or proposed conservatee or ward or conservatee or from those bound by law to support the proposed ward or proposed conservatee or ward or conservatee, unless the court finds that the proceedings in which such costs were incurred were instituted without good cause and not in good faith.

Sec. 231. K.S.A. 2013 Supp. 60-1501 is hereby amended to read as follows: 60-1501. (a) Subject to the provisions of K.S.A. 60-1507, and amendments thereto, any person in this state who is detained, confined or restrained of liberty on any pretense whatsoever, and any parent, guardian, or next friend for the protection of infants or allegedly incapacitated or incompetent persons, physically present in this state may prosecute a writ of habeas corpus in the supreme court, court of appeals or the district court of the county in which such restraint is taking place. No docket fee shall be required, as long as the petitioner complies with the provisions of subsection (b) of K.S.A. 60-2001, and amendments thereto.

(b) Except as provided in K.S.A. 60-1507, and amendments thereto, an inmate in the custody of the secretary of corrections shall file a petition for writ pursuant to subsection (a) within 30 days from the date the action was final, but such time is extended during the pendency of the inmate's timely attempts to exhaust such inmate's administrative remedies.

(c) Except as provided in K.S.A. 60-1507, and amendments thereto, a patient in the custody of the ~~secretary of social and rehabilitation~~ *aging and disability* services pursuant to K.S.A. 59-29a01 et seq., and

amendments thereto, shall file a petition for writ pursuant to subsection (a) within 30 days from the date the action was final, but such time is extended during the pendency of the patient's timely attempts to exhaust such patient's administrative remedies.

Sec. 232. K.S.A. 60-2204 is hereby amended to read as follows: 60-2204. Whenever a judgment or decree of divorce has been made or subsequently becomes a lien on real property in favor of the minor child or children of the person holding legal title to such real property, the parent, legal guardian or other person having legal custody of such minor child or children may release such lien on said real property on behalf of such minor child or children. If the support rights accruing under such judgment or decree of divorce have been assigned to the ~~secretary of social and rehabilitation services~~ *for children and families* pursuant to the provisions of K.S.A. 39-709, *and amendments thereto*, such lien may not be released without the written consent of the secretary or the secretary's designee. Such release shall be filed in the office of the clerk of the district court in which the journal entry of such judgment was filed pursuant to K.S.A. 60-2202, *and amendments thereto*, and shall be filed in the office of register of deeds of any county in which said real property is situated. Any such release made pursuant to this section shall be binding upon such minor child or children.

Sec. 233. K.S.A. 2013 Supp. 60-2308 is hereby amended to read as follows: 60-2308. (a) Money received by any debtor as pensioner of the United States within three months next preceding the issuing of an execution, or attachment, or garnishment process, cannot be applied to the payment of the debts of such pensioner when it appears by the affidavit of the debtor or otherwise that such pension money is necessary for the maintenance of the debtor's support or a family support wholly or in part by the pension money. The filing of the affidavit by the debtor, or making proof as provided in this section, shall be prima facie evidence of the necessity of such pension money for such support. It shall be the duty of the court in which such proceeding is pending to release all moneys held by such attachment or garnishment process, immediately upon the filing of such affidavit, or the making of such proof.

(b) Except as provided in subsection (c), any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified under sections 401(a), 403(a), 403(b), 408, 408A or 409 of the federal internal revenue code of 1986, and amendments thereto, shall be exempt from any and all claims of creditors of the beneficiary or participant. Any such plan shall be conclusively presumed to be a spendthrift trust under these statutes and the common law of the state.

(c) Any plan or arrangement described in subsection (b) shall not be exempt from the claims of an alternate payee under a qualified domestic relations order. However, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*, of the alternate payee. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" have the meaning ascribed to them in section 414(p) of the federal internal revenue code of 1986, and amendments thereto.

(d) The provisions of subsections (b) and (c) shall apply to any proceeding which: (1) Is filed on or after July 1, 1986; or (2) was filed on or after January 1, 1986, and is pending or on appeal July 1, 1986.

(e) Money held by the central unit for collection and disbursement of support payments designated pursuant to K.S.A. 2013 Supp. 39-7,135, and amendments thereto, the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*, any clerk of a district court or any district court trustee in connection with a court order for the support of any person, whether the money is identified as child support, spousal support, alimony or maintenance, shall be exempt from execution, attachment or garnishment process.

(f) (1) The provisions of this subsection shall apply to any proceeding which:

(A) Is filed on or after January 1, 2002; or

(B) was filed prior to January 1, 2002, and is pending on or on appeal after January 1, 2002.

(2) Except as provided by paragraphs (3) and (4) of this subsection, if the designated beneficiary of a family postsecondary education savings account established pursuant to K.S.A. 2013 Supp. 75-640 et seq., and amendments thereto, is a lineal descendant of the account owner, all moneys in the account shall be exempt from any claims of creditors of the account owner or designated beneficiary.

(3) The provisions of paragraph (2) of this subsection shall not apply to:

(A) Claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding the date of the filing of a bankruptcy petition under 11 U.S.C. § 101 et seq.; or

(B) claims of any creditor of an account owner, as to amounts contributed within a one-year period preceding an execution on judgment for such claims against the account owner.

(4) The provisions of paragraph (2) of this subsection shall not apply to:

(A) Claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding the date of the filing of a bankruptcy petition under 11 U.S.C. § 101 et seq.; or

(B) claims of any creditor of an account owner, as to amounts exceeding \$5,000 contributed within a period of time which is more than one year but less than two years preceding an execution on judgment for such claims against the account owner.

Sec. 234. K.S.A. 60-2310 is hereby amended to read as follows: 60-2310. (a) *Definitions.* As used in this act and the acts of which this act is amendatory, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them:

(1) “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise;

(2) “disposable earnings” means that part of the earnings of any individual remaining after the deduction from such earnings of any amounts required by law to be withheld;

(3) “wage garnishment” means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt; and

(4) “federal minimum hourly wage” means that wage prescribed by subsection (a)(1) of section 6 of the federal fair labor standards act of 1938, and any amendments thereto.

(b) *Restriction on wage garnishment.* Subject to the provisions of subsection (e), only the aggregate disposable earnings of an individual may be subjected to wage garnishment. The maximum part of such earnings of any wage earning individual which may be subjected to wage garnishment for any workweek or multiple thereof may not exceed the lesser of: (1) Twenty-five percent of the individual’s aggregate disposable earnings for that workweek or multiple thereof; (2) the amount by which the individual’s aggregate disposable earnings for that workweek or multiple thereof exceed an amount equal to 30 times the federal minimum hourly wage, or equivalent multiple thereof for such longer period; or (3) the amount of the plaintiff’s claim as found in the order for garnishment. No one creditor may issue more than one garnishment against the earnings of the same judgment debtor during any one 30-day period, but the court shall allow the creditor to file amendments or corrections of names or addresses of any party to the order of garnishment at any time. In answering such order the garnishee-employer shall withhold from all earnings of the judgment-debtor for any pay period or periods ending during such 30-day period an amount or amounts as are allowed and required by law. Nothing in this act shall be construed as charging the plaintiff in any garnishment action with the knowledge of the amount of any defendant’s earnings prior to the commencement of such garnishment action.

(c) *Sickness preventing work.* If any debtor is prevented from working at the debtor’s regular trade, profession or calling for any period greater than two weeks because of illness of the debtor or any member



of the family of the debtor, and this fact is shown by the affidavit of the debtor, the provisions of this section shall not be invoked against any such debtor until after the expiration of two months after recovery from such illness.

(d) *Assignment of account.* If any person, firm or corporation sells or assigns an account to any person or collecting agency, that person, firm or corporation or their assignees shall not have or be entitled to the benefits of wage garnishment. The provision of this subsection shall not apply to the following:

(1) Assignments of support rights to the ~~secretary of social and rehabilitation services for children and families~~ pursuant to K.S.A. 39-709 and 39-756, and amendments thereto, and support enforcement actions conducted by court trustees pursuant to K.S.A. 23-492, et seq., and amendments thereto;

(2) support rights which have been assigned to any other state pursuant to title IV-D of the federal social security act, 42 U.S.C. § 651 et seq.;

(3) assignments of accounts receivable or taxes receivable to the director of accounts and reports made under K.S.A. 75-3728b, and amendments thereto; or

(4) collections pursuant to contracts entered into in accordance with K.S.A. 75-719, and amendments thereto, involving the collection of restitution or debts to district courts.

(e) *Exceptions to restrictions on wage garnishment.* The restrictions on the amount of disposable earnings subject to wage garnishment as provided in subsection (b) shall not apply in the following instances:

(1) Any order of any court for the support of any person, including any order for support in the form of alimony, but the foregoing shall be subject to the restriction provided for in subsection (g);

(2) any order of any court of bankruptcy under chapter XIII of the federal bankruptcy act; and

(3) any debt due for any state or federal tax.

(f) *Prohibition on courts.* No court of this state may make, execute or enforce any order or process in violation of this section.

(g) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) If the individual is supporting a spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50% of the individual's disposable earnings for that week;

(2) if the individual is not supporting a spouse or dependent child described in clause (1), 60% of such individual's disposable earnings for that week; and

(3) with respect to the disposable earnings of any individual for any workweek, the 50% specified in clause (1) shall be 55% and the 60% specified in clause (2) shall be 65%, if such earnings are subject to garnishment to enforce a support order for a period which is prior to the twelve-week period which ends with the beginning of such workweek.

Sec. 235. K.S.A. 60-2401 is hereby amended to read as follows: 60-2401. (a) *Definitions.* A general execution is a direction to an officer to seize any nonexempt property of a judgment debtor and cause it to be sold in satisfaction of the judgment. A special execution or order of sale is a direction to an officer to effect some action with regard to specified property as the court determines necessary in adjudicating the rights of parties to an action. Notwithstanding the provisions of K.S.A. 60-706, and amendments thereto, executions served under this section shall be by personal service and not by certified mail return receipt requested. If personal service cannot be obtained, other forms of service of process are hereby authorized.

(b) *By whom issued.* At the request of any interested person, executions and orders of sale shall be issued by the clerk and signed by a judge. Such executions and orders shall be directed to the appropriate officers of the counties where such executions and orders are to be levied.

To the extent authorized by K.S.A. 39-7,152, and amendments thereto, the ~~secretary of social and rehabilitation services for children and families~~ may issue an order of execution, which shall be directed to the appropriate officer of the county where the execution is to be levied. The secretary

shall deliver the execution to the appropriate officer, and a copy of the execution shall be filed with the clerk of the district court where the support order was entered or registered. The execution shall thereafter be treated in all respects as though it had been issued at the request of the secretary by the clerk of court where the support order was entered or registered.

(c) *When returnable.* The officer to whom any execution or order of sale is directed shall return it to the court from which it is issued within 60 days from the date thereof. If the execution was issued by the secretary ~~of social and rehabilitation services for children and families,~~ the return shall be made to the court where the underlying support order was entered or registered.

(d) *Manner of levy.* Except as provided in subsection (a), a general execution shall be levied upon any real or personal nonexempt property of the judgment debtor in the manner provided for the service and execution of orders of attachment under K.S.A. 60-706 through 60-710, and amendments thereto. Oil and gas leaseholds, for the purposes of this article, shall be treated as real property. Special executions or orders of sale shall be levied and executed as the court determines.

Sec. 236. K.S.A. 65-116i is hereby amended to read as follows: 65-116i. Except as otherwise provided by K.S.A. 65-116l, *and amendments thereto,* the expenses incurred in the inpatient care, maintenance and treatment of patients committed under the provisions of K.S.A. 65-116e, *and amendments thereto,* or of other persons having communicable or infectious tuberculosis who voluntarily agree to accept care and treatment shall be paid from state funds appropriated to the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for the purpose of paying medical care facilities and physicians qualified to treat persons infected with tuberculosis.

Sec. 237. K.S.A. 65-116j is hereby amended to read as follows: 65-116j. The secretary of health and environment is hereby granted and may exercise the following powers and duties in providing for the care, maintenance and treatment of persons having communicable or infectious tuberculosis:

(a) To select medical care facilities qualified to treat persons infected with tuberculosis for the purpose of caring for, maintaining and treating patients committed in accordance with the provisions of K.S.A. 65-116e, *and amendments thereto,* and other persons having communicable or infectious tuberculosis who voluntarily agree to accept care and treatment by a medical care facility on either an inpatient or an outpatient basis;

(b) to inspect the facilities, operations and administration of those medical care facilities receiving financial assistance from the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for the purpose of providing care, maintenance or treatment for persons infected with communicable or infectious tuberculosis;

(c) to provide public health nursing services to persons having infectious or communicable tuberculosis who are being treated on an outpatient basis; and

(d) to adopt rules and regulations establishing standards for the hospital admission and discharge, care, treatment and maintenance of persons having communicable or infectious tuberculosis.

Sec. 238. K.S.A. 65-116k is hereby amended to read as follows: 65-116k. The secretary ~~of social and rehabilitation~~ *for aging and disability* services is hereby authorized and directed to adopt rules and regulations establishing reasonable rates and administrative procedures to be followed in making payments to the medical care facilities and physicians providing care and treatment under the provisions of this act. Payments shall only be made directly to medical care facilities and physicians except that this act shall not be deemed to create any rights or causes of action against the state or the secretary ~~of social and rehabilitation~~ *for aging and disability* services in such a medical care facility or physician, their heirs or assigns. No payments shall be made for expenses incurred prior to the time the secretary assumes payment responsibility and payments made by the secretary on behalf of an individual eligible for payments under the provisions of this act shall constitute a complete settlement of the claim upon which such payment is based.

Sec. 239. K.S.A. 65-116l is hereby amended to read as follows: 65-

116l. No funds appropriated to the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services for the purpose of carrying out the provisions of K.S.A. 65-116i, *and amendments thereto*, shall be used for meeting the cost of the care, maintenance or treatment of any person who has communicable or infectious tuberculosis by a medical care facility on an inpatient basis to the extent that such cost is covered by insurance or other third party payments, or to the extent that such person or a person who is legally responsible for the support of such person is able to assume the cost of such care, maintenance, treatment or transportation. The secretary ~~of social and rehabilitation~~ *for aging and disability* services in determining the ability of a person to assume such costs shall consider the following factors: (a) The age of such person; (b) the number of such person's dependents and their ages and physical condition; (c) the person's length of care, maintenance or treatment, if such person is the person receiving the care, maintenance or treatment; (d) such person's liabilities; (e) such person's assets; and (f) such other factors as the secretary deems important. The secretary ~~of social and rehabilitation~~ *for aging and disability* services may adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 240. K.S.A. 65-116m is hereby amended to read as follows: 65-116m. Where funds appropriated to the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services have been expended for the purpose of meeting the cost of the care, maintenance or treatment of any person who has communicable or infectious tuberculosis pursuant to the provisions of this act and a third party has a legal obligation to pay such cost to or on behalf of the recipient, the secretary ~~of social and rehabilitation~~ *for aging and disability* services may recover the same from the recipient or from the third party and in all respects shall be subrogated to the rights of the recipient in such cases.

Sec. 241. K.S.A. 65-1,108 is hereby amended to read as follows: 65-1,108. (a) It shall be unlawful for any person or laboratory to perform tests to evaluate biological specimens for the presence of controlled substances included in schedule I or II of the uniform controlled substances act or metabolites thereof, unless the laboratory in which such tests are performed has been approved by the secretary of health and environment to perform such tests. Any person violating any of the provisions of this section shall be deemed guilty of a class B misdemeanor.

(b) As used in this section and in K.S.A. 65-1,107, and amendments thereto, "laboratory" shall not include: (1) The office or clinic of a person licensed to practice medicine and surgery in which laboratory tests are performed as part of and incidental to the examination or treatment of a patient of such person; (2) the Kansas bureau of investigation forensic laboratory; (3) urinalysis tests for controlled substances performed only for management purposes on inmates, parolees or probationers by personnel of the department of corrections or office of judicial administration and which shall not be used for revoking or denying parole or probation; (4) urinalysis tests approved by the secretary of corrections for controlled substances performed by the community corrections programs; (5) urinalysis tests approved by the secretary of corrections for controlled substances performed by personnel of the community correctional conservation camp in Labette county which is operated under agreements entered into by the secretary of corrections and the board of county commissioners of Labette county pursuant to K.S.A. 75-52,132, and amendments thereto; or (6) urinalysis tests performed for management purposes only by personnel of alcohol and drug treatment programs which are licensed or certified by the secretary ~~of social and rehabilitation~~ *for aging and disability* services.

Sec. 242. K.S.A. 65-1,120 is hereby amended to read as follows: 65-1,120. As used in this act:

(a) "Medication aide" means an unlicensed person certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment for the purposes of subsection (i) of K.S.A. 65-1124, and amendments thereto.

(b) "Secretary" means *the secretary of health and environment for aging and disability services*.

Sec. 243. K.S.A. 65-1,159 is hereby amended to read as follows: 65-1,159. (a) On or before January 1, 1993, the secretary of health and en-

vironment, in cooperation with the secretary of ~~social and rehabilitation for aging and disability~~ services, the commissioner of education and the commissioner of insurance, shall develop and submit to the governor, the joint committee on health care decisions for the 1990's and the Kansas commission on the future of health care, inc., a proposal for consolidating all existing health programs required by law for pregnant women and children into one comprehensive plan to be implemented by one or several agencies through interagency contracts, contracts with private agencies or by providing direct services. Such proposal shall:

- (1) Include a time schedule for phasing in implementation of the comprehensive plan;
  - (2) provide cost estimates for the plan;
  - (3) identify federal waivers necessary to implement the plan;
  - (4) identify sources of funding for the plan; and
  - (5) examine innovative programs.
- (b) The comprehensive plan developed pursuant to subsection (a) shall, at a minimum, provide for the following statewide:
- (1) Comprehensive prenatal services for all pregnant women who qualify for existing programs through the ~~Kansas department of social and rehabilitation for aging and disability~~ services or the department of health and environment or other government-funded programs;
  - (2) comprehensive medical care for all children under 18 years of age;
  - (3) preventative and restorative dental care for all children under 18 years of age of each family qualifying under the plan;
  - (4) periodic sight and hearing tests for all children under 18 years of age and such eyeglasses and hearing aids as such children are found to need;
  - (5) a case management system under which each family with a child under the plan is assigned a case manager and under which every reasonable effort is made to assure continuity of case management and access to other appropriate social services; and
  - (6) services regardless of, and fees for services based on, clients' ability to pay.

Sec. 244. K.S.A. 65-1,162 is hereby amended to read as follows: 65-1,162. (a) The secretary of health and environment, in collaboration with the secretary of ~~social and rehabilitation for aging and disability~~ services, shall provide an educational program to health care professionals who provide health care services to pregnant women for the purpose of:

- (1) Assuring accurate and appropriate patient education regarding the effects of drugs on pregnancy and fetal outcome;
  - (2) taking accurate and complete drug histories;
  - (3) counseling techniques for drug abusing women to improve referral to and compliance with drug treatment programs; and
  - (4) other additional topics as deemed necessary.
- (b) This section shall take effect and be in force from and after January 1, 1993.

Sec. 245. K.S.A. 65-1,165 is hereby amended to read as follows: 65-1,165. ~~(a)~~ A pregnant woman referred for substance abuse treatment shall be a first priority user of substance abuse treatment available through ~~social and rehabilitation for aging and disability~~ services. All records and reports regarding such pregnant woman shall be kept confidential. The secretary of ~~social and rehabilitation for aging and disability~~ services shall ensure that family oriented substance abuse treatment is available. Substance abuse treatment facilities which receive public funds shall not refuse to treat women solely because they are pregnant.

~~(b) This section shall take effect and be in force from and after January 1, 1993.~~

Sec. 246. K.S.A. 2013 Supp. 65-1,246 is hereby amended to read as follows: 65-1,246. Three years after the date a birth defects information system is implemented pursuant to K.S.A. 2013 Supp. 65-1,241, and amendments thereto, and annually thereafter, the secretary shall prepare a report regarding the birth defects information system. The department shall file the report with the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representatives, the ~~departments of social and rehabilitation~~ *Kansas department*

*for aging and disability services; and the departments of education and human resources labor.*

Sec. 247. K.S.A. 2013 Supp. 65-445 is hereby amended to read as follows: 65-445. (a) Every medical care facility shall keep written records of all pregnancies which are lawfully terminated within such medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by the secretary. Every person licensed to practice medicine and surgery shall keep a record of all pregnancies which are lawfully terminated by such person in a location other than a medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by the secretary.

(b) Each report required by this section shall include the number of pregnancies terminated during the period of time covered by the report, the type of medical facility in which the pregnancy was terminated, information required to be reported under subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-6705, subsection (c) of K.S.A. 65-6721 and K.S.A. 2013 Supp. 65-6724, and amendments thereto, if applicable to the pregnancy terminated, and such other information as may be required by the secretary of health and environment, but the report shall not include the names of the persons whose pregnancies were so terminated. Each report required by subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-6705 and subsection (c) of K.S.A. 65-6721, and amendments thereto, shall specify the medical diagnosis and condition constituting a substantial and irreversible impairment of a major bodily function or the medical diagnosis and condition which necessitated performance of an abortion to preserve the life of the pregnant woman. Each report required by K.S.A. 65-6703, and amendments thereto, shall include a sworn statement by the physician performing the abortion and the referring physician that such physicians are not legally or financially affiliated.

(c) Information obtained by the secretary of health and environment under this section shall be confidential and shall not be disclosed in a manner that would reveal the identity of any person licensed to practice medicine and surgery who submits a report to the secretary under this section or the identity of any medical care facility which submits a report to the secretary under this section, except that such information, including information identifying such persons and facilities may be disclosed to the state board of healing arts upon request of the board for disciplinary action conducted by the board and may be disclosed to the attorney general or any district or county attorney in this state upon a showing that a reasonable cause exists to believe that a violation of this act has occurred. Any information disclosed to the state board of healing arts, the attorney general or any district or county attorney pursuant to this subsection shall be used solely for the purposes of a disciplinary action or criminal proceeding. Except as otherwise provided in this subsection, information obtained by the secretary under this section may be used only for statistical purposes and such information shall not be released in a manner which would identify any county or other area of this state in which the termination of the pregnancy occurred. A violation of this subsection (c) is a class A nonperson misdemeanor.

(d) In addition to such criminal penalty under subsection (c), any person licensed to practice medicine and surgery or medical care facility whose identity is revealed in violation of this section may bring a civil action against the responsible person or persons for any damages to the person licensed to practice medicine and surgery or medical care facility caused by such violation.

(e) For the purpose of maintaining confidentiality as provided by subsections (c) and (d), reports of terminations of pregnancies required by this section shall identify the person or facility submitting such reports only by confidential code number assigned by the secretary of health and environment to such person or facility and the department of health and environment shall maintain such reports only by such number.

(f) The annual public report on abortions performed in Kansas issued by the secretary of health and environment shall contain the information required to be reported by this section to the extent such information is not deemed confidential pursuant to this section. The secretary of health

and environment shall adopt rules and regulations to implement this section. Such rules and regulations shall prescribe, in detail, the information required to be kept by the physicians and hospitals and the information required in the reports which must be submitted to the secretary.

(g) ~~The department of social and rehabilitation services~~ *Kansas department for children and families* shall prepare and publish an annual report on the number of reports of child sexual abuse received by the department from abortion providers. Such report shall be categorized by the age of the victim and the month the report was submitted to the department. The name of the victim and any other identifying information shall be kept confidential by the department and shall not be released as part of the public report.

Sec. 248. K.S.A. 2013 Supp. 65-503 is hereby amended to read as follows: 65-503. As used in this act:

(a) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

(b) “Child care resource and referral agency” means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) “Child care facility” means:

(1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the ~~secretary of social and rehabilitation services~~ *for children and families* who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

(2) a children’s home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;

(3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or

(4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

(d) “Day care facility” means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.

(e) “Person” means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(f) “Boarding school” means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.

(g) “Maternity center” means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

Sec. 249. K.S.A. 2013 Supp. 65-504 is hereby amended to read as follows: 65-504. (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. A license granted to maintain a maternity center or child care facility shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. A license

granted to maintain a day care facility shall have on its face an expiration sticker stating the date of expiration of the license.

The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary ~~of social and rehabilitation services for children and families~~. The secretary of health and environment may issue, without the approval of the secretary ~~of social and rehabilitation services for children and families~~, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary ~~of social and rehabilitation services for children and families~~, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

(b) (1) In all cases where the secretary ~~of social and rehabilitation services for children and families~~ deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary ~~of social and rehabilitation services for children and families~~ or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary ~~of social and rehabilitation services for children and families~~ that any of the provisions of this act or the provisions of K.S.A. 59-2123, and amendments thereto, are being violated, or that the maternity center or child care facility is maintained without due regard to the health, safety or welfare of any woman or child, the secretary of health and environment may issue an order revoking such license after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. The order shall clearly state the reason for the revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license for a period of one year subsequent to the date such revocation or refusal to renew becomes final. If the secretary revokes or refuses to renew a license of a licensee who is a repeat, three or more times, violator of statutory requirements or rules and regulations or is found to have contributed to the death or serious bodily harm of a child under such licensee's care, such licensee shall be permanently prohibited from applying for a new license to provide child care or from seeking employment under another licensee.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the Kansas judicial review act.

Sec. 250. K.S.A. 2013 Supp. 65-506 is hereby amended to read as follows: 65-506. The secretary of health and environment shall serve notice of the issuance, limitation, modification, suspension or revocation of a license to conduct a maternity center or child care facility to the secretary ~~of social and rehabilitation services for children and families~~, ju-

venile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health, and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license limited, modified, suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the limitation, modification, suspension, revocation or denial. Neither the secretary of ~~social and rehabilitation services for children and families~~ nor any other person shall place or cause to be placed any woman or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment.

Sec. 251. K.S.A. 65-507 is hereby amended to read as follows: 65-507. (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary of ~~social and rehabilitation services for children and families~~ which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary of ~~social and rehabilitation services for children and families~~ may require. Each maternity center licensee and each child care facility licensee shall apply to and shall receive without charge from the secretary of health and environment and the secretary of ~~social and rehabilitation services for children and families~~ forms for such records as may be required, which forms shall contain a copy of this act.

(b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

Sec. 252. K.S.A. 2013 Supp. 65-508 is hereby amended to read as follows: 65-508. (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, safety and welfare of any woman or child.

(b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.

(c) (1) The secretary of health and environment with the cooperation of the secretary of ~~social and rehabilitation services for children and families~~ shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of any woman or child served in such facilities by ensuring safe and adequate physical surroundings, healthful food, adequate handwashing, safe storage of toxic substances and hazardous chemicals, sanitary diapering and toileting, home sanitation, supervision and care of the residents by capable, qualified persons of sufficient number, after hour care, an adequate program of activities and services, sudden infant death syndrome and safe sleep practices training, prohibition on corporal punishment, crib safety, protection from electrical hazards, protection from swimming pools and other water sources, fire drills, emergency plans, safety of outdoor playground surfaces, door locks, safety gates and transportation and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

(2) Rules and regulations developed under this subsection shall in-



clude provisions for the competent supervision and care of children in day care facilities. For purposes of such rules and regulations, competent supervision as this term relates to children less than five years of age includes, but is not limited to, direction of activities, adequate oversight including sight or sound monitoring, or both, physical proximity to children, diapering and toileting practices; and for all children, competent supervision includes, but is not limited to, planning and supervision of daily activities, safe sleep practices, including, but not limited to, visual or sound monitoring, periodic checking, emergency response procedures and drills, illness and injury response procedures, food service preparation and sanitation, playground supervision, pool and water safety practices.

(d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.

(e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:

(1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or

(2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

Sec. 253. K.S.A. 65-513 is hereby amended to read as follows: 65-513. Whenever an authorized agent of the secretary of health and environment or secretary of ~~social and rehabilitation services~~ *for children and families* finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

Sec. 254. K.S.A. 2013 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility if, there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) Has a felony conviction for a crime against persons; (B) has a felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or a conviction of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2013 Supp. 21-5301, and amendments thereto, to commit any such act or a conviction of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2013 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of other states or the federal government; or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior

to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, or similar statutes of other states or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2013 Supp. 21-6401, and amendments thereto, or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto, and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, or (B) the record has not been expunged pursuant to rules and regulations adopted by the ~~secretary of social and rehabilitation services~~ *for children and families*;

(4) has had a child removed from home based on a court order pursuant to K.S.A. 2013 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2013 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2013 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(c) Any person who resides in a child care facility and who has been found to be in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2013 Supp. 38-2226, and amendments thereto, in the possession of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

(e) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.

(f) The secretary shall notify the child care applicant or licensee,

within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsection (a)(1) through (7) with regard to the person who is the subject of the review.

(g) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(h) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has: (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

(i) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to: (A) The person who is the subject of the request for information; (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers; (C) the department of health and environment; (D) ~~the department of social and rehabilitation services~~ *Kansas department for children and families*; (E) the juvenile justice authority; and (F) the courts.

(6) A violation of the provisions of subsection (i)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

(j) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010 or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

Sec. 255. K.S.A. 2013 Supp. 65-1456 is hereby amended to read as follows: 65-1456. (a) The board may suspend or revoke the license of any dentist who shall permit any dental hygienist operating under such dentist's supervision to perform any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and may suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. No license of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) The practice of dental hygiene shall include those educational, preventive, and therapeutic procedures which result in the removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci. Included among those educational, preventive and therapeutic procedures are the instruction of the patient as to daily personal care, protecting the teeth from dental caries, the scaling and polishing of the crown surfaces and the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus and such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423, and amendments thereto.

(d) Except as otherwise provided in this section, the practice of dental hygiene shall be performed under the direct or general supervision of a licensed dentist at the office of such licensed dentist. The board shall designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under general supervision of a licensed dentist. As used in this section: (1) "Direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance; and (2) "general supervision" means a Kansas licensed dentist may delegate verbally or by written authorization the performance of a service, task or procedure to a licensed dental hygienist under the supervision and responsibility of the dentist, if the dental hygienist is licensed to perform the function, and the supervising dentist examines the patient at the time the dental hygiene procedure is performed, or during the 12 calendar months preceding the performance of the procedure, except that the licensed hygienist shall not be permitted to diagnose a dental disease or ailment, prescribe any treatment or a regimen thereof, prescribe, order or dispense medication or perform any procedure which is irreversible or which involves the intentional cutting of the soft or hard tissue by any means. A dentist is not required to be on the premises at the time a hygienist performs a function delegated under part (2) of this subsection.

(e) The practice of dental hygiene may be performed at an adult care home, hospital long-term care unit, state institution, local health department or indigent health care clinic on a resident of a facility, client or patient thereof so long as:

- (1) A licensed dentist has delegated the performance of the service, task or procedure;
- (2) the dental hygienist is under the supervision and responsibility of the dentist;
- (3) either the supervising dentist is personally present or the services, tasks and procedures are limited to the cleaning of teeth, education and preventive care; and
- (4) the supervising dentist examines the patient at the time the dental hygiene procedure is performed or has examined the patient during the 12 calendar months preceding performance of the procedure.

(f) The practice of dental hygiene may be performed with consent of the parent or legal guardian, on children participating in residential and nonresidential centers for therapeutic services, on all children in families which are receiving family preservation services, on all children in the custody of the secretary of social and rehabilitation services ~~for children and families~~ or the commissioner of juvenile justice authority and in an out-of-home placement residing in foster care homes, on children being served by runaway youth programs and homeless shelters; and on children birth to five and children in public and nonpublic schools kindergarten through grade 12 regardless of the time of year and children participating in youth organizations, so long as such children who are dentally underserved are targeted; at any state correctional institution, local health department or indigent health care clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any federally qualified health center, federally qualified health center look-alike or a community health center that

receives funding from section 330 of the health center consolidation act, on a person, inmate, client or patient thereof and on other persons as may be defined by the board; so long as:

(1) The dental hygienist has received an “extended care permit I” from the Kansas dental board specifying that the dental hygienist has performed 1,200 hours of dental hygiene care within the past three years or has been an instructor at an accredited dental hygiene program for two academic years within the past three years;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist’s activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit;

(4) the tasks and procedures are limited to: (A) Removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient’s apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentists consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute a comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection; and

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection.

(g) The practice of dental hygiene may be performed on persons with developmental disabilities and on persons who are 65 years and older who live in a residential center, an adult care home, subsidized housing, hospital long-term care unit, state institution or are served in a community senior service center, elderly nutrition program or at the home of a homebound person who qualifies for the federal home and community based service (HCBS) waiver on a resident of a facility, client or patient thereof so long as:

(1) The dental hygienist has received an “extended care permit II” from the Kansas dental board specifying that the dental hygienist has: (A) Performed 1,600 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for two academic years within the past three years; and (B) completed six hours of training on the care of special needs patients or other training as may be accepted by the board;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist’s activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit II;

(4) the tasks and procedures are limited to: (A) Removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient’s apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; and (F) other duties as may be delegated verbally or in writing by the sponsoring dentist consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are preventive in nature and do not constitute comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection;

(7) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection; and

(8) the dental hygienist completes a minimum of three hours of education in the area of special needs care within the board's continuing dental education requirements for relicensure.

(h) The expanded practice of dental hygiene may be performed with consent of the parent or legal guardian, on children participating in residential and nonresidential centers for therapeutic services, on all children in families which are receiving family preservation services, on all children in the custody of the secretary ~~of social and rehabilitation services for children and families~~ or the commissioner of juvenile justice authority and in an out-of-home placement residing in foster care homes, on children being served by runaway youth programs and homeless shelters; and on children birth to five and children in public and nonpublic schools kindergarten through grade 12 regardless of the time of year and children participating in youth organizations, so long as such children who are dentally underserved are targeted; at any state correctional institution, local health department or indigent health care clinic, as defined in K.S.A. 65-1466, and amendments thereto, and at any federally qualified health center, federally qualified health center look-alike or a community health center that receives funding from section 330 of the health center consolidation act, on a person, inmate, client or patient; on persons with developmental disabilities and on persons who are 65 years and older who live in a residential center, an adult care home, subsidized housing, hospital long-term care unit, state institution or are served in a community senior service center, elderly nutrition program or at the home of a homebound person who qualifies for the federal home and community based service (HCBS) waiver on a resident of a facility, client or patient thereof so long as:

(1) The dental hygienist has received an "extended care permit III" from the Kansas dental board specifying that the dental hygienist has: (A) Performed 2,000 hours of dental hygiene care or has been an instructor at an accredited dental hygiene program for three academic years within the past four years; and (B) completed a course of study of 18 seat hours approved by the board which includes, but is not limited to, emergency dental care techniques, the preparation and placement of temporary restorations, the adjustment of dental prostheses and appropriate pharmacology;

(2) the dental hygienist shows proof of professional liability insurance;

(3) the dental hygienist is sponsored by a dentist licensed in the state of Kansas, including a signed agreement stating that the dentist shall monitor the dental hygienist's activities, except such dentist shall not monitor more than five dental hygienists with an extended care permit III;

(4) the tasks and procedures are limited to: (A) Removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci; (B) the application of topical anesthetic if the dental hygienist has completed the required course of instruction approved by the dental board; (C) the application of fluoride; (D) dental hygiene instruction; (E) assessment of the patient's apparent need for further evaluation by a dentist to diagnose the presence of dental caries and other abnormalities; (F) identification and removal of decay using hand instrumentation and placing a temporary filling, including glass ionomer and other palliative materials; (G) adjustment of dentures, placing soft reline in dentures, checking partial dentures for sore spots and placing permanent identification labeling in dentures; (H) smoothing of a sharp tooth with a slow speed dental handpiece; (I) use of local anesthetic, including topical, infiltration and block anesthesia, when appropriate to assist with procedures where medical services are available in a nursing home, health clinic or any other settings if the dental hygienist has completed a course on local anesthesia and nitrous oxide as required in this act; (J) extraction of deciduous teeth that are partially exfoliated with class 4 mobility; and (K) other duties as may be delegated verbally or in writing by the sponsoring dentist consistent with this act;

(5) the dental hygienist advises the patient and legal guardian that the services are palliative or preventive in nature and do not constitute comprehensive dental diagnosis and care;

(6) the dental hygienist provides a copy of the findings and the report

of treatment to the sponsoring dentist and any other dental or medical supervisor at a participating organization found in this subsection;

(7) the dental hygienist notifies the patient or the patient's parent or legal guardian of such patient's need for treatment by a dentist, when the dental hygienist finds an apparent need for evaluation to diagnose the presence of dental caries and other abnormalities;

(8) any payment to the dental hygienist for dental hygiene services is received from the sponsoring dentist or the participating organization found in this subsection; and

(9) the dental hygienist completes a minimum of three hours of education related to the expanded scope of dental hygiene practice in subsection (h)(4) of this act within the board's continuing dental education requirements for relicensure.

(i) In addition to the duties specifically mentioned in subsection (b) any duly licensed dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anaesthesia and nitrous oxide. (A) The administration of local anaesthesia shall be performed under the direct supervision of a licensed dentist except that topically applied local anaesthesia, as defined by the board, may be administered under the general supervision of a licensed dentist. (B) Each dental hygienist who administers local anaesthesia regardless of the type shall have completed courses of instruction in local anaesthesia and nitrous oxide which have been approved by the board.

(j) (1) The courses of instruction required in subsection (i)(3)(B) shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

(k) The board is authorized to issue to a qualified dental hygienist an extended care permit I or extended care permit II, or extended care permit III as provided in subsections (f), (g) and (h) of this section.

(l) Nothing in this section shall be construed to prevent a dental hygienist from providing dental hygiene instruction or visual oral health care screenings or fluoride applications in a school or community based setting regardless of the age of the patient.

(m) As used in this section, "dentally underserved" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

Sec. 256. K.S.A. 2013 Supp. 65-1673 is hereby amended to read as follows: 65-1673. (a) For matters related only to the lawful donation, acceptance or dispensing of medications under the utilization of unused medications act, the following persons and entities, in compliance with the utilization of unused medications act, in the absence of bad faith or gross negligence, shall not be subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

- (1) The state board of pharmacy;
- (2) the department of health and environment;
- (3) ~~the department on aging~~ *Kansas department for aging and disability services*;
- (4) any governmental entity or donating entity donating medications under the utilization of unused medications act;
- (5) any qualifying center or clinic that accepts or dispenses medications under the utilization of unused medications act; and
- (6) any qualifying center or clinic that employs a practitioner or mid-level practitioner who accepts or can legally dispense prescription drugs

under the utilization of unused medications act and the pharmacy act of the state of Kansas.

(b) For matters related to the donation, acceptance or dispensing of a medication manufactured by the prescription drug manufacturer that is donated by any entity under the utilization of unused medications act, a prescription drug manufacturer shall not, in the absence of bad faith or gross negligence, be subject to criminal or civil liability for injury other than for death, or loss to person or property including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(c) Any person who in good faith donates medications without charge under the utilization of unused medications act, which medications are in compliance with such act at the time donated, shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such medications unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.

Sec. 257. K.S.A. 2013 Supp. 65-2409a is hereby amended to read as follows: 65-2409a. (a) A certificate of birth for each live birth which occurs in this state shall be filed with the state registrar within five days after such birth and shall be registered by such registrar if such certificate has been completed and filed in accordance with this section. If a birth occurs on a moving conveyance, a birth certificate shall indicate as the place of birth the location where the child was first removed from the conveyance.

(b) When a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file such certificate with the state registrar. The physician in attendance or, in the absence of the physician, the person in charge of the institution or that person's designated representative shall certify to the facts of birth and provide the medical information required by the certificate within five days after the birth. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority: (1) The physician in attendance at or immediately after the birth, or in the absence of such a person; (2) any other person in attendance at or immediately after the birth, or in the absence of such a person; or (3) the father, the mother or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If the mother was married at the time of either conception or birth, or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. If the mother was not married either at the time of conception or of birth, or at any time between conception and birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and of the person to be named as the father on a form provided by the state registrar pursuant to K.S.A. 2013 Supp. 23-2204, and amendments thereto, unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

(d) One of the parents of any child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the five days prescribed above.

(e) Except as otherwise provided by this subsection, a fee of \$4 shall be paid for each certificate of live birth filed with the state registrar. Such fee shall be paid by the parent or parents of the child. If a birth occurs in an institution, the person in charge of the institution or the person's designated representative shall be responsible for collecting the fee and shall remit such fee to the secretary of health and environment not later than the 15<sup>th</sup> day following the end of the calendar quarter during which the birth occurred. If a birth occurs other than in an institution, the person completing the birth certificate shall be responsible for collecting the fee and shall remit such fee to the secretary of health and environment not later than the 15<sup>th</sup> day of the month following the birth.

The fee provided for by this subsection shall not be required to be paid if the parent or parents of the child are at the time of the birth receiving



assistance, as defined by K.S.A. 39-702, and amendments thereto, from the secretary of social and rehabilitation services for children and families.

(f) Except as provided in this subsection, when a certificate of birth is filed pursuant to this act, each parent shall furnish the social security number or numbers issued to the parent. Social security numbers furnished pursuant to this subsection shall not be recorded on the birth certificate. A parent shall not be required to furnish such person's social security number pursuant to this subsection if no social security number has been issued to the parent; the social security number is unknown; or the secretary determines that good cause, as defined in federal regulations promulgated pursuant to title IV-D of the federal social security act, exists for not requiring the social security number. Nothing in this subsection shall delay the filing or issuance of the birth certificate.

Sec. 258. K.S.A. 65-2422b is hereby amended to read as follows: 65-2422b. For each divorce and annulment of marriage granted by any court in this state, a report shall be prepared and filed by the clerk of court with the state registrar of vital statistics. The information necessary to prepare the report shall be furnished to the clerk of the court by the prevailing party or the legal representative of the prevailing party on forms prescribed and furnished by the state registrar of vital statistics. On or before the 15<sup>th</sup> day of each month, the clerk of the court shall forward to the state registrar of vital statistics the report of each divorce and annulment granted during the preceding calendar month and such related reports as may be required by rules and regulations issued under this act. The information provided shall include the social security numbers of both parties. Information in the report which will assist the secretary of social and rehabilitation services for children and families in establishing, modifying or enforcing a support obligation shall be made available to the secretary of social and rehabilitation services for children and families or the secretary's designee.

Sec. 259. K.S.A. 2013 Supp. 65-2422d is hereby amended to read as follows: 65-2422d. (a) The records and files of the division of public health pertaining to vital statistics shall be open to inspection, subject to the provisions of the uniform vital statistics act and rules and regulations of the secretary. It shall be unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by the uniform vital statistics act and the secretary, and it shall be unlawful for anyone who possesses, stores or in any way handles vital statistics records under contract with the state to disclose any data contained in the records, except as authorized by law.

(b) No information concerning the birth of a child shall be disclosed in a manner that enables determination that the child was born out of wedlock, except upon order of a court in a case where the information is necessary for the determination of personal or property rights and then only for that purpose, or except that employees of the office of child support enforcement of the federal department of health and human services shall be provided information when the information is necessary to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act or except that the secretary of social and rehabilitation services for children and families or the secretary's designee performing child support enforcement functions pursuant to title IV-D of the federal social security act shall be provided information and copies of birth certificates when the information is necessary to establish parentage in legal actions or to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act. Nothing in this subsection shall be construed as exempting such employees of the federal department of health and human services or the secretary of social and rehabilitation services for children and families or the secretary's designee from the fees prescribed by K.S.A. 65-2418, and amendments thereto.

(c) Except as provided in subsection (b), and amendments thereto, the state registrar shall not permit inspection of the records or issue a certified copy or abstract of a certificate or part thereof unless the state registrar is satisfied the applicant therefor has a direct interest in the matter recorded and the information contained in the record is necessary for the determination of personal or property rights. The state registrar's decision shall be subject, however, to review by the secretary or by a court

in accordance with the Kansas judicial review act, subject to the limitations of this section.

(d) The secretary shall permit the use of data contained in vital statistical records for research purposes only, but no identifying use of them shall be made. The secretary shall permit the use of birth, death and stillbirth certificates as identifiable data for purposes of maternal and child health surveillance and monitoring. The secretary or the secretary's designee may interview individuals for purposes of maternal and child health surveillance and monitoring only with an approval of the health and environmental institutional review board as provided in title 45, part 46 of the code of federal regulations. The secretary shall inform such individuals that the participation in such surveillance and monitoring is voluntary and may only be conducted with the written consent of the person who is the subject of the information or with the informed consent of a parent or legal guardian if the person is under 18 years of age. Informed consent is not required if the person who is the subject of the information is deceased.

(e) Subject to the provisions of this section the secretary may direct the state registrar to release birth, death and stillbirth certificate data to federal, state or municipal agencies.

(f) On or before the 20<sup>th</sup> day of each month, the state registrar shall furnish to the county election officer of each county and the clerk of the district court in each county, without charge, a list of deceased residents of the county who were at least 18 years of age and for whom death certificates have been filed in the office of the state registrar during the preceding calendar month. The list shall include the name, age or date of birth, address and date of death of each of the deceased persons and shall be used solely by the election officer for the purpose of correcting records of their offices and by the clerk of the district court in each county for the purpose of correcting juror information for such county. Information provided under this subsection to the clerk of the district court shall be considered confidential and shall not be disclosed to the public. The provisions of subsection (b) of K.S.A. 45-229, and amendments thereto, shall not apply to the provisions of this subsection.

(g) No person shall prepare or issue any certificate which purports to be an original, certified copy or abstract or copy of a certificate of birth, death or fetal death, except as authorized in this act or rules and regulations adopted under this act.

(h) Records of births, deaths or marriages which are not in the custody of the secretary of health and environment and which were created before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of Kansas, and any copies of such records, shall be open to inspection by any person and the provisions of this section shall not apply to such records.

(i) Social security numbers furnished pursuant to K.S.A. 65-2409a, and amendments thereto, shall only be used as permitted by title IV-D of the federal social security act, and amendments thereto, or as permitted by section 7(a) of the federal privacy act of 1974, and amendments thereto. The secretary shall make social security numbers furnished pursuant to K.S.A. 65-2409a, and amendments thereto, available to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* for purposes permitted under title IV-D of the federal social security act.

(j) Fact of death information may be disseminated to state and federal agencies administering benefit programs. Such information shall be used for file clearance purposes only.

Sec. 260. K.S.A. 2013 Supp. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license which may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license

shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services or the department of corrections with a third party, and only within the institution to which the holder is assigned;

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; or

(3) the holder has been employed for at least three years as described in subsection (c)(1) and is providing mental health services pursuant to a written protocol with a person who holds a license to practice medicine and surgery other than an institutional license.

(d) An institutional license shall be valid for a period of two years after the date of issuance and may be renewed for additional two-year periods if the applicant for renewal meets the requirements under subsection (c) of this section, has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this act from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 261. K.S.A. 2013 Supp. 65-3503 is hereby amended to read as follows: 65-3503. (a) It shall be the duty of the board to:

(1) Develop, impose and enforce standards which shall be met by individuals in order to receive a license as an adult care home administrator, which standards shall be designed to ensure that adult care home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as adult care home administrators;

(2) develop examinations and investigations for determining whether an individual meets such standards;

(3) issue licenses to individuals who meet such standards, and revoke or suspend licenses issued by the board or reprimand, censure or otherwise discipline a person holding any such license as provided under K.S.A. 65-3508, and amendments thereto;

(4) establish and carry out procedures designed to ensure that individuals licensed as adult care home administrators comply with the requirements of such standards; and

(5) receive, investigate and take appropriate action under K.S.A. 65-3505, and amendments thereto, and rules and regulations adopted by the

board with respect to any charge or complaint filed with the board to the effect that any person licensed as an adult care home administrator may be subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and amendments thereto.

(b) The board shall also have the power to make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to have subpoenas issued pursuant to K.S.A. 60-245, and amendments thereto, in the board's exercise of its power and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the social security act, the federal rules and regulations promulgated thereunder and other pertinent federal authority.

(c) The board shall fix by rules and regulations the licensure fee, temporary license fee, renewal fee, late renewal fee, reinstatement fee, reciprocity fee, sponsorship fee, wall or wallet card license replacement fee, duplicate wall license fee for any administrator serving as administrator in more than one facility and, if necessary, an examination fee under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. No fee shall be more than \$200. ~~The secretary of health and environment~~ *for aging and disability services* shall remit all moneys received from fees, charges or penalties under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) The board upon request shall receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

Sec. 262. K.S.A. 2013 Supp. 65-3504 is hereby amended to read as follows: 65-3504. (a) The board shall admit to examination for licensure as an adult care home administrator any candidate who pays a licensure and examination fee, if required, to the ~~department of health and environment~~ *for aging and disability services* to be fixed by rules and regulations; submits evidence that such candidate is at least 18 years old; has completed preliminary education satisfactory to the board as prescribed in rules and regulations; and has met board established standards of good character, training and experience.

(b) Nothing in the provisions of article 35 of chapter 65 of the Kansas Statutes Annotated, ~~or acts amendatory of the provisions thereof or supplemental and amendments~~ thereto, or any rules and regulations adopted pursuant thereto shall prohibit a candidate for licensure as an adult care home administrator who is a member of a recognized church or religious denomination whose religious teachings prohibit the acquisition of formal education which would qualify such candidate for examination as required by the board under subsection (a) from being admitted to examination under subsection (a) so long as such candidate otherwise meets the qualifications for admission to examination under subsection (a). A candidate for licensure as an adult care home administrator who qualifies to take the examination for licensure under this subsection (b), who passes the examination and who is licensed as an adult care home administrator shall engage in the practice of adult care home administration only in an adult care home which is owned and operated by such recognized church or religious denomination.

Sec. 263. K.S.A. 2013 Supp. 65-3506 is hereby amended to read as follows: 65-3506. (a) There is hereby established the board of adult care home administrators. The board shall be attached to the ~~department of health and environment~~ *Kansas department for aging and disability services* and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the ~~secretary of health and environment~~ *for aging and disability services*. The department shall serve as the administrative agency of the board in all respects and shall perform such services and duties as it may be legally called upon to perform. The attorney for the board shall be an assistant attorney general appointed by the attorney general. The office of the attorney general shall

serve as the enforcement agency for the board. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the secretary of health and environment for aging and disability services.

(b) The board of adult care home administrators shall be composed of seven members appointed by the governor as follows:

(1) Two members shall be representatives of professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients;

(2) two members shall be consumer representatives who have no current or previous involvement in the financial affairs or as a member of the governing body of any adult care home or any association directly concerned with the regulation or licensure of adult care homes in the state; and

(3) three members shall be licensed in Kansas as licensed adult care home administrators, subject to the following requirements:

(A) (i) One such member shall be a representative of the not-for-profit adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, Leading Age Kansas, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3);

(ii) one such member shall be a representative of the for-profit adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, the Kansas health care association, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3); and

(iii) one such member shall be a representative of the professional association for the adult care home industry in Kansas. At least 30 days prior to the expiration of such member's term, the Kansas adult care executives association, or the successor of such entity, shall submit at least one but not more than three names of persons of recognized ability and qualification to the governor, who may consider such list in making appointments to the board under subsection (b)(3);

(B) all such members shall have been actively engaged in the administration of adult care homes within the state of Kansas for the three years immediately preceding appointment;

(C) all such members shall be actively engaged in the administration of adult care homes within the state of Kansas; and

(D) no such members shall have had or shall have any published disciplinary action taken by the board of adult care administrators against such members.

(c) No more than three members of the board may be licensed adult care home administrators. Members of the board, other than the licensed adult care home administrators, shall have no direct financial interest in adult care homes. Members of the board shall serve on the board for terms of three years or until otherwise disqualified from serving on the board. On the effective date of this act, the current expiration date of the term of office of each existing board member shall be extended by one year from such expiration date. On and after the effective date of this act, no member shall serve more than two consecutive terms. The provisions of article 35 of chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, shall not affect the office of any member of the board of adult care home administrators appointed prior to the effective date of this section. On and after the effective date of this act, as positions become vacant on the board, appointments shall be made in a manner so as to comply with the provisions of this section.

(d) Members of the board of adult care home administrators shall meet at such times as may be appropriate but in no case less than once each four months. The chairperson of the board shall be elected annually from among the members of the board. All final orders shall be in writing and shall be issued in accordance with the Kansas administrative procedure act.

(e) Members of the board who attend meetings of such board, or attend a subcommittee meeting thereof authorized by such board, shall

be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 264. K.S.A. 65-3507 is hereby amended to read as follows: 65-3507. (a) All of the powers, duties and functions of the secretary of ~~health and environment~~ *for aging and disability services* granted by K.S.A. 65-3501 to 65-3505, inclusive, *and amendments thereto*, relating to the licensure and registration of skilled nursing home administrators, are transferred to and conferred and imposed upon the board of adult care home administrators established by K.S.A. 65-3506, *and amendments thereto*, except as otherwise provided by this act.

(b) Whenever the secretary of ~~health and environment~~ *for aging and disability services* or the department of ~~health and environment~~ *for aging and disability services*, or words of like effect, is referred to or designated by a contract or other document executed pursuant to the powers, duties and functions granted to the secretary of ~~health and environment~~ *for aging and disability services* by K.S.A. 65-3501 to 65-3505, inclusive, *and amendments thereto*, such reference or designation shall be deemed to apply to the board of adult care home administrators established by K.S.A. 65-3506, *and amendments thereto*.

(c) All rules and regulations and all orders or directives of the secretary of ~~health and environment~~ *for aging and disability services* adopted in administering the powers, duties and functions granted to such secretary by K.S.A. 65-3501 to 65-3505, inclusive, *and amendments thereto*, and in existence on the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the board of adult care home administrators created by K.S.A. 65-3506, *and amendments thereto*, until revised, amended, repealed or nullified pursuant to law.

Sec. 265. K.S.A. 2013 Supp. 65-4024a is hereby amended to read as follows: 65-4024a. As used in this act:

(a) “Act” means the alcohol or other drug addiction treatment act;

(b) “Alcohol or other drug addiction” means a pattern of substance use, leading to significant impairment or distress, manifested by three or more of the following occurring at any time in the same 12-month period:

(1) Tolerance, defined as: (A) A need for markedly increased amounts of the substance to achieve intoxication or desired effect; or (B) a markedly diminished effect with continued use of the same amount of substance;

(2) withdrawal, as manifested by either of the following: (A) The characteristic withdrawal syndrome for the substance; or (B) the same or a closely related substance is taken to relieve or avoid withdrawal symptoms;

(3) the substance is often taken in larger amounts or over a longer period than was intended;

(4) there is a persistent desire or unsuccessful efforts to cut down or control substance use;

(5) a great deal of time is spent in activities necessary to obtain the substance, use the substance or recover from its effects;

(6) important social, occupational or recreational activities are given up or reduced because of substance use;

(7) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

(c) “Care or treatment” means such necessary services as are in the best interests of the physical and mental health of the patient.

(d) “Committee” means the Kansas citizens committee on alcohol and other drug abuse.

(e) “Counselor” means an individual whose education, experience and training has been evaluated and approved by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* to provide the scope of practice afforded to an alcohol and drug credentialed counselor or counselor assistant working in a licensed, certified alcohol and drug treatment program.

(f) “Department” means the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*.

(g) “Designated state funded assessment center” or “assessment center” means a treatment facility designated by the secretary.

(h) “Discharge” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(i) “Government unit” means any county, municipality or other political subdivision of the state; or any department, division, board or other agency of any of the foregoing.

(j) “Head of the treatment facility” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(k) “Incapacitated by alcohol” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(l) “Intoxicated individual” means an individual who is under the influence of alcohol or drugs or both.

(m) “Law enforcement officer” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(n) “Patient” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(o) “Private treatment facility” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(p) “Public treatment facility” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(q) “Treatment” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(r) “Treatment facility” shall have the meaning ascribed to it in K.S.A. 59-29b46, and amendments thereto.

(s) “Secretary” means the secretary ~~of social and rehabilitation~~ *for aging and disability services*.

Sec. 266. K.S.A. 2013 Supp. 65-4024b is hereby amended to read as follows: 65-4024b. The secretary shall remit all moneys received from fees for licensing alcohol or other drug treatment facilities to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the other state fees fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*.

Sec. 267. K.S.A. 2013 Supp. 65-4412 is hereby amended to read as follows: 65-4412. (a) “Community facilities for people with intellectual disability” means: (1) Any community facility for people with intellectual disability organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto; or (2) any intellectual disability governing board which contracts with a nonprofit corporation to provide services for people with intellectual disability.

(b) “Secretary” means secretary ~~of social and rehabilitation~~ *for aging and disability services*.

Sec. 268. K.S.A. 65-4432 is hereby amended to read as follows: 65-4432. (a) “Mental health center” means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, or mental health clinics organized pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b, and amendments thereto.

(b) “Secretary” means the secretary ~~of social and rehabilitation~~ *for aging and disability services*.

Sec. 269. K.S.A. 65-5101 is hereby amended to read as follows: 65-5101. As used in this act, unless the context otherwise requires:

(a) “Council” means the home health services advisory council created by this act;

(b) “home health agency” means a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services at the residence of a patient but does not include local health departments which are not federally certified home health agencies, durable medical equipment companies which provide home health services by use of specialized equipment, independent living agencies, the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* and the department of health and environment;

(c) “home health services” means any of the following services provided at the residence of the patient on a full-time, part-time or intermittent basis: Nursing, physical therapy, speech therapy, nutritional or dietetic consulting, occupational therapy, respiratory therapy, home health aid, attendant care services or medical social service;

(d) “home health aide” means an employee of a home health agency who is not licensed or professionally registered to provide home health services but who assists, under supervision, in the provision of home health services and who provides related health care to patients but shall not include employees of a home health agency providing only attendant care services;

(e) “independent living agency” means a public or private agency or organization or a subunit of such agency or organization whose primary function is to provide at least four independent living services, including independent living skills training, advocacy, peer counseling and information and referral as defined by the rehabilitation act of 1973, title VII, part B, and such agency shall be recognized by the secretary of social and rehabilitation for aging and disability services as an independent living agency. Such agencies include independent living centers and programs which meet the following quality assurances:

(1) Accreditation by a nationally recognized accrediting body such as the commission on accreditation of rehabilitation facilities; or

(2) receipt of grants from the state or the federal government and currently meets standards for independent living under the rehabilitation act of 1973, title VII, part B, sections (a) through (k), or comparable standards established by the state; or

(3) compliance with requirements established by the federal government under rehabilitation services administration standards for centers for independent living;

(f) “part-time or intermittent basis” means the providing of home health services in an interrupted interval sequence on the average of not to exceed three hours in any twenty-four-hour period;

(g) “patient’s residence” means the actual place of residence of the person receiving home health services, including institutional residences as well as individual dwelling units;

(h) “secretary” means secretary of health and environment;

(i) “subunit” or “subdivision” means any organizational unit of a larger organization which can be clearly defined as a separate entity within the larger structure, which can meet all of the requirements of this act independent of the larger organization, which can be held accountable for the care of patients it is serving and which provides to all patients care and services meeting the standards and requirements of this act; and

(j) “attendant care services” shall have the meaning ascribed to such term under K.S.A. 65-6201, and amendments thereto.

Sec. 270. K.S.A. 65-5902 is hereby amended to read as follows: 65-5902. For the purposes of this act:

(a) “Secretary” means the secretary of health and environment for aging and disability services.

(b) “Department” means the department of health and environment Kansas department for aging and disability services.

(c) “Licensed dietitian” means a person licensed under this act.

(d) “Dietetics practice” means the integration and application of principles derived from the sciences of nutrition, biochemistry, food, physiology, management and behavioral and social sciences to achieve and maintain the health of people through:

(1) Assessing the nutritional needs of clients;

(2) establishing priorities, goals and objectives that meet nutritional needs of clients; and

(3) advising and assisting individuals or groups on appropriate nutritional intake by integrating information from a nutritional assessment with information on food and other sources of nutrients and meal preparation.

(e) “Nutritional assessment” means the evaluation of the nutritional needs of clients based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parenteral nutrition.

(f) “Dietitian” means a person engaged in dietetics practice.

(g) “Sponsor” means entities approved by the secretary of health and



~~environment~~ *for aging and disability services* to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the secretary in accordance with this act.

Sec. 271. K.S.A. 2013 Supp. 65-6205 is hereby amended to read as follows: 65-6205. (a) A community service provider as defined in K.S.A. 39-1803, and amendments thereto, a mental health center as defined in K.S.A. 65-4432, and amendments thereto, and an independent living agency as defined in K.S.A. 65-5101, and amendments thereto, may request for the purpose of obtaining background information on applicants for employment with such entity information:

(1) From the ~~department of social and rehabilitation services~~ *Kansas department for children and families* as to whether such applicant has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* pursuant to K.S.A. 2013 Supp. 38-2226, and amendments thereto;

(2) from the ~~department of social and rehabilitation services~~ *Kansas department for children and families* as to whether such applicant has been found to have committed an act of abuse, neglect or exploitation of a resident as contained in the register of reports under K.S.A. 39-1404, and amendments thereto, or an act of abuse, neglect or exploitation of an adult as contained in the register of reports under K.S.A. 39-1434, and amendments thereto;

(3) from the ~~department of health and environment~~ *for aging and disability services* as to whether such applicant has been found to have committed an act of abuse, neglect or exploitation of a resident as contained in the register of reports under K.S.A. 39-936 and 39-1411, and amendments thereto;

(4) from the ~~department of health and environment~~ *for aging and disability services* any information concerning the applicant in the state registry which contains information about unlicensed employees of adult care homes under K.S.A. 39-936, and amendments thereto.

(b) No community service provider, mental health center or independent living agency shall be liable for civil damages to any person refused employment, discharged from employment or whose terms of employment are affected because of actions taken by the community service provider, mental health center or independent living agency in good faith based on information received under this section.

Sec. 272. K.S.A. 2013 Supp. 65-6207 is hereby amended to read as follows: 65-6207. As used in K.S.A. 2013 Supp. 65-6207 to 65-6220, inclusive, and amendments thereto, the following have the meaning respectively ascribed thereto, unless the context requires otherwise:

(a) “Department” means the ~~Kansas department of social and rehabilitation~~ *for aging and disability services or the Kansas department of health and environment, or both.*

(b) “Fund” means the health care access improvement fund.

(c) “Health maintenance organization” has the meaning provided in K.S.A. 40-3202, and amendments thereto.

(d) “Hospital” has the meaning provided in K.S.A. 65-425, and amendments thereto.

(e) “Hospital provider” means a person licensed by the department of health and environment to operate, conduct or maintain a hospital, regardless of whether the person is a federal medicaid provider.

(f) “Pharmacy provider” means an area, premises or other site where drugs are offered for sale, where there are pharmacists, as defined in K.S.A. 65-1626, and amendments thereto, and where prescriptions, as defined in K.S.A. 65-1626, and amendments thereto, are compounded and dispensed.

(g) “Assessment revenues” means the revenues generated directly by the assessments imposed by K.S.A. 2013 Supp. 65-6208 and 65-6213, and amendments thereto, any penalty assessments and all interest credited to the fund under this act, and any federal matching funds obtained through the use of such assessments, penalties and interest amounts.

Sec. 273. K.S.A. 2013 Supp. 65-6210 is hereby amended to read as follows: 65-6210.(a) The assessment imposed by K.S.A. 2013 Supp. 65-6208, and amendments thereto, for any state fiscal year to which this

statute applies shall be due and payable in equal installments on or before June 30 and December 31, commencing with whichever date first occurs after the hospital has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services. No installment payment of an assessment under this act shall be due and payable, however, until after:

(1) The hospital provider receives written notice from the department that the payment methodologies to hospitals required under this act have been approved by the centers for medicare and medicaid services of the United States department of health and human services under 42 C.F.R. § 433.68 for the assessment imposed by K.S.A. 2013 Supp. 65-6208, and amendments thereto, has been granted by the centers for medicare and medicaid services of the United States department of health and human services; and

(2) in the case of a hospital provider, the hospital has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.

(b) The department is authorized to establish delayed payment schedules for hospital providers that are unable to make installment payments when due under this section due to financial difficulties, as determined by the department.

(c) If a hospital provider fails to pay the full amount of an installment when due, including any extensions granted under this section, there shall be added to the assessment imposed by K.S.A. 2013 Supp. 65-6208, and amendments thereto, unless waived by the department for reasonable cause, a penalty assessment equal to the lesser of:

(1) An amount equal to 5% of the installment amount not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter; or

(2) an amount equal to 100% of the installment amount not paid on or before the due date.

For purposes of subsection (c), payments will be credited first to unpaid installment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment.

(d) The effective date for the payment methodology applicable to hospital providers approved by the centers for medicare and medicaid services shall be the date of July 1 or January 1, whichever date is designated in the state plan submitted by the department of ~~social and rehabilitation services~~ *health and environment* for approval by the centers for medicare and medicaid services.

Sec. 274. K.S.A. 2013 Supp. 65-6214 is hereby amended to read as follows: 65-6214.(a) The assessment imposed by K.S.A. 2013 Supp. 65-6213, and amendments thereto, for any state fiscal year to which this statute applies shall be due and payable in equal installments on or before June 30 and December 31, commencing with whichever date first occurs after the health maintenance organization has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services. No installment payment of an assessment under this act shall be due and payable, however, until after:

(1) The health maintenance organization receives written notice from the department that the payment methodologies to health maintenance organizations required under this act have been approved by the centers for medicare and medicaid services of the United States department of health and human services and the state plan amendment for the assessment imposed by K.S.A. 2013 Supp. 65-6213, and amendments thereto, has been granted by the centers for medicare and medicaid services of the United States department of health and human services; and

(2) the health maintenance organization has received payments for 150 days after the effective date of the payment methodology approved by the centers for medicare and medicaid services.

(b) The department is authorized to establish delayed payment schedules for health maintenance organizations that are unable to make installment payments when due under this section due to financial difficulties, as determined by the department.

(c) If a health maintenance organization fails to pay the full amount of an installment when due, including any extensions of time for delayed

payment granted under this section, there shall be added to the assessment imposed by K.S.A. 2013 Supp. 65-6213, and amendments thereto, unless waived by the department for reasonable cause, a penalty assessment equal to the lesser of:

- (1) An amount equal to 5% of the installment amount not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each month thereafter; or
- (2) an amount equal to 100% of the installment amount not paid on or before the due date.

For purposes of this subsection (c), payments shall be credited first to unpaid installment amounts, rather than to penalty or interest amounts, beginning with the most delinquent installment.

(d) The effective date for the payment methodology applicable to health maintenance organizations approved by the centers for medicare and medicaid services shall be the date of July 1 or January 1, whichever date is designated in the state plan submitted by the department of ~~social and rehabilitation services~~ *health and environment* for approval by the centers for medicare and medicaid services.

Sec. 275. K.S.A. 2013 Supp. 65-6217 is hereby amended to read as follows: 65-6217. (a) There is hereby created in the state treasury the health care access improvement fund, which shall be administered by the secretary of ~~social and rehabilitation services~~ *of health and environment*. All moneys received for the assessments imposed by K.S.A. 2013 Supp. 65-6208 and 65-6213, and amendments thereto, including any penalty assessments imposed thereon, shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the health care access improvement fund. All expenditures from the health care access improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~social and rehabilitation services~~ *of health and environment* or the secretary's designee.

(b) The fund shall not be used to replace any moneys appropriated by the legislature for the department's medicaid program.

(c) The fund is created for the purpose of receiving moneys in accordance with this act and disbursing moneys only for the purpose of improving health care delivery and related health activities, notwithstanding any other provision of law.

(d) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the health care access improvement fund interest earnings based on:

- (1) The average daily balance of moneys in the health care access improvement fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) The fund shall consist of the following:

(1) All moneys collected or received by the department from the hospital provider assessment and the health maintenance organization assessment imposed by this act;

(2) any interest or penalty levied in conjunction with the administration of this act; and

(3) all other moneys received for the fund from any other source.

(f) (1) On July 1 of each fiscal year, the director of accounts and reports shall record a debit to the state treasurer's receivables for the health care access improvement fund and shall record a corresponding credit to the health care access improvement fund in an amount certified by the director of the budget which shall be equal to the sum of 80% of the moneys estimated by the director of the budget to be received from the assessment imposed on hospital providers pursuant to K.S.A. 2013 Supp. 65-6208, and amendments thereto, and credited to the health care access improvement fund during such fiscal year, plus 53% of the moneys estimated by the director of the budget to be received from the assessment imposed on health maintenance organizations pursuant to K.S.A. 2013 Supp. 65-6213, and amendments thereto, and credited to the health care access improvement fund during such fiscal year, except that such amount shall be proportionally adjusted during such fiscal year with re-

spect to any change in the moneys estimated by the director of the budget to be received for such assessments, deposited in the state treasury and credited to the health care access improvement fund during such fiscal year. Among other appropriate factors, the director of the budget shall take into consideration the estimated and actual receipts from such assessments for the current fiscal year and the preceding fiscal year in determining the amount to be certified under this subsection (f). All moneys received for the assessments imposed pursuant to K.S.A. 2013 Supp. 65-6208 and 65-6213, and amendments thereto, deposited in the state treasury and credited to the health care access improvement fund during a fiscal year shall reduce the amount debited and credited to the health care access improvement fund under this subsection (f) for such fiscal year.

(2) On June 30 of each fiscal year, the director of accounts and reports shall adjust the amounts debited and credited to the state treasurer's receivables and to the health care access improvement fund pursuant to this subsection (f), to reflect all moneys actually received for the assessments imposed pursuant to K.S.A. 2013 Supp. 65-6208 and 65-6213, and amendments thereto, deposited in the state treasury and credited to the health care access improvement fund during the current fiscal year.

(3) The director of accounts and reports shall notify the state treasurer of all amounts debited and credited to the health care access improvement fund pursuant to this subsection (f) and all reductions and adjustments thereto made pursuant to this subsection (f). The state treasurer shall enter all such amounts debited and credited and shall make reductions and adjustments thereto on the books and records kept and maintained for the health care access improvement fund by the state treasurer in accordance with the notice thereof.

Sec. 276. K.S.A. 2013 Supp. 65-6218 is hereby amended to read as follows: 65-6218. (a) Assessment revenues generated from the hospital provider assessments shall be disbursed as follows:

(1) Not less than 80% of assessment revenues shall be disbursed to hospital providers through a combination of medicaid access improvement payments and increased medicaid rates on designated diagnostic related groupings, procedures or codes;

(2) not more than 20% of assessment revenues shall be disbursed to providers who are persons licensed to practice medicine and surgery or dentistry through increased medicaid rates on designated procedures and codes; and

(3) not more than 3.2% of hospital provider assessment revenues shall be used to fund health care access improvement programs in undergraduate, graduate or continuing medical education, including the medical student loan act.

(b) Assessment revenues generated from the health maintenance organization assessment shall be disbursed as follows:

(1) Not less than 53% of health maintenance organization assessment revenues shall be disbursed to health maintenance organizations that have a contract with the department through increased medicaid capitation payments;

(2) not more than 30% of health maintenance organization assessment revenues shall be disbursed to fund activities to increase access to dental care, primary care safety net clinics, increased medicaid rates on designated procedures and codes for providers who are persons licensed to practice dentistry, and home and community-based services;

(3) not more than 17% of health maintenance organization assessment revenues shall be disbursed to pharmacy providers through increased medicaid rates.

(c) For the purposes of administering and selecting the disbursements described in subsections (a) and (b) of this section, the health care access improvement panel is hereby established. The panel shall consist of the following: Three members appointed by the Kansas hospital association, two members who are persons licensed to practice medicine and surgery appointed by the Kansas medical society, one member appointed by each health maintenance organization that has a medicaid managed care contract with the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, one member appointed by the Kansas association for the medically underserved, and one

representative of the department of ~~social and rehabilitation services~~ *health and environment* appointed by the governor. The panel shall meet as soon as possible subsequent to the effective date of this act and shall elect a chairperson from among the members appointed by the Kansas hospital association. A representative of the panel shall be required to make an annual report to the legislature regarding the collection and distribution of all funds received and distributed under this act.

Sec. 277. K.S.A. 2013 Supp. 65-6220 is hereby amended to read as follows: 65-6220. The secretary of ~~social and rehabilitation~~ *for aging and disability* services with the advice and subject to the approval of the health care access improvement panel may adopt rules and regulations necessary to implement this act.

Sec. 278. K.S.A. 2013 Supp. 65-6501 is hereby amended to read as follows: 65-6501. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) “Secretary” means the secretary of ~~aging~~ *for aging and disability services*.

(b) “Speech-language pathology” means the application of principles, methods and procedures related to the development and disorders of human communication. Disorders include any and all conditions, whether of organic or nonorganic origin, that impede the normal process of human communication including disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and oral pharyngeal or laryngeal sensorimotor competencies, or both. Speech-language pathology does not mean diagnosis or treatment of medical conditions as defined by K.S.A. 65-2869, and amendments thereto.

(c) “Practice of speech-language pathology” means:

(1) Rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of communication, any service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation and rehabilitation;

(2) determining the need for personal augmentative communication systems, recommending such systems and providing training in utilization of such systems; and

(3) planning, directing, conducting or supervising such services.

(d) “Speech-language pathologist” means a person who engages in the practice of speech-language pathology and who meets the qualifications set forth in this act.

(e) “Audiology” means the application of principles, methods and procedures related to hearing and the disorders of hearing and to related language and speech disorders. Disorders include any and all conditions, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function or processing. Audiology does not mean diagnosis or treatment of medical conditions as defined by K.S.A. 65-2869, and amendments thereto.

(f) “Practice of audiology” means:

(1) Rendering or offering to render to individuals or groups of individuals who have or are suspected of having disorders of hearing, any service in audiology, including prevention, identification, evaluation, consultation and habilitation or rehabilitation (other than hearing aid or other assistive listening device dispensing);

(2) participating in hearing conservation;

(3) providing auditory training and speech reading;

(4) conducting tests of vestibular function;

(5) evaluating tinnitus; and

(6) planning, directing, conducting or supervising services.

(g) “Audiologist” means any person who engages in the practice of audiology and who meets the qualifications set forth in this act.

(h) “Speech-language pathology assistant” means an individual who meets minimum qualifications established by the secretary which are less than those established by this act as necessary for licensing as a speech-language pathologist; does not act independently; and works under the direction and supervision of a speech-language pathologist licensed under this act.

(i) “Audiology assistant” means an individual who meets minimum

qualifications established by the secretary, which are less than those established by this act as necessary for licensing as an audiologist; does not act independently; and works under the direction and supervision of an audiologist licensed under this act.

(j) “Sponsor” means entities approved by the secretary ~~of aging for aging and disability services~~ to provide continuing education programs or courses on an ongoing basis under this act and in accordance with any rules and regulations promulgated by the secretary in accordance with this act.

Sec. 279. K.S.A. 2013 Supp. 65-6502 is hereby amended to read as follows: 65-6502. (a) There is hereby established a speech-language pathology and audiology board. Such board shall be advisory to the secretary *for aging and disability services* in all matters concerning standards, rules and regulations and all matters relating to this act.

(b) The board shall be composed of five persons appointed by the secretary who have been residents of this state for at least two years. Two members shall be licensed, or initially eligible for licensure, as speech-language pathologists; one member shall be licensed, or initially eligible for licensure, as an audiologist; one member shall be a person licensed to practice medicine and surgery; and one member shall be a member of the general public who is not a health care provider. The secretary may make appointments from a list submitted by professional organizations representing speech pathologists and audiologists.

(c) Members of the board attending meetings of such board or attending a subcommittee meeting thereof authorized by such board shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(d) Board members shall be appointed for a term of two years and until their successors are appointed and qualified, except that of the initial appointments, which shall be made within 60 days after the effective date of this act, two members first appointed, as specified by the secretary, shall serve on the board for terms of one year and thereafter, upon expiration of such one-year terms, successors shall be appointed in the same manner as the original appointments. The chairperson of the board shall be elected annually from among the members of the board. Whenever a vacancy occurs on the board by reason other than the expiration of a term of office, the secretary shall appoint a successor of like qualifications for the remainder of the unexpired term. No person shall be appointed to serve more than three successive two-year terms.

(e) Appointments to fill vacancies shall be made in the same manner as original appointments for the unexpired portion of the term. The secretary may terminate the appointment of any member for cause which in the opinion of the secretary reasonably justifies such termination.

Sec. 280. K.S.A. 2013 Supp. 65-6503 is hereby amended to read as follows: 65-6503. (a) The secretary shall:

(1) Issue to each person who has met the education and training requirements listed in K.S.A. 65-6505, and amendments thereto, and such other reasonable qualifications as may be established by rules and regulations promulgated by the secretary, the appropriate license as a speech-language pathologist or audiologist;

(2) establish by rules and regulations the methods and procedures for examination of candidates for licensure;

(3) appoint employees necessary to administer this act and fix their compensation within the limits of appropriations made for that purpose;

(4) keep a record of the board's proceedings and a register of all applicants for and recipients of licenses; and

(5) make all such reasonable rules and regulations as deemed necessary to carry out and enforce the provisions of this act.

(b) All rules and regulations, orders and directives of the secretary of health and environment concerning speech-language pathologists and audiologists in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations, orders and directives of the secretary ~~of aging for aging and disability services~~ until revised, amended, revoked or nullified pursuant to law.

(c) All records of the department of health and environment concerning speech-language pathologists and audiologists in existence on the

effective date of this act are hereby transferred to the secretary ~~of aging~~ *for aging and disability services*.

(d) Whenever a reference or designation is made to the department of health and environment concerning speech-language pathologists or audiologists by a contract or other document, such reference or designation shall be deemed to apply to the secretary ~~of aging~~ *for aging and disability services*.

Sec. 281. K.S.A. 2013 Supp. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained the age of 21; and

(2) (A) has completed at least a baccalaureate degree from an addiction counseling program that is part of a college or university approved by the board; or

(B) has completed at least a baccalaureate degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

(C) has completed at least a baccalaureate degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board, and such degree program and the additional coursework includes a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

(D) is currently licensed in Kansas as a licensed baccalaureate social worker and has completed a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

(E) is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed masters level psychologist; and

(3) has passed an examination approved by the board; and

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) each applicant has paid the application fee established by the board under K.S.A. 2013 Supp. 65-6618, and amendments thereto.

(b) Applications for licensure as a clinical addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(1) Has attained the age of 21; and

(2) (A) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(B) (i) has completed a master's degree from a college or university approved by the board in a related field that includes a minimum number

of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(C) (i) has completed a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(D) (i) has completed a master's degree in a related field from a college or university approved by the board and is licensed by the board as a licensed addiction counselor; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less



than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(E) is currently licensed in Kansas as a licensed psychologist, licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical psychotherapist or licensed clinical marriage and family therapist and provides to the board an attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders; and

(3) has passed an examination approved by the board; and

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) has paid the application fee fixed under K.S.A. 2013 Supp. 65-6618, and amendments thereto.

(c) A person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, who was registered in Kansas as an alcohol and other drug counselor, an alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to perform the duties of an addiction counselor.

(d) Any person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, and who is also licensed to practice independently as a mental health practitioner or person licensed to practice medicine and surgery, and who was registered or credentialed in Kansas as an alcohol and other drug counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(e) Any person who was credentialed by the department of social and rehabilitation services as an alcohol and drug counselor and has been actively engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years and holds a master's degree in a related field from a college or university approved by the board and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(f) A licensed addiction counselor shall engage in the practice of ad-

diction counseling only in a state licensed or certified alcohol and other drug treatment program, unless otherwise exempt from licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.

Sec. 282. K.S.A. 2013 Supp. 72-962 is hereby amended to read as follows: 72-962. As used in this act:

- (a) “School district” means any public school district.
- (b) “Board” means the board of education of any school district.
- (c) “State board” means the state board of education.
- (d) “Department” means the state department of education.
- (e) “State institution” means any institution under the jurisdiction of a state agency.
- (f) “State agency” means the ~~department of social and rehabilitation services~~ *Kansas department for children and families, the Kansas department for aging and disability services*, the department of corrections and the juvenile justice authority.
- (g) “Exceptional children” means persons who are children with disabilities or gifted children and are school age, to be determined in accordance with rules and regulations adopted by the state board, which age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-1111, and amendments thereto.
- (h) “Gifted children” means exceptional children who are determined to be within the gifted category of exceptionality as such category is defined by the state board.
- (i) “Special education” means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:
  - (1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
  - (2) instruction in physical education.
- (j) “Special teacher” means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is: (1) Qualified to provide special education or related services to exceptional children as determined pursuant to standards established by the state board; or (2) qualified to assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.
- (k) “State plan” means the state plan for special education and related services authorized by this act.
  - (l) “Agency” means boards and the state agencies.
- (m) “Parent” means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as parent; (4) a legal guardian; (5) an education advocate; or (6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child.
- (n) “Person acting as parent” means a person such as a grandparent, stepparent or other relative with whom a child lives or a person other than a parent who is legally responsible for the welfare of a child.
- (o) “Education advocate” means a person appointed by the state board in accordance with the provisions of K.S.A. 2013 Supp. 38-2218, and amendments thereto. A person appointed as an education advocate for a child shall not be: (1) An employee of the agency which is required by law to provide special education or related services for the child; (2) an employee of the state board, the department, or any agency which is directly involved in providing educational services for the child; or (3) any person having a professional or personal interest which would conflict with the interests of the child.
- (p) “Free appropriate public education” means special education and related services that: (1) Are provided at public expense, under public supervision and direction, and without charge; (2) meet the standards of the state board; (3) include an appropriate preschool, elementary, or secondary school education; and (4) are provided in conformity with an individualized education program.
- (q) “Federal law” means the individuals with disabilities education act, as amended.
- (r) “Individualized education program” or “IEP” means a written statement for each exceptional child that is developed, reviewed, and revised in accordance with the provisions of K.S.A. 72-987, and amendments thereto.

(s) (1) “Related services” means transportation, and such developmental, corrective, and other supportive services, including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the child’s IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only, as may be required to assist an exceptional child to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(2) “Related services” shall not mean any medical device that is surgically implanted or the replacement of any such device.

(t) “Supplementary aids and services” means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

(u) “Individualized education program team” or “IEP team” means a group of individuals composed of: (1) The parents of a child; (2) at least one regular education teacher of the child, if the child is, or may be, participating in the regular education environment; (3) at least one special education teacher or, where appropriate, at least one special education provider of the child; (4) a representative of the agency directly involved in providing educational services for the child who: (A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of exceptional children; (B) is knowledgeable about the general curriculum; and (C) is knowledgeable about the availability of resources of the agency; (5) an individual who can interpret the instructional implications of evaluation results; (6) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) whenever appropriate, the child.

(v) “Evaluation” means a multisourced and multidisciplinary examination, conducted in accordance with the provisions of K.S.A. 72-986, and amendments thereto, to determine whether a child is an exceptional child.

(w) “Independent educational evaluation” means an examination which is obtained by the parent of an exceptional child and performed by an individual or group of individuals who meet state and local standards to conduct such an examination.

(x) “Elementary school” means any nonprofit institutional day or residential school that offers instruction in any or all of the grades kindergarten through nine.

(y) “Secondary school” means any nonprofit institutional day or residential school that offers instruction in any or all of the grades nine through 12.

(z) “Children with disabilities” means: (1) Children with intellectual disability, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason thereof, need special education and related services; and (2) children experiencing one or more developmental delays and, by reason thereof, need special education and related services if such children are ages three through nine.

(aa) “Substantial change in placement” means the movement of an exceptional child, for more than 25% of the child’s school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

(bb) “Material change in services” means an increase or decrease of 25% or more of the duration or frequency of a special education service, a related service or a supplementary aid or a service specified on the IEP of an exceptional child.

(cc) “Developmental delay” means such a deviation from average development in one or more of the following developmental areas, as determined by appropriate diagnostic instruments and procedures, as indicates that special education and related services are required: (1)

Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5) social or emotional development.

(dd) “Homeless children” means “homeless children and youths” as defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C. § 11434a.

(ee) “Limited English proficient” means an individual who meets the qualifications specified in section 9101 of the federal elementary and secondary education act of 1965, as amended.

Sec. 283. K.S.A. 2013 Supp. 72-973 is hereby amended to read as follows: 72-973. (a) (1) Except as hereinafter provided, within 15 days of receipt of a due process complaint notice from a parent, the agency shall convene a meeting with the parent and the member or members of the IEP team who have specific knowledge of the facts identified in the complaint, and a representative of the agency who has the authority to make binding decisions on behalf of the agency. This meeting shall not include the agency’s attorney unless the parent is accompanied by an attorney.

(2) At this meeting, the parent of the child shall discuss and explain the complaint, including the facts that form the basis of the complaint and the agency shall be provided the opportunity to resolve the complaint.

(3) If the meeting of the parties results in a resolution of the complaint, the parties shall execute a written agreement that both the parent and the representative of the agency shall sign and that, at a minimum, includes the following statements:

(A) The agreed upon resolution of each issue presented in the complaint;

(B) that each party understands that the agreement is legally binding upon them, unless the party provides written notice to the other party, within three days of signing the agreement, that the party giving notice is voiding the agreement; and

(C) if not voided, each party understands that the agreement may be enforced in state or federal court.

(4) If a resolution of the complaint is not reached at the meeting held under this subsection and the agency has not resolved the complaint to the satisfaction of the parent within 30 days of the agency’s receipt of the complaint, the due process hearing procedures shall be implemented and all of the applicable timelines for a due process hearing shall commence. All discussions that occurred during the meeting shall be confidential and may not be used as evidence in any subsequent hearing or civil proceeding.

(5) A meeting shall not be required under this subsection if the parent and the agency agree, in writing, to waive such a meeting, or they agree to use mediation to attempt to resolve the complaint.

(b) Any due process hearing provided for under this act, shall be held at a time and place reasonably convenient to the parent of the involved child, be a closed hearing unless the parent requests an open hearing and be conducted in accordance with procedural due process rights, including the following:

(1) The right of the parties to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right of the parties to be present at the hearing;

(3) the right of the parties to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;

(4) the right of the parties to present witnesses in person or their testimony by affidavit, including expert medical, psychological or educational testimony;

(5) the right of the parties to prohibit the presentation of any evidence at the hearing which has not been disclosed to the opposite party at least five days prior to the hearing, including any evaluations completed by that date and any recommendations based on such evaluations;

(6) the right to prohibit the other party from raising, at the due process hearing, any issue that was not raised in the due process complaint notice or in a prehearing conference held prior to the hearing;

(7) the right of the parties to have a written or, at the option of the parent, an electronic, verbatim record of the hearing; and

(8) the right to a written or, at the option of the parent, an electronic decision, including findings of facts and conclusions.

(c) Except as provided by subsection (a), each due process hearing, other than an expedited hearing under K.S.A. 72-993, and amendments thereto, shall be held not later than 35 days from the date on which the request therefor is received. The parties shall be notified in writing of the time and place of the hearing at least five days prior thereto. At any reasonable time prior to the hearing, the parent and the counsel or advisor of the involved child shall be given access to all records, tests, reports or clinical evaluations relating to the proposed action.

(d) (1) Except as otherwise provided in K.S.A. 72-993, and amendments thereto, during the pendency of any proceedings conducted under this act, unless the agency and parent otherwise agree, the child shall remain in the then-current educational placement of such child.

(2) If proceedings arise in connection with the initial admission of the child to school, the child shall be placed in the appropriate regular education classroom or program in compliance with K.S.A. 72-1111, and amendments thereto, unless otherwise directed pursuant to K.S.A. 2013 Supp. 72-992a, and amendments thereto.

(e) Subject to the provisions of K.S.A. 72-973a, and amendments thereto, the agency shall appoint a hearing officer for the purpose of conducting the hearing. Members of the state board, the secretary of ~~social and rehabilitation services for children and families~~, the secretary of corrections, the commissioner of the juvenile justice authority, and members of any board or agency involved in the education of the child shall not serve as hearing officers. No hearing officer shall be any person responsible for recommending the proposed action upon which the hearing is based, any person having a personal or professional interest which would conflict with objectivity in the hearing, or any person who is an employee of the state board or any agency involved in the education of the child. A person shall not be considered an employee of the agency solely because the person is paid by the agency to serve as a hearing officer. Each agency shall maintain a list of hearing officers. Such list shall include a statement of the qualifications of each hearing officer. Each hearing officer and each state review officer shall be qualified in accordance with standards and requirements established by the state board and shall have satisfactorily completed a training program conducted or approved by the state board.

(f) (1) Any party to a due process hearing who has grounds to believe that the hearing officer cannot afford the party a fair and impartial hearing due to bias, prejudice or a conflict of interest may file a written request for the hearing officer to disqualify such officer and have another hearing officer appointed by the state board. Any such written request shall state the grounds for the request and the facts upon which the request is based.

(2) If a request for disqualification is filed, the hearing officer shall review the request and determine the sufficiency of the grounds stated in the request. The hearing officer then shall prepare a written order concerning the request and serve the order on the parties to the hearing. If the grounds are found to be insufficient, the hearing officer shall continue to serve as the hearing officer. If the grounds are found to be sufficient, the hearing officer immediately shall notify the state board and request the state board to appoint another hearing officer.

(g) (1) Except as provided in paragraph (2), the decision of the hearing officer in each due process hearing shall be based on substantive grounds and a determination of whether the child received a free appropriate public education.

(2) In due process hearings in which procedural violations are alleged, the hearing officer may find that the child did not receive a free appropriate public education only if the hearing officer concludes the procedural violations did occur and those violations:

(A) Impeded the child's right to a free appropriate public education;  
 (B) significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child; or

(C) caused a deprivation of educational benefits.

(3) Nothing in this subsection shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this act.

(h) Whenever a hearing officer conducts any hearing, such hearing officer shall render a decision on the matter, including findings of fact and conclusions, not later than 10 days after the close of the hearing. The decision shall be written or, at the option of the parent, shall be an electronic decision. Any action of the hearing officer in accordance with this subsection shall be final, subject to appeal and review in accordance with this act.

Sec. 284. K.S.A. 2013 Supp. 72-997 is hereby amended to read as follows: 72-997. All records of an exceptional child who transfers, or who is transferred, from one school district to another shall be transferred at the same time that such child transfers, or is transferred, or as soon thereafter as possible. If the transfer is a result of the change in placement by the secretary of the department of social and rehabilitation services for children and families, it shall be the duty of the secretary to transfer, or make provision for the transfer, of such records to the district or school to which the child is transferred. If the transfer is a result of the change in placement by the commissioner of juvenile justice, it shall be the duty of the commissioner to transfer, or make provision for the transfer, of such records to the district or school to which the child is transferred. If the transfer is a result of the change in placement by the secretary of the department of corrections, it shall be the duty of the secretary to transfer, or make provision for the transfer, of such records to the district or school to which the child is transferred.

Sec. 285. K.S.A. 72-1046 is hereby amended to read as follows: 72-1046. (a) Any child who has attained the age of eligibility for school attendance may attend school in the district in which the child lives if: (1) The child lives with a resident of the district and the resident is the parent, or a person acting as parent, of the child; or (2) subject to the provisions of subsection (c), the child lives in the district as a result of placement therein by a district court or by the secretary of social and rehabilitation services for children and families; or (3) the child is a homeless child.

(b) Any child who has attained the age of eligibility for school attendance may attend school in a school district in which the child is not a resident if the school district in which the child resides has entered into an agreement with such other school district in accordance with and under authority of K.S.A. 72-8233, and amendments thereto.

(c) Any child who has attained the age of eligibility for school attendance and who lives at the Judge James V. Riddel Boys Ranch as a result of placement at such ranch by a district court or by the secretary of social and rehabilitation services for children and families shall be deemed a resident of unified school district No. 259, Sedgwick county, Kansas, and any such child may attend school which shall be maintained for such child by the board of education of such school district as in the case of a child who is a bona fide resident of the district.

(d) As used in this section:

(1) “Parent” means and includes natural parents, adoptive parents, stepparents, and foster parents;

(2) “person acting as parent” means (A) a guardian or conservator, or (B) a person, other than a parent, who is liable by law to maintain, care for, or support the child, or who has actual care and control of the child and is contributing the major portion of the cost of support of the child, or who has actual care and control of the child with the written consent of a person who has legal custody of the child, or who has been granted custody of the child by a court of competent jurisdiction; and

(3) “homeless child” means a child who lacks a fixed, regular, and adequate nighttime residence and whose primary nighttime residence is: (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Sec. 286. K.S.A. 2013 Supp. 72-1113 is hereby amended to read as follows: 72-1113. (a) Each board of education shall designate one or more employees who shall report to the secretary of social and rehabilitation services for children and families, or a designee thereof, or to the appropriate county or district attorney pursuant to an agreement as provided

in this section, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law. The designation shall be made no later than September 1 of each school year and shall be certified no later than 10 days thereafter by the board of education to the secretary of social and rehabilitation services *for children and families*, or the designee thereof, to the county or district attorney, or the designee thereof, and to the commissioner of education. The commissioner of education shall compile and maintain a list of the designated employees of each board of education. The local area office of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* may enter into an agreement with the appropriate county or district attorney to provide that the designated employees of such board of education shall make the report as provided in this section for all cases of children who are less than 13 years of age and are not attending school as provided by law to the county or district attorney in lieu of the secretary, or the secretary's designee. If such agreement is made, the county or district attorney shall carry out all duties as otherwise provided by this subsection conferred on the secretary or the secretary's designee. A copy of such agreement shall be provided to the director of such area office of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and to the school districts affected by the agreement.

(b) Whenever a child is required by law to attend school, and the child is not enrolled in a public or nonpublic school, the child shall be considered to be not attending school as required by law and a report thereof shall be made in accordance with the provisions of subsection (a) by a designated employee of the board of education of the school district in which the child resides. The provisions of this subsection are subject to the provisions of subsection (d).

(c) (1) Whenever a child is required by law to attend school and is enrolled in school, and the child is inexcusably absent therefrom on either three consecutive school days or five school days in any semester or seven school days in any school year, whichever of the foregoing occurs first, the child shall be considered to be not attending school as required by law. A child is inexcusably absent from school if the child is absent therefrom all or a significant part of a school day without a valid excuse acceptable to the school employee designated by the board of education to have responsibility for the school attendance of such child.

(2) Each board of education shall adopt rules for determination of valid excuse for absence from school and for determination of what shall constitute a "significant part of a school day" for the purpose of this section.

(3) Each board of education shall designate one or more employees, who shall each be responsible for determining the acceptability and validity of offered excuses for absence from school of specified children, so that a designee is responsible for making such determination for each child enrolled in school.

(4) Whenever a determination is made in accordance with the provisions of this subsection that a child is not attending school as required by law, the designated employee who is responsible for such determination shall make a report thereof in accordance with the provisions of subsection (a).

(5) The provisions of this subsection are subject to the provisions of subsection (d).

(d) (1) Prior to making any report under this section that a child is not attending school as required by law, the designated employee of the board of education shall serve written notice thereof, by personal delivery or by first class mail, upon a parent or person acting as parent of the child. The notice shall inform the parent or person acting as parent that continued failure of the child to attend school without a valid excuse will result in a report being made to the secretary of social and rehabilitation services *for children and families* or to the county or district attorney. Upon failure, on the school day next succeeding personal delivery of the notice or within three school days after the notice was mailed, of attendance at school by the child or of an acceptable response, as determined by the designated employee, to the notice by a parent or person acting

as parent of the child, the designated employee shall make a report thereof in accordance with the provisions of subsection (a). The designated employee shall submit with the report a certificate verifying the manner in which notice was provided to the parent or person acting as parent.

(2) Whenever a law enforcement officer assumes temporary custody of a child who is found away from home or school without a valid excuse during the hours school is actually in session, and the law enforcement officer delivers the child to the school in which the child is enrolled or to a location designated by the school in which the child is enrolled to address truancy issues, the designated employee of the board of education shall serve notice thereof upon a parent or person acting as parent of the child. The notice may be oral or written and shall inform the parent or person acting as parent of the child that the child was absent from school without a valid excuse and was delivered to school by a law enforcement officer.

(e) Whenever the ~~secretary of social and rehabilitation services for children and families~~ receives a report required under this section, the secretary shall investigate the matter. If, during the investigation, the secretary determines that the reported child is not attending school as required by law, the secretary shall institute proceedings under the revised Kansas code for care of children. If, during the investigation, the secretary determines that a criminal prosecution should be considered, the secretary shall make a report of the case to the appropriate law enforcement agency.

(f) Whenever a county or district attorney receives a report required under this section, the county or district attorney shall investigate the matter. If, during the investigation, the county or district attorney determines that the reported child is not attending school as required by law, the county or district attorney shall prepare and file a petition alleging that the child is a child in need of care. If, during the investigation, the county or district attorney determines that a criminal prosecution is necessary, the county or district attorney shall commence such action.

(g) As used in this section, “board of education” means the board of education of a school district or the governing authority of a nonpublic school. The provisions of this act shall apply to both public and nonpublic schools.

Sec. 287. K.S.A. 72-3608 is hereby amended to read as follows: 72-3608. The state board in cooperation with the ~~state department of social and rehabilitation services~~ *Kansas department for children and families*, the state department of health and environment, and other appropriate associations and organizations, may provide any board, upon its request therefor, with technical advice and assistance regarding the development and operation of a parent education program or an application for a grant of state moneys, and may make studies and gather and disseminate information regarding materials, resources, procedures, and personnel which are or may become available to assist school districts in the development and operation of parent education programs.

Sec. 288. K.S.A. 72-4311 is hereby amended to read as follows: 72-4311. The ~~secretary of social and rehabilitation services for children and families~~ may disburse all funds allotted to the state by the federal government under any act of congress, and such other funds as may be made available from public and private sources for the vocational rehabilitation of persons disabled in industry or otherwise. The secretary may make studies, investigations, demonstrations, and reports, and provide training and instruction, including tuition and maintenance necessary in preparing staff in matters relating to vocational rehabilitation, and establish and operate rehabilitation facilities and workshops necessary to vocationally rehabilitate and place in remunerative occupations persons eligible for the benefits of this act. The secretary may adopt rules and regulations for the administration of this act including regulations providing the procedure for fair hearings for applicants or recipients and for the protection of confidential records and other information.

Sec. 289. K.S.A. 72-4314a is hereby amended to read as follows: 72-4314a. The ~~secretary of social and rehabilitation services for children and families~~ may adopt rules and regulations in the field of vocational rehabilitation.



Sec. 290. K.S.A. 72-4316 is hereby amended to read as follows: 72-4316. The director of accounts and reports shall draw ~~his~~ warrants on the state treasurer for the purpose mentioned in this act, upon vouchers approved by the secretary ~~of social and rehabilitation services for children and families~~ or a person or persons designated by ~~him~~ the secretary.

Sec. 291. K.S.A. 2013 Supp. 72-53,106 is hereby amended to read as follows: 72-53,106. (a) As used in this section:

(1) “School” means every school district and every nonpublic school operating in this state.

(2) “School board” means the board of education of a school district or the governing authority of a nonpublic school.

(3) “Proof of identity” means: (A) In the case of a child enrolling in kindergarten or first grade, a certified copy of the birth certificate of the child or, as an alternative, for a child who is in the custody of the secretary ~~of social and rehabilitation services for children and families~~, a certified copy of the court order placing the child in the custody of the secretary and, in the case of a child enrolling in any of the grades two through 12, a certified transcript or other similar pupil records or data; or (B) any documentary evidence which a school board deems to be satisfactory proof of identity.

(b) Whenever a child enrolls or is enrolled in a school for the first time, the school board of the school in which the child is enrolling or being enrolled shall require, in accordance with a policy adopted by the school board, presentation of proof of identity of the child. If proof of identity of the child is not presented to the school board within 30 days after enrollment, the school board shall immediately give written notice thereof to a law enforcement agency having jurisdiction within the home county of the school. Upon receipt of the written notice, the law enforcement agency shall promptly conduct an investigation to determine the identity of the child. No person or persons claiming custody of the child shall be informed of the investigation while it is being conducted.

(c) Schools and law enforcement agencies shall cooperate with each other in the conducting of any investigation required by this section. School personnel shall provide law enforcement agencies with access on school premises to any child whose identity is being investigated. School personnel shall be present at all times any law enforcement agency personnel are on school premises for the purpose of conducting any such investigation unless the school personnel and the law enforcement agency personnel agree that their joint presence is not in the best interests of the child. School personnel who are present during the conducting by a law enforcement agency of an investigation on school premises to determine the identity of a child in accordance with the requirements of this section are subject to the confidentiality requirements of the revised Kansas code for care of children.

(d) Upon receipt by a school of a notice from a law enforcement agency that a child who is or has been enrolled in the school has been reported as a missing child, the school shall make note of the same in a conspicuous manner on the school records of the child and shall keep such school records separate from the school records of all other children enrolled in the school. Upon receipt by the school of a request for the school records of the child, the school shall notify the law enforcement agency of the request.

(e) Each school board may designate and authorize one or more of its school personnel to act on behalf of the school board in complying with the requirements of this section.

(f) Information gathered in the course of the investigation to establish the identity of a child pursuant to this section shall be confidential and shall be used only to establish the identity of the child or in support of any criminal prosecution emanating from the investigation.

Sec. 292. K.S.A. 2013 Supp. 72-8187 is hereby amended to read as follows: 72-8187. (a) In each school year, to the extent that appropriations are available, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility is eligible to receive a grant of state moneys in an amount to be determined by the state board of education.

(b) In order to be eligible for a grant of state moneys provided for by

this section, each school district which has provided educational services for pupils residing at the Flint Hills job corps center, for pupils housed at a psychiatric residential treatment facility or for pupils confined in a juvenile detention facility shall submit to the state board of education an application for a grant and shall certify the amount expended, and not reimbursed or otherwise financed, in the school year for the services provided. The application and certification shall be prepared in such form and manner as the state board shall require and shall be submitted at a time to be determined and specified by the state board. Approval by the state board of applications for grants of state moneys is prerequisite to the award of grants.

(c) Each school district which is awarded a grant under this section shall make such periodic and special reports of statistical and financial information to the state board as it may request.

(d) All moneys received by a school district under authority of this section shall be deposited in the general fund of the school district and shall be considered reimbursement of the district for the purpose of the school district finance and quality performance act.

(e) The state board of education shall approve applications of school districts for grants, determine the amount of grants and be responsible for payment of grants to school districts. In determining the amount of a grant which a school district is eligible to receive, the state board shall compute the amount of state financial aid the district would have received on the basis of enrollment of pupils residing at the Flint Hills job corps center, housed at a psychiatric residential treatment facility or confined in a juvenile detention facility if such pupils had been counted as two pupils under the school district finance and quality performance act and compare such computed amount to the amount certified by the district under subsection (b). The amount of the grant the district is eligible to receive shall be an amount equal to the lesser of the amount computed under this subsection or the amount certified under subsection (b). If the amount of appropriations for the payment of grants under this section is insufficient to pay in full the amount each school district is determined to be eligible to receive for the school year, the state board shall prorate the amount appropriated among all school districts which are eligible to receive grants of state moneys in proportion to the amount each school district is determined to be eligible to receive.

(f) On or before July 1 of each year, the ~~secretary of social and rehabilitation~~ *secretary for aging and disability services* shall submit to the Kansas department of education a list of facilities which have been certified and licensed as psychiatric residential treatment facilities.

(g) As used in this section:

(1) “Enrollment” means the number of pupils who are: (A) Residing at the Flint Hills job corps center, confined in a juvenile detention facility or residing at a psychiatric residential treatment facility; and (B) for whom a school district is providing educational services on September 20, on November 20, or on April 20 of a school year, whichever is the greatest number of pupils;

(2) “juvenile detention facility” means any public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail; and

(3) “psychiatric residential treatment facility” means a facility which provides psychiatric services to individuals under the age of 21 and which conforms with the regulations of the centers for medicare/medicaid services, is licensed by the Kansas department of health and environment and ~~is certified by the Kansas department of social and rehabilitation~~ *and certified by the Kansas department for aging and disability services* pursuant to subsection (f).

Sec. 293. K.S.A. 2013 Supp. 72-8223 is hereby amended to read as follows: 72-8223. (a) The ~~secretary of social and rehabilitation services for children and families~~ *secretary for aging and disability services* shall pay tuition to the board of education of any school district for children in any institution under the jurisdiction of the secretary who attend any of the schools of such school district. The amount of tuition shall be determined on the basis of the average operating cost per pupil of the school district, less the proportionate amount of state aid received by such school district as determined by the state board of education. Whenever feasible, the board of education of such

school district shall work with the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to maximize federal matching funds.

(b) Payments of tuition received under this section by the board of education of any school district for attendance of children at school in regular educational programs shall be deposited in the tuition reimbursement fund.

(c) There is hereby established in every district a fund which shall be called the tuition reimbursement fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a district attributable to the costs of providing educational services to a child in an institution under the jurisdiction of the secretary who attends the school shall be paid from the tuition reimbursement fund.

Sec. 294. K.S.A. 72-8239 is hereby amended to read as follows: 72-8239. (a) The board of education of each school district in this state may establish a school attendance review board or may enter into a cooperative or interlocal cooperation agreement with one or more other boards of education for the joint establishment of a school attendance review board. Each school attendance review board shall include, but need not be limited to, one or more persons representing each of the following: (1) Parents of pupils of the district or districts; (2) the ~~department of social and rehabilitation services~~ *Kansas department for children and families*; (3) the superintendent of schools of each participating school district; (4) teachers of the school district or districts; (5) school guidance personnel; (6) law enforcement agencies having jurisdiction in the district or districts; and (7) community-based agencies providing services to youth.

(b) The superintendent of schools of the school district that has established a school attendance review board as provided in subsection (a), at the beginning of each school year, shall convene a meeting of the school attendance review board for the purpose of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance problems. If more than one board of education is participating in a school attendance review board, the superintendent of schools of the school district having the most pupils shall convene the meeting provided for by this subsection.

(c) The school attendance review board may elect from among its members a chairperson having responsibility for coordinating the services of the board and may elect such other officers as determined by the board.

(d) The school attendance review board may adopt rules and regulations as necessary to govern its procedure and to enable the board to carry out the provisions of this act.

Sec. 295. K.S.A. 72-8243 is hereby amended to read as follows: 72-8243. (a) If a pupil is required by law to attend school and is irregular in attendance at school, the pupil may be referred to the school attendance review board. Each board of education shall designate one or more employees to make such referrals. Upon making a referral, the employee shall notify the pupil and the pupil's parents or guardians, in writing, of the name and address of the school attendance review board and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

(b) If the school attendance review board determines that available community services can resolve the problem of the referred pupil, the board shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board may require, at such time as it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

(c) If the school attendance review board determines that available community services cannot resolve the problem of the referred pupil or if the pupil or the pupil's parents or guardians, or both, have failed to respond to directives of the school attendance review board or to services provided, the school attendance review board may notify the secretary ~~of social and rehabilitation services~~ *for children and families* or the appropriate county or district attorney. If the case is referred to the district

court, the school attendance review board shall submit to the district court documentation of efforts to secure attendance as well as the board's recommendations on what action the district court shall take in order to bring about proper disposition of the case.

Sec. 296. K.S.A. 72-89a02 is hereby amended to read as follows: 72-89a02. (a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(b) To the extent that the provisions contained in article 89 of chapter 72 of Kansas Statutes Annotated, *and amendments thereto*, do not conflict with the requirements of this act, such provisions shall apply to and be incorporated in the policy required to be adopted under subsection (a).

(c) If a pupil required to be expelled pursuant to a policy adopted under subsection (a) is confined in the custody of the ~~secretary of social and rehabilitation services~~ *for children and families*, the commissioner of juvenile justice or the secretary of corrections as a result of the violation upon which the expulsion is to be based, the hearing required under the provisions of article 89 of chapter 72 of Kansas Statutes Annotated, *and amendments thereto*, shall be delayed until the pupil is released from custody.

(d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled.

(e) The chief administrative officer of the school in which a pupil required to be expelled pursuant to a policy adopted under subsection (a) is enrolled may modify the expulsion requirement in a manner which is consistent with the requirements of federal law. Nothing in this subsection shall be applied or construed in any manner so as to require the chief administrative officer of a school to modify the expulsion requirement of a policy adopted by a board of education pursuant to the provisions of subsection (a).

(f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the ~~secretary of social and rehabilitation services~~ *for children and families* or the commissioner of juvenile justice.

(g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.

(h) The provisions of this section do not apply to the possession by pupils of weapons at school, on school property, or at a school supervised activity if the possession of weapons by pupils is connected with a weapons safety course of instruction or a weapons education course approved and authorized by the school or if the possession of weapons by pupils is specifically authorized in writing by the chief administrative officer of the school.

Sec. 297. K.S.A. 72-89b03 is hereby amended to read as follows: 72-89b03. (a) If a school employee has information that a pupil is a pupil to whom the provisions of this subsection apply, the school employee shall report such information and identify the pupil to the superintendent of schools. The superintendent of schools shall investigate the matter and,

upon determining that the identified pupil is a pupil to whom the provisions of this subsection apply, shall provide the reported information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school related services to the pupil. The provisions of this subsection apply to:

- (1) Any pupil who has been expelled for the reason provided by subsection (c) of K.S.A. 72-8901, and amendments thereto, for conduct which endangers the safety of others;
- (2) any pupil who has been expelled for the reason provided by subsection (d) of K.S.A. 72-8901, and amendments thereto;
- (3) any pupil who has been expelled under a policy adopted pursuant to K.S.A. 72-89a02, and amendments thereto;
- (4) any pupil who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony under the laws of Kansas or the state where the offense was committed, except any pupil adjudicated as a juvenile offender for a felony theft offense involving no direct threat to human life; and
- (5) any pupil who has been tried and convicted as an adult of any felony, except any pupil convicted of a felony theft crime involving no direct threat to human life.

A school employee and the superintendent of schools shall not be required to report information concerning a pupil specified in this subsection if the expulsion, adjudication as a juvenile offender or conviction of a felony occurred more than 365 days prior to the school employee's report to the superintendent of schools.

(b) Each board of education shall adopt a policy that includes:

(1) A requirement that an immediate report be made to the appropriate state or local law enforcement agency by or on behalf of any school employee who knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and that the act involved conduct which constitutes the commission of a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons; and

(2) the procedures for making such a report.

(c) School employees shall not be subject to the provisions of subsection (b) of K.S.A. 72-89b04, and amendments thereto, if:

(1) They follow the procedures from a policy adopted pursuant to the provisions of subsection (b); or

(2) their board of education fails to adopt such policy.

(d) Each board of education shall annually compile and report to the state board of education at least the following information relating to school safety and security: The types and frequency of criminal acts that are required to be reported pursuant to the provisions of subsection (b), disaggregated by occurrences at school, on school property and at school supervised activities. The report shall be incorporated into and become part of the current report required under the quality performance accreditation system.

(e) Each board of education shall make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security, except that the provisions of this subsection shall not apply to reports made by a superintendent of schools and school employees pursuant to subsection (a).

(f) Nothing in this section shall be construed or operate in any manner so as to prevent any school employee from reporting criminal acts to school officials and to appropriate state and local law enforcement agencies.

(g) The state board of education shall extract the information relating to school safety and security from the quality performance accreditation report and transmit the information to the governor, the legislature, the attorney general, the secretary of health and environment, the secretary of social and rehabilitation services for children and families and the commissioner of juvenile justice.

(h) No board of education, member of any such board, superintendent of schools or school employee shall be liable for damages in a civil action resulting from a person's good faith acts or omissions in complying with the requirements or provisions of the Kansas school safety and security act.

Sec. 298. K.S.A. 2013 Supp. 74-32,151 is hereby amended to read as follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-32,159, and amendments thereto, shall be known and may be cited as the workforce development loan program act.

(b) As used in the workforce development loan act, “postsecondary educational institution” shall have the meaning ascribed thereto by K.S.A. 74-3201b, and amendments thereto.

(c) Within the limits of appropriations and private contributions therefor, and in accordance with the provisions of this act, the state board of regents may award such loans to Kansas residents who are enrolled in or admitted to a technical college, community college, the institute of technology at Washburn university or associate degree programs at postsecondary educational institutions and who enter into a written agreement with the state board of regents as provided in K.S.A. 74-32,152, and amendments thereto.

(d) The board of regents may accept any private contributions to the program. The chief executive officer of the board of regents shall turn such contributions over to the state treasurer who shall deposit such moneys into the workforce development loan fund.

(e) After consultation with the secretaries of the ~~departments of social and rehabilitation services~~ *Kansas department for children and families* and *the department of commerce*, the board may establish a list of education programs in which an applicant must enroll to be eligible for a loan under this program.

(f) The loans shall be awarded on a priority basis to qualified applicants who have the greatest financial need with the highest priority given to those applicants with the greatest financial need who were in foster care on their 18th birthday or were released from foster care prior to their 18th birthday after having graduated from high school or completing the requirements for a general educational development (GED) certificate while in foster care. All loans shall be awarded to resident students attending technical colleges, community colleges, the institute of technology at Washburn university or associate degree programs at postsecondary educational institutions. Special preference shall also be established for residents drawing unemployment compensation or such residents who were laid off from employment within the prior six months. The board may also establish preferences for workers deemed to be eligible for North American free trade agreement transition assistance under United States department of labor standards or the Kansas department of labor standards.

(g) Loans awarded under this program shall be awarded on an annual basis and shall be in effect for one year unless otherwise terminated before the expiration of such period of time. Such loans shall be awarded for the payment of tuition, fees, books, room and board and any other necessary school related expenses.

Sec. 299. K.S.A. 2013 Supp. 74-32,160 is hereby amended to read as follows: 74-32,160. Financing of the workforce development loan program act shall be from moneys made available from the Kansas department of commerce received from the United States department of labor and the ~~Kansas department of social and rehabilitation services~~ *for children and families* received from the United States department of health and human services in accordance with the provisions of this section and in accordance with and subject to the provisions of Kansas appropriation acts.

The Kansas department of commerce shall provide funding for the purpose of this act which shall be limited to the use of federal department of labor workforce investment act funds which are returned to the state as unspent local WIA program year adult, youth and dislocated worker funds. Such unspent funds shall be converted to and identified as state-level set-aside funds for use in carrying out activities as provided under this act. The annual amount of such funds shall not exceed \$500,000. The WIA set-aside funds shall be made available subject to the written approval from the United States department of labor authorizing the use of such for the purpose of this act and appropriated by the United States congress. Funding for this act by the Kansas department of commerce shall be contingent on the availability of WIA funding and shall terminate on or before the final WIA authorization date of June 30, 2005. Due to

restrictions placed on the transfer of unspent federal funds to the state treasury and the need for timely disbursement of federal funds for WIA expenditures, the Kansas department of commerce shall develop in cooperation with the Kansas board of regents, a system for the reimbursement of actual expenses incurred pursuant to this act. Such reimbursement procedures shall be in compliance with acceptable federal department of labor and office of management and budget procedures established for the draw down and disbursement of federal WIA funds.

The secretary ~~of the department of social and rehabilitation services~~ *for children and families* shall cooperate in the administration of the workforce development loan program act which may be funded with the \$500,000 which is to be contributed annually by the Kansas department ~~of social and rehabilitation services~~ *for children and families* in accordance with and subject to the provisions of appropriation acts. When there is a candidate that appears to meet the eligibility guidelines for federal funding administered by the Kansas department ~~of social and rehabilitation services~~ *for children and families*, the Kansas board of regents shall notify the Kansas department ~~of social and rehabilitation services~~ *for children and families*. Upon the *approval of the* Kansas department ~~of social and rehabilitation service's approval~~ *for children and families* of the candidate's eligibility, the director of accounts and reports shall transfer funding from the appropriate federal source as identified by the Kansas department ~~of social and rehabilitation services~~ *for children and families* to the Kansas state treasurer. All receipts and interest collected from repayments of federal funds transferred under the authority of this section shall be returned to the director of accounts and reports for reposit to the originating federal funding source.

Sec. 300. K.S.A. 2013 Supp. 74-32,161 is hereby amended to read as follows: 74-32,161. (a) As used in this section:

(1) "Kansas educational institution" means a postsecondary educational institution as defined by K.S.A. 74-3201b, and amendments thereto.

(2) "State board" means the state board of regents.

(b) Subject to appropriations therefor and except as otherwise provided by this section, every Kansas educational institution shall provide for enrollment without charge of tuition, undergraduate fees, including registration, matriculation and laboratory fees for any eligible applicant. No Kansas educational institution shall be required by this section to provide for the enrollment of more than five new applicants in any academic year. An applicant who was in the custody of ~~social and rehabilitation services~~ *the Kansas department for children and families* on the date such applicant reached 18 years of age, who has graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care, was released from the custody of the Kansas department ~~of social and rehabilitation services~~ *for children and families* prior to age 18 after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and in the custody of the Kansas department ~~of social and rehabilitation services~~ *for children and families*, or an applicant who was adopted from a foster care placement on or after such applicant's 16th birthday, and who is accepted to a Kansas educational institution within two years following the date such applicant graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate shall be eligible for enrollment at a Kansas educational institution without charge of tuition or such fees through the semester the eligible applicant reaches 21 years of age not to exceed eight semesters of undergraduate instruction, or the equivalent thereof, at all such institutions.

(c) Subject to appropriations therefor, any Kansas educational institution which at the time of enrollment did not charge tuition or fees as prescribed by subsection (b), and amendments thereto, of the eligible applicant may file a claim with the state board for reimbursement of the amount of such tuition and fees. The state board shall be responsible for payment of reimbursements to Kansas educational institutions upon certification by each such institution of the amount of reimbursement to which the educational institution is entitled. Such payments to Kansas educational institutions shall be made upon vouchers approved by the

state board and upon warrants of the director of accounts and reports. Payments may be made by issuance of a single warrant to each Kansas educational institution at which one or more eligible applicants are enrolled for the total amount of tuition and fees not charged eligible applicants for enrollment at that institution. The director of accounts and reports shall cause such warrant to be delivered to the Kansas educational institution at which such eligible applicant or applicants are enrolled. If an eligible applicant discontinues attendance before the end of any semester, after the Kansas educational institution has received payment under this subsection, the institution shall pay to the state the entire amount which such eligible applicant would otherwise qualify to have refunded, not to exceed the amount of the payment made by the state on behalf of such applicant for the semester. All amounts paid to the state by Kansas educational institutions under this subsection shall be deposited in the state treasury and credited to the tuition waiver gifts, grants and reimbursements fund unless such amount was from federal funds transferred under the authority of subsection (g) which funds shall be returned to the director of accounts and reports for reposit to the originating federal funding source.

(d) The chief executive officer of the state board shall submit a report to the house and senate committees on education during the 2005 and 2007 regular session of the legislature on the results, outcomes and effectiveness of the tuition waiver program authorized by this section.

(e) The state board is authorized to receive any grants, gifts, contributions or bequests made for the purpose of supporting the tuition waiver program authorized by this section and to expend the same.

(f) There is hereby established in the state treasury the tuition waiver gifts, grants and reimbursements fund. Expenditures from the fund may be made for the purpose of payment of claims of Kansas educational institutions pursuant to this section and for such purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be authorized by the chief executive officer of the state board, or such officer's designee and made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief executive officer of the state board, or such officer's designee.

(g) During each year, the chief executive officer of the state board shall make one or more certifications of the amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section to the director of accounts and reports and the secretary of social and rehabilitation services *for children and families*. Each certification made by the chief executive officer shall include a provision stating that 20% of the total amount or amounts required to pay claims received from Kansas educational institutions for tuition and fees under this section are either cash, in-kind contributions, state general funds or other nonfederal sources not used to match other funds, and that the remaining 80% shall be paid from the federal award from the foster care assistance federal fund. Upon receipt of each such certification, the director of accounts shall transfer the amount certified from moneys received under the federal Chafee foster care independence grant and credited to the foster care assistance federal fund of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to the tuition waiver gifts, grants and reimbursements fund of the state board. Annual expenditures for the tuition waiver program made by the Kansas ~~department of social and rehabilitation services~~ *for children and families* shall not exceed a maximum of more than 30% of the amount of the federal award in effect on July 1 of each state fiscal year.

(h) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the tuition waiver gifts and grants fund interest earnings based on:

(1) The average daily balance of moneys in the tuition waiver gifts and grants fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(i) Applicants eligible for the benefits under this section shall be exempt from the provisions of K.S.A. 76-717, and amendments thereto.

(j) The state board shall adopt rules and regulations requiring eligible applicants to be enrolled as a full-time undergraduate student in good



academic standing and to maintain part-time employment to remain eligible and other rules and regulations, as appropriate, for administration of the applicable provisions of this section. When there is a candidate that appears to meet the eligibility guidelines for federal Chafee funding administered by the ~~Kansas department of social and rehabilitation services for children and families~~, the state board shall notify the ~~Kansas department of social and rehabilitation services for children and families~~. The ~~Kansas department of social and rehabilitation services for children and families~~ shall notify the state board of approval of the candidate's eligibility.

(k) The provisions of this section shall expire on June 30, 2006, except that any eligible applicant who received a tuition waiver before June 30, 2006, and is deemed by the state board to be eligible pursuant to this section shall be allowed to remain eligible until such applicant completes such applicant's course of study or becomes ineligible pursuant to the provisions of this section.

Sec. 301. K.S.A. 2013 Supp. 74-4902 is hereby amended to read as follows: 74-4902. As used in articles 49 and 49a of chapter 74 of *the Kansas Statutes Annotated*, and amendments thereto, unless otherwise provided or the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;

(2) "acts" means the provisions of articles 49 and 49a of the Kansas Statutes Annotated, and amendments thereto;

(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion;

(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;

(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;

(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927, and amendments thereto, any natural person or persons, estate or trust, or any combination thereof, named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at the time of the member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection;

(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) "compensation" means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is

increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that: (A) Any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member; (B) any increase in compensation for any member due to a reclassification or reallocation of such member's position or a reassignment of such member's job classification to a higher range or level; and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in the amount of compensation of such member used in determining such member's final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer's fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer's fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "compensation" shall have the meaning as provided in K.S.A. 74-49,123, and amendments thereto. For purposes of this subsection and application to the provisions of subsection (4) of K.S.A. 74-4927, and amendments thereto, "compensation" shall not include any payments made by the state board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto;

(10) "credited service" means the sum of participating service and prior service and in no event shall credited service include any service which is credited under another retirement plan authorized under any law of this state;

(11) "dependent" means a parent or child of a member who is dependent upon the member for at least ½ of such parent or child's support;

(12) "effective date" means the date upon which the system becomes effective by operation of law;

(13) "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned or any noncommercial public television or radio station located in this state which receives state funds allocated by the Kansas public broadcasting commission whose employees are covered by social security. If a class or several classes of employees of any above defined employer are not covered by social security, such employer shall be deemed an eligible employer only with respect to such class or those classes of employees who are covered by social security;

(14) "employee" means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, and any such officer or employee who is concurrently employed performing similar or related tasks by two or more participating employers, who each remit employer and employee contributions on behalf of such officer or employee to the system, and whose combined employment is not seasonal or temporary, and whose combined employment requires at least 1,000 hours of work per year, but not including: (A) Any employee who is a contributing member of the United States civil service retirement system; (B) any employee who is a contributing member of the federal employees retirement system; (C) any employee who is a leased employee as provided in section 414 of the federal internal revenue code of a participating employer; and (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925, and amendments thereto, except that no person

shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925, and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services for children and families. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913, and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system. Employees shall include any member of a board of county commissioners of any county and any council member or commissioner of a city whose compensation is equal to or exceeds \$5,000 per year;

(15) “entry date” means the date as of which an eligible employer joins the system. The first entry date pursuant to this act is January 1, 1962;

(16) “executive director” means the managing officer of the system employed by the board under this act;

(17) “final average salary” means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member’s final average salary shall be computed by multiplying such member’s highest monthly salary received in that year by 12; in the case of a member who became a member under subsection (3) of K.S.A. 74-4925, and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931, and amendments thereto, and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, whose date of membership in the system is prior to July 1, 1993, and any member who is in such member’s membership waiting period on July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as pro-

vided in subsection (2) of K.S.A. 74-4919h, and amendments thereto, which is completed within five years of retirement. For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system. In the case of any former member who was eligible for assistance pursuant to K.S.A. 74-4925, and amendments thereto, prior to July 1, 1998, for the purpose of calculating final average salary of such member, such member's final average salary shall be based on such member's salary while a member of the system or while eligible for assistance pursuant to K.S.A. 74-4925, and amendments thereto, whichever is greater;

(18) "fiscal year" means, for the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund" means the fund created by this act for payment of expenses and benefits under the system and referred to as the fund;

(20) "leave of absence" means a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one year;

(21) "member" means an eligible employee who is in the system and is making the required employee contributions; any former employee who has made the required contributions to the system and has not received a refund if such member is within five years of termination of employment with a participating employer; or any former employee who has made the required contributions to the system, has not yet received a refund and has been granted a vested benefit;

(22) "military service" means service in the uniformed forces of the United States, for which retirement benefit credit must be given under the provisions of USERRA or service in the armed forces of the United States or in the commissioned corps of the United States public health service, which service is immediately preceded by a period of employment as an employee or by the entering into of an employment contract with a participating employer and is followed by return to employment as an employee with the same or another participating employer within 12 months immediately following discharge from such military service, except that if the board determines that such return within 12 months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two years from the date of discharge or separation from military service;

(23) "normal retirement date" means the date on or after which a member may retire with full retirement benefits pursuant to K.S.A. 74-4914, and amendments thereto;

(24) "participating employer" means an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) "participating service" means the period of employment after the entry date for which credit is granted a member;

(26) "prior service" means the period of employment of a member prior to the entry date for which credit is granted a member under this act;

(27) "prior service annual salary" means the highest annual salary, not including any amounts received as payment for overtime or as reimbursement for travel or moving expense, received for personal services by the member from the current employer in any one of the three calendar years immediately preceding January 1, 1962, or the entry date of

the employer, whichever is later, except that if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(28) "retirant" means a member who has retired under this system;

(29) "retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant. If there is no surviving spouse, the last warrant shall be payable to the designated beneficiary;

(30) "retirement system" or "system" means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) "social security" means the old age, survivors and disability insurance section of the federal social security act;

(32) "trust" means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927, and amendments thereto, and payment of the member's accumulated contributions under subsection (1) of K.S.A. 74-4916, and amendments thereto. A designation of a trust shall be filed with the board. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927, and amendments thereto, and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916, and amendments thereto, shall be paid in accordance with the provisions of subsection (7) of this section as in other cases where there is no named beneficiary living at the time of the member's death and any payments so made shall be a full discharge and release to the system from any further claims;

(33) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "salary" shall have the meaning as provided in K.S.A. 74-49,123, and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(34) "federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as in effect on July 1, 2008, and as applicable to a governmental plan; and

(35) "USERRA" means the federal uniformed services employment and reemployment rights act of 1994 as in effect on July 1, 2008.

Sec. 302. K.S.A. 2013 Supp. 74-4911f is hereby amended to read as follows: 74-4911f. (a) Subject to procedures or limitations prescribed by the governor, any person who is not an employee and who becomes a state officer may elect to not become a member of the system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. Such election shall be irrevocable. If such election is not filed by such state officer, such state officer shall be a member of the system.

(b) Any such state officer who is a member of the Kansas public employees retirement system, on or after the effective date of this act, may elect to not be a member by filing an election with the office of the retirement system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. If such election is not filed by such state officer, such state officer shall be a member of the system.

(c) Subject to limitations prescribed by the board, the state agency employing any employee who has filed an election as provided under subsection (a) or (b) and who has entered into an employee participation agreement, as provided in K.S.A. 2013 Supp. 74-49b10, and amendments thereto, for deferred compensation pursuant to the Kansas public employees deferred compensation plan shall contribute to such plan on such employee's behalf an amount equal to 8% of the employee's salary, as such salary has been approved pursuant to K.S.A. 75-2935b, and amendments thereto, or as otherwise prescribed by law. With regard to a state officer who is a member of the legislature who has retired pursuant to the Kansas public employees retirement system and who files an election as provided in this section, employee's salary means per diem compensation as provided by law as a member of the legislature.

(d) As used in this section and K.S.A. 74-4927k, and amendments thereto, "state officer" means the secretary of administration, secretary ~~on aging for aging and disability services~~, secretary of commerce, secretary of corrections, secretary of health and environment, secretary of labor, secretary of revenue, secretary ~~of social and rehabilitation services for children and families~~, secretary of transportation, secretary of wildlife, parks and tourism, superintendent of the Kansas highway patrol, secretary of agriculture, executive director of the Kansas lottery, executive director of the Kansas racing commission, president of the Kansas development finance authority, state fire marshal, state librarian, securities commissioner, adjutant general, judges and chief hearing officer of the state court of tax appeals, members of the state corporation commission, any unclassified employee on the staff of officers of both houses of the legislature, any unclassified employee appointed to the governor's or lieutenant governor's staff, any person employed by the legislative branch of the state of Kansas, other than any such person receiving service credited under the Kansas public employees retirement system or any other retirement system of the state of Kansas therefor, who elected to be covered by the provisions of this section as provided in subsection (e) of K.S.A. 46-1302, and amendments thereto, or who is first employed on or after July 1, 1996, by the legislative branch of the state of Kansas and any member of the legislature who has retired pursuant to the Kansas public employees retirement system.

(e) The provisions of this section shall not apply to any state officer who has elected to remain eligible for assistance by the state board of regents as provided in subsection (a) of K.S.A. 74-4925, and amendments thereto.

Sec. 303. K.S.A. 2013 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66<sup>2</sup>/<sub>3</sub>% of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such

long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916, and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services for children and families and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902, and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a

period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy



or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. For the period commencing July 1, 2013, and ending June 30, 2015, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .85% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the period commencing July 1, 2015, and all periods thereafter, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2013, and ending on June 30, 2013.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920, and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or cred-

ited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 304. K.S.A. 74-5502 is hereby amended to read as follows: 74-5502. (a) The state council shall:

(1) Study the problems of prevention, education, rehabilitation and other programs affecting the general welfare of the developmentally disabled.

(2) Monitor, review and evaluate, at least annually, the implementation of the state plan for developmental disabilities.

(3) Review and comment, to the maximum extent feasible, on all state plans in the state which relate to programs affecting persons with developmental disabilities.

(4) Submit to the secretary of health and human services, through the governor, such periodic reports on its activities as the secretary of health and human services may reasonably request and keep such records and afford such access thereto as the secretary of health and human services finds necessary to verify such reports. In accordance with federal laws, the state plan for developmental disabilities shall be prepared jointly by the division of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services that is responsible for programs for developmental disabilities and the state council.

(5) Study the various state programs for the developmentally disabled and shall have power to make suggestions and recommendations to the various state departments for the coordination and improvements of such programs.

(b) The council may make proposed legislative recommendations having as a function the more efficient, economic and effective realization of intent, purpose and goal of the various programs for the developmentally disabled.

(c) Each state agency represented by membership on the council is hereby authorized to furnish such information, data, reports and statistics requested by the council.

Sec. 305. K.S.A. 74-5505 is hereby amended to read as follows: 74-5505. The division of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services that is responsible for programs for developmental disabilities is hereby designated as the agency to receive and administer federal funds under the federal developmental disabilities assistance and bill of rights act—~~42 U.S.C. §§ 6000 et seq.~~, as amended. The state plan for developmental disabilities shall provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the state under such act.

Sec. 306. K.S.A. 2013 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) “Training center” means the law enforcement training center

within the university of Kansas, created by K.S.A. 74-5603, and amendments thereto.

(b) “Commission” means the Kansas commission on peace officers’ standards and training, created by K.S.A. 74-5606, and amendments thereto, or the commission’s designee.

(c) “Chancellor” means the chancellor of the university of Kansas, or the chancellor’s designee.

(d) “Director of police training” means the director of police training at the law enforcement training center.

(e) “Director” means the executive director of the Kansas commission on peace officers’ standards and training.

(f) “Law enforcement” means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(g) “Police officer” or “law enforcement officer” means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to: The sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff’s office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858, and amendments thereto; conservation officers of the Kansas department of wildlife, parks and tourism; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents designated by the secretary of revenue pursuant to K.S.A. 2013 Supp. 75-5157, and amendments thereto; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503, and amendments thereto; special investigators of the juvenile justice authority; special investigators designated by the secretary of labor; and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222, and amendments thereto; the manager and employees of the horsethief reservoir benefit district pursuant to K.S.A. 2013 Supp. 82a-2212, and amendments thereto; and the director of the Kansas commission on peace officers’ standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official’s elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice who is employed solely to perform correctional, administrative or operational duties related to juvenile correctional facilities; any employee of the secretary of corrections, any employee of the secretary of social and rehabilitation services *for children and families*; any deputy conservation officer of the Kansas department of wildlife, parks and tourism; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person’s office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(h) “Full-time” means employment requiring at least 1,000 hours of law enforcement related work per year.

(i) “Part-time” means employment on a regular schedule or employment which requires a minimum number of hours each payroll period,

but in any case requiring less than 1,000 hours of law enforcement related work per year.

(j) “Misdemeanor crime of domestic violence” means a violation of domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2013 Supp. 21-5414, and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(k) “Auxiliary personnel” means members of organized nonsalaried groups who operate as an adjunct to a police or sheriff’s department, including reserve officers, posses and search and rescue groups.

(l) “Active law enforcement certificate” means a certificate which attests to the qualification of a person to perform the duties of a law enforcement officer and which has not been suspended or revoked by action of the Kansas commission on peace officers’ standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

Sec. 307. K.S.A. 2013 Supp. 74-6703 is hereby amended to read as follows: 74-6703. In addition to the members appointed by the governor under K.S.A. 74-6702, and amendments thereto, the following persons, or the designees of such persons, shall serve as members ex officio of the commission:

- (a) The secretary of health and environment;
- (b) the chairperson of the ~~Kansas planning~~ council on developmental disabilities ~~services~~;
- (c) the commissioner of ~~mental health and developmental disabilities of community services and programs in the department of social and rehabilitation~~ *Kansas department for aging and disability services*;
- (d) the commissioner of rehabilitation services of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*;
- (e) the secretary of commerce;
- (f) the director of special education of the state board of education;
- (g) the secretary of transportation;
- (h) the secretary ~~of aging~~ *for aging and disability services*;
- (i) the secretary of labor;
- (j) the secretary of administration;
- (k) the secretary ~~of social and rehabilitation services~~ *for children and families*;
- (l) the president of the Kansas senate;
- (m) the minority leader of the Kansas senate;
- (n) the speaker of the Kansas house of representatives; and
- (o) the minority leader of the Kansas house of representatives.

Sec. 308. K.S.A. 74-6901 is hereby amended to read as follows: 74-6901. There is hereby established in the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, the state economic opportunity office, the director of which shall be responsible for providing technical assistance and coordination to local, regional and state organizations which operate programs under the provisions of the federal economic opportunity act. The head of such office shall be the director of economic opportunity. The director of economic opportunity shall be appointed by the secretary ~~of social and rehabilitation services~~ *for children and families*. The director shall be in the classified service of the Kansas civil service act and shall receive an annual salary to be fixed by the secretary with the approval of the governor. The person employed as director immediately prior to the effective date of this act shall continue as director and shall obtain permanent status in the classified position of director without examination and without a probationary period and shall retain all retirement benefits which such person had prior to the effective date of this act, and such person’s service shall be deemed to have been continuous.

Sec. 309. K.S.A. 74-6904 is hereby amended to read as follows: 74-6904. Effective July 1, 1977, officers and employees who were engaged

prior to ~~said~~ *such* date in the performance of powers, duties and functions of the state economic opportunity office established in the office of the governor and who, in the opinion of the director of economic opportunity, are necessary to perform the powers, duties and functions of the state office of economic opportunity established in the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall become officers and employees of the state economic opportunity office established in the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. Such officers and employees shall retain all retirement benefits which such officers and employees had before July 1, 1977, and their services shall be deemed to have been continuous. Within the limitations of appropriations made therefor, the secretary shall appoint such other personnel as ~~he or she~~ *the secretary* shall deem necessary to carry out the provisions of this act. Such personnel shall be in the classified service of the Kansas civil service act and shall exercise all functions and perform all duties prescribed or imposed under the provisions of this act, at the direction and under the supervision of the director. Such personnel employed immediately prior to the effective date of this act who are continued in employment under this section shall attain permanent status in their classified position without examination and without a probationary period.

Sec. 310. K.S.A. 74-7801 is hereby amended to read as follows: 74-7801. (a) The coordinating council on early childhood developmental services shall consist of not less than 16 nor more than 25 members as follows:

- (1) A representative of the governor;
  - (2) ~~the secretary of social and rehabilitation services for children and families~~ or a representative of the secretary selected by the secretary;
  - (3) the secretary of health and environment or a representative of the secretary selected by the secretary;
  - (4) a member of the state board of education selected by the chairperson of the state board of education or, at the discretion of the chairperson of the state board, the commissioner of education;
  - (5) a representative of the board of regents selected by the chairperson of the board of regents;
  - (6) the commissioner of insurance or a representative of the commissioner selected by the commissioner;
  - (7) two members of the state legislature selected by the legislative coordinating council so that one is a member of the senate and one is a member of the house of representatives and such members are not members of the same political party; and
  - (8) not less than eight members nor more than 17 members appointed by the governor which members shall be selected to ensure that the requirements of 20 U.S.C. § 1482, and amendments thereto, are met.
- (b) The members appointed by the governor under subsection (a)(8) shall serve for a term of four years. Members are eligible for reappointment.
- (c) Any vacancy occurring in the appointive membership of the council shall be filled in the same manner and from the same class as the original appointment.
- (d) A chairperson shall be designated annually by the governor. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.
- (e) Final decisions of the council shall be by majority vote of the members.
- (f) The council shall meet at least quarterly.

Sec. 311. K.S.A. 2013 Supp. 74-8917 is hereby amended to read as follows: 74-8917. The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purpose of making loans to organizations which provide community mental health, intellectual disability and drug and alcohol abuse services to the ~~Kansas department of social and rehabilitation~~ *for aging and disability* services, and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto.

Sec. 312. K.S.A. 2013 Supp. 74-9501 is hereby amended to read as

follows: 74-9501. (a) There is hereby established the Kansas criminal justice coordinating council.

(b) The council shall consist of the governor or designee, the chief justice of the supreme court or designee, the attorney general or designee, the secretary of corrections, the superintendent of the highway patrol, the commissioner of juvenile justice and the director of the Kansas bureau of investigation.

(c) The governor shall designate staff to the Kansas criminal justice coordinating council. The staff shall attend all meetings of the council, be responsible for keeping a record of council meetings, prepare reports of the council and perform such other duties as directed by the council.

(d) The council shall elect a chairperson and vice-chairperson from among the members of the council.

(e) The council shall:

(1) Appoint a standing local government advisory group to consult and advise the council concerning local government criminal justice issues and the impact of state criminal justice policy and decisions on local units of government. The advisory group shall consist of a sheriff, chief of police, county or district attorney, a member of a city governing body and a county commissioner. Appointees to such advisory group shall serve without compensation or reimbursement for travel and subsistence or any other expenses.

(2) Define and analyze issues and processes in the criminal justice system, identify alternative solutions and make recommendations for improvements.

(3) Perform such criminal justice studies or tasks as requested by the governor, the attorney general, the legislature or the chief justice, as deemed appropriate or feasible by the council.

(4) Oversee development and management of a criminal justice database. All criminal justice agencies as defined in subsection (c) of K.S.A. 22-4701, and amendments thereto, and the juvenile justice authority shall provide any data or information, including juvenile offender information which is requested by the council, in a form and manner established by the council, in order to facilitate the development and management of the criminal justice council database.

(5) Develop and oversee reporting of all criminal justice federal funding available to the state or local units of government including assuming the designation and functions of administering the United States bureau of justice assistance grants.

(6) Form such task groups as necessary and appoint individuals who appropriately represent law enforcement, the judiciary, legal profession, state, local, or federal government, the public, or other professions or groups as determined by the council, to represent the various aspects of the issue being analyzed or studied, when analyzing criminal justice issues and performing criminal justice studies. Members of the legislature may be appointed ex officio members to such task groups. A member of the council shall serve as the chairperson of each task group appointed by the council. The council may appoint other members of the council to any task group formed by the council.

(7) Review reports submitted by each task group named by the council and shall submit the report with the council's recommendations pertaining thereto to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

~~(8) (A) Establish the sex offender policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation, reintegration and supervision of sex offenders.~~

~~(B) The sex offender policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation services, the director of the Kansas bureau of investigation and the chief justice of the supreme court or the chief justice's designee and two persons appointed by the criminal justice coordinating council. Of the persons appointed by the criminal justice coordinating council, one shall be a mental health service provider and the other shall be engaged in the provision of services involving child welfare or crime victims.~~

~~(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A.~~

~~75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.~~

~~(D) The sex offender policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.~~

~~(E) Each appointed member of the sex offender policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.~~

~~(F) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.~~

~~(i) The board shall submit a report regarding public notification pertaining to sex offenders, restrictions on the residence of released sex offenders, utilization of electronic monitoring, and the management of juvenile sex offenders by the first day of the 2007 legislative session.~~

~~(ii) The board shall submit a report regarding treatment and supervision standards for sex offenders, suitability of lifetime release supervision and safety education and prevention strategies for the public by the first day of the 2008 legislative session.~~

~~(iii) The board shall submit reports regarding any other studies, issues or policy recommendations as completed.~~

~~(G) The sex offender policy board established pursuant to subsection (c)(8) of this section shall expire on June 30, 2011.~~

~~(9) (A) Establish the substance abuse policy board to consult and advise the council concerning issues and policies pertaining to the treatment, sentencing, rehabilitation and supervision of substance abuse offenders. The board shall specifically analyze and study driving under the influence and the use of drug courts by other states.~~

~~(B) The substance abuse policy board shall consist of the secretary of corrections, the commissioner of juvenile justice, the secretary of social and rehabilitation for aging and disability services, the director of the Kansas bureau of investigation, the chief justice of the supreme court or the chief justice's designee, a member of the Kansas sentencing commission, a prosecutor appointed by the Kansas county and district attorneys association, and two persons appointed by the Kansas association of addiction professionals. Of the persons appointed by the Kansas association of addiction professionals, one shall be an addiction counselor and the other shall be a professional program administrator.~~

~~(C) Each member of the board shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the board shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on board activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees.~~

~~(D) The substance abuse policy board shall elect a chairperson from its membership and shall meet upon the call of its chairperson as necessary to carry out its duties.~~

~~(E) Each appointed member of the substance abuse policy board shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.~~

~~(F) The board shall submit its reports to the criminal justice coordinating council and to the governor, the attorney general, the chief justice~~

of the supreme court, the chief clerk of the house of representatives and the secretary of the senate.

Sec. 313. K.S.A. 2013 Supp. 75-723 is hereby amended to read as follows: 75-723. (a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) Except as provided by subsection (h), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of abuse, neglect or exploitation of persons or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation of persons has occurred which are received or generated by the ~~department of social and rehabilitation services, department on aging~~ *Kansas department for children and families, Kansas department for aging and disability services* or department of health and environment.

(c) Except for reports alleging only self-neglect, such state agency receiving reports of abuse, neglect or exploitation of persons shall forward to the unit:

(1) Within 10 days of confirmation, reports of findings concerning the confirmed abuse, neglect or exploitation of persons; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of persons.

(d) On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

(e) The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

(f) No state funds appropriated to support the provisions of the abuse, neglect or exploitation of persons unit and expended to contract with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

(g) The attorney general may contract with other agencies or organizations to provide services related to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.

(h) Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse, neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party contracted with by the attorney general to carry out the provisions of this section.

Sec. 314. K.S.A. 2013 Supp. 75-725 is hereby amended to read as follows: 75-725. (a) There is hereby created within the office of the attorney general a medicaid fraud and abuse division.

(b) The medicaid fraud and abuse division shall be the same entity to which all cases of suspected medicaid fraud shall be referred by the ~~Kansas department of social and rehabilitation for children and families, Kansas department for aging and disability services and the department of health and environment, or its such departments' fiscal agent agents,~~ for the purpose of investigation, criminal prosecution or referral to the district or county attorney for criminal prosecution.

(c) In carrying out these responsibilities, the attorney general shall have:

(1) All the powers necessary to comply with the federal laws and regulations relative to the operation of the medicaid fraud and abuse division;

(2) the power to investigate and criminally prosecute violations of K.S.A. 2013 Supp. 21-5926 through 21-5934, 75-725 and 75-726, and amendments thereto;

(3) the power to cross-designate assistant United States attorneys as assistant attorneys general;



(4) the power to issue, serve or cause to be issued or served subpoenas or other process in aid of investigations and prosecutions;

(5) the power to administer oaths and take sworn statements under penalty of perjury;

(6) the power to serve and execute in any county, search warrants which relate to investigations authorized by K.S.A. 2013 Supp. 21-5926 through 21-5934, 75-725 and 75-726, and amendments thereto; and

(7) the powers of a district or county attorney.

Sec. 315. K.S.A. 2013 Supp. 75-2935 is hereby amended to read as follows: 75-2935. The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

(k) all employees of courts;

(l) client, patient and inmate help in any state facility or institution;

(m) all attorneys for boards, commissions and departments;

(n) the secretary and assistant secretary of the Kansas state historical society;

(o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*;

(p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;

(q) student employees enrolled in public institutions of higher learning;

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

(s) all officers and employees in the office of the secretary of state;

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary ~~of aging~~ *for aging and disability services*, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary ~~of social and rehabilitation services for children and families~~, the secretary of transportation, the secretary of wildlife, parks and tourism and the commissioner of juvenile justice;

(u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;

(v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;

(w) one public information officer and one chief attorney for the following: The department of administration, the ~~department on aging~~ *Kansas department for aging and disability services*, the department of agriculture, the department of commerce, the department of corrections, the department of health and environment, the department of labor, the department of revenue, the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, the department of transportation, the Kansas department of wildlife, parks and tourism and the commissioner of juvenile justice;

(x) civil service examination monitors;

(y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;

(z) specifically designated by law as being in the unclassified service;

(aa) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency; and

(bb) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2013 Supp. 76-715a, and amendments thereto.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

Sec. 316. K.S.A. 75-2935c is hereby amended to read as follows: 75-2935c. Subject to available appropriations, the governor is hereby authorized and directed to approve a salary plan for physicians at institutions under the secretary of ~~social and rehabilitation~~ *for aging and disability services*, as defined by subsection (b) of K.S.A. 76-12a01, *and amendments thereto*. Such salary plan for physicians shall be effective on the first day of the first payroll period chargeable to the fiscal year ending on June 30, 1982, and shall be subject to modification and approval by the governor and to any enactments of the legislature applicable thereto.

Sec. 317. K.S.A. 75-3303 is hereby amended to read as follows: 75-3303. The commissioner of mental health and developmental disabilities shall be allowed all actual traveling and necessary expenses incurred by the commissioner while in the discharge of official duties outside of the city of Topeka. The commissioner shall:

(1) Be the executive and administrative officer of mental health and developmental disabilities;

(2) be directly responsible for carrying out all the general policies of the secretary *for aging and disability services* and the duties of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* relating to the management, operation and maintenance of the institutions operated by the commissioner, and the treatment, education, care and housing of the patients and residents in the institutions and the recruitment and training of the staff for the institutions;

(3) cooperate with the commissioners of adult and youth services for the purpose of coordinating the various social services with the work and programs of the institutions in accordance with policies established by the secretary;

(4) have, and may exercise, such other powers and perform such other duties as the secretary shall confer or impose upon the commissioner.

In case there is any apparent conflict between the powers of the superintendents or acting superintendents, and the powers of the secretary or the commissioner, the determination of such question by the secretary shall be final.

Sec. 318. K.S.A. 75-3303a is hereby amended to read as follows: 75-3303a. The director of mental health and developmental disabilities, in cooperation with the secretary of health and environment, and with the approval of the secretary of ~~social and rehabilitation~~ *for aging and disability services*, may assist a county in the establishment of outpatient mental health treatment centers or clinics by providing personnel in accordance with rules and regulations adopted by the secretary of ~~social and rehabilitation~~ *for aging and disability services*.

Sec. 319. K.S.A. 75-3304 is hereby amended to read as follows: 75-3304. The secretary of ~~social and rehabilitation services for children and families~~ may adopt rules and regulations relating to all forms of social welfare.

Sec. 320. K.S.A. 75-3304a is hereby amended to read as follows: 75-3304a. The secretary of ~~social and rehabilitation~~ *for aging and disability services* is hereby designated as the state agency charged with the administration of the mental health program of the state of Kansas, and such secretary shall have primary responsibility for the state's mental health program, including preventive mental hygiene activities.

Sec. 321. K.S.A. 2013 Supp. 75-3306 is hereby amended to read as follows: 75-3306. (a) The secretary of ~~social and rehabilitation services for~~

*children and families*, except as set forth in the Kansas administrative procedure act and subsections (f), (g), (h) and (i), shall provide a fair hearing for any person who is an applicant, client, inmate, other interested person or taxpayer who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

It shall be the duty of the secretary of ~~social and rehabilitation services for children and families~~ to have available in all intake offices, during all office hours, forms for filing complaints for hearings, and appeal forms with which to appeal from the decision of the agent or employee of the secretary. The forms shall be prescribed by the secretary of ~~social and rehabilitation services for children and families~~ and shall have printed on or as a part of them the basic procedure for hearings and appeals prescribed by state law and the secretary of ~~social and rehabilitation services for children and families~~.

(b) The secretary of ~~social and rehabilitation services for children and families~~ shall have authority to investigate: (1) Any claims and vouchers and persons or businesses who provide services to the secretary of ~~social and rehabilitation services for children and families~~ or to welfare recipients; (2) the eligibility of persons to receive assistance; and (3) the eligibility of providers of services.

(c) The secretary of ~~social and rehabilitation services for children and families~~ shall have authority, when conducting investigations as provided for in this section, to issue subpoenas; compel the attendance of witnesses at the place designated in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of the secretary, may issue an order requiring the person to comply with the subpoena and to testify, and any failure to obey the order of the court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying information, except in accordance with the person's constitutional rights and lawful privileges.

(d) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(e) Except as provided in subsection (d) of K.S.A. 77-511, and amendments thereto, and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(f) Except as provided in this subsection, decisions and final actions relating to the administration of the support enforcement program set forth in K.S.A. 39-753 et seq., and amendments thereto, shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a). Decisions and final actions relating to the support enforcement program may be reviewed pursuant to this section if the decision or final action relates directly to federal debt set-off activities or the person is specifically permitted by statute to request a fair hearing under this section.

(g) Decisions relating to administrative disqualification hearings shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a).

(h) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall not have jurisdiction to determine the facial validity of a state or federal statute. An administrative law judge from the office of administrative hearings shall not have jurisdiction to determine the facial validity of an agency rule and regulation.

(i) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall not be required to provide a hearing if: (1) The ~~department of social and rehabilitation services~~ *Kansas*

*department for children and families* lacks jurisdiction of the subject matter; (2) resolution of the matter does not require the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to issue an order that determines the applicant's legal rights, duties, privileges, immunities or other legal interests; (3) the matter was not timely submitted to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* pursuant to ~~regulation rules and regulations~~ or other provision of law; or (4) the matter was not submitted in a form substantially complying with any applicable provision of law.

Sec. 322. K.S.A. 75-3307 is hereby amended to read as follows: 75-3307. All deeds or other documents pertaining to titles to real estate in connection with institutions as defined in K.S.A. 76-12a01, *and amendments thereto*, shall be placed and remain in the custody of the secretary of state. The secretary ~~of social and rehabilitation~~ *for aging and disability services* shall have custody and control of such land and the same shall belong to the state of Kansas. The secretary ~~of social and rehabilitation~~ *for aging and disability services* may enter into lease agreements for real estate surplus to the immediate or long term need of any such institution.

Sec. 323. K.S.A. 2013 Supp. 75-3307b is hereby amended to read as follows: 75-3307b. (a) The enforcement of the laws relating to the hospitalization of mentally ill persons of this state in a psychiatric hospital and the diagnosis, care, training or treatment of persons in community mental health centers or facilities for persons with mental illness, developmental disabilities or other persons with disabilities is entrusted to the secretary ~~of social and rehabilitation~~ *for aging and disability services*. The secretary may adopt rules and regulations on the following matters, so far as the same are not inconsistent with any laws of this state:

(1) The licensing, certification or accrediting of private hospitals as suitable for the detention, care or treatment of mentally ill persons, and the withdrawal of licenses granted for causes shown;

(2) the forms to be observed relating to the hospitalization, admission, transfer, custody and discharge of patients;

(3) the visitation and inspection of psychiatric hospitals and of all persons detained therein;

(4) the setting of standards, the inspection and the licensing of all community mental health centers which receive or have received any state or federal funds, and the withdrawal of licenses granted for causes shown;

(5) the setting of standards, the inspection and licensing of all facilities for persons with mental illness, developmental disabilities or other persons with disabilities receiving assistance through the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* which receive or have received after June 30, 1967, any state or federal funds, or facilities where persons with mental illness or developmental disabilities reside who require supervision or require limited assistance with the taking of medication, and the withdrawal of licenses granted for causes shown. The secretary may adopt rules and regulations that allow the facility to assist a resident with the taking of medication when the medication is in a labeled container dispensed by a pharmacist. No license for a residential facility for eight or more persons may be issued under this paragraph unless the secretary of health and environment has approved the facility as meeting the licensing standards for a lodging establishment under the food service and lodging act. No license for a residential facility for the elderly or for a residential facility for persons with disabilities not related to mental illness or developmental disability, or both, or related conditions shall be issued under this paragraph;

(6) reports and information to be furnished to the secretary by the superintendents or other executive officers of all psychiatric hospitals, community mental health centers or facilities for persons with developmental disabilities and facilities serving other persons with disabilities receiving assistance through the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services*.

(b) An entity holding a license as a community mental health center under paragraph (4) of subsection (a) on the day immediately preceding the effective date of this act, but which does not meet the definition of a community mental health center set forth in this act, shall continue to be

licensed as a community mental health center as long as the entity remains affiliated with a licensed community mental health center and continues to meet the licensing standards established by the secretary.

(c) Notwithstanding the existence or pursuit of any other remedy, the secretary ~~of social and rehabilitation~~ *for aging and disability* services, as the licensing agency, in the manner provided by the Kansas judicial review act, may maintain an action in the name of the state of Kansas for injunction against any person or facility to restrain or prevent the operation of a psychiatric hospital, community mental health center or facility for persons with mental illness, developmental disabilities or other persons with disabilities operating without a license.

(d) The secretary ~~of social and rehabilitation~~ *for aging and disability* services shall license and inspect any facility or provider of residential services which serves two or more residents who are not self-directing their services and which is subject to licensure under subsection (a)(5) of this section, unless the provider of services is already licensed to provide such services.

Sec. 324. K.S.A. 75-3315 is hereby amended to read as follows: 75-3315. Any property, real or personal, acquired under the provisions of K.S.A. 76-12a08 or 75-3314, *and amendments thereto*, may be sold and ~~the~~ title thereto conveyed to the purchaser by the secretary ~~of social and rehabilitation~~ *for aging and disability* services when the same is approved by concurrent resolution, appropriation act or other act of the legislature. Before any such sale of real estate, or any interest therein, shall be made, such secretary shall cause the interest in ~~said the~~ real estate proposed to be sold to be appraised by three disinterested persons, acquainted with land values in the county where ~~said the~~ land is located. Such appraisal shall be in writing and filed with the secretary. Thereafter, the secretary shall solicit sealed bids by public notice inserted in one publication in a newspaper of general circulation in the county where ~~said the~~ land is situated, and authorized by law to publish legal notices.

~~Said~~ The sale shall be made to the highest responsible bidder who submits ~~his or her~~ *such person's* bid within ~~thirty~~ 30 days after publication of such notice, except that in no case shall ~~said the~~ real estate be sold for less than ~~three-fourths~~  $\frac{3}{4}$  of the appraised value thereof. The secretary may reject any and all bids, and, in any case, new bids may be called for as in the first instance. When a bid has been accepted, the acceptance thereof shall be made a part of the records of the secretary. Upon acceptance of any such bid, a deed conveying such real estate shall be executed by the secretary, and duly acknowledged by ~~him or her~~ *the secretary* before any officer authorized by law to take acknowledgements. ~~Said~~ The deed shall contain a recital of all proceedings in compliance with this act, and ~~said the~~ recital shall be prima facie evidence that ~~said the~~ proceedings were had in the manner and form recited.

Sec. 325. K.S.A. 75-3323 is hereby amended to read as follows: 75-3323. (a) The secretary ~~of social and rehabilitation~~ *services for children and families* is hereby authorized and empowered, upon the conditions hereinafter provided, to lease, for a term not exceeding 20 years, by proper written instrument, upon behalf of the state of Kansas, signed by the secretary ~~of social and rehabilitation~~ *services for children and families* and approved by the attorney general and the director of purchases of the department of administration of the state of Kansas, unto the wheat-belt area girl scout council of Kansas, inc. the following described tract or parcel of land located in Pawnee county, Kansas, containing approximately 42.93 acres, more or less, and being a part of the Larned state hospital grounds in such county and state, and more definitely described as follows, to wit:

A tract of land lying within the southwest quarter (SW $\frac{1}{4}$ ) of section thirty-five (35), township twenty-one (21) south, and the northwest quarter (NW $\frac{1}{4}$ ) of section two (2), township twenty-two (22) south, both range seventeen (17) west of the 6th P.M. in Pawnee county, Kansas, described as follows, to wit: Commencing at a point on the southern end of a line whose approximate bearing is S 5°15' east, and whose northern end lies 525 feet east of the west quarter section corner of section 35, and whose southern end lies 2841.5 feet southeast of the east and west quarter section line of section 35 (this southern point being the southeast corner of the present boy scout camp and lies approximately 825 feet east of the

west line of section 2 and approximately 200 feet south of the south line of section 35) for a place of beginning; thence northeast on a line having an interior angle of 54°21' for a distance of 1165 feet to a point 3½ feet east of a drain ditch bank; thence northwest on a line having an interior angle of 101°47' for a distance of 420 feet to a point 15" east of same drain ditch bank; thence northwest on a line having an interior angle of 182°49' for a distance of 330 feet to a point 3½ feet east of same drain ditch bank; thence northwest on a line having an interior angle of 197°22' for a distance of 450 feet to a point 3½ feet east of same drain ditch bank; thence north on a line having an interior angle of 162°23' for a distance of 930 feet to a point on the east and west quarter section line of section 35; thence west along the said quarter section line for a distance of 799 feet (this point falling 457 feet east of the west quarter section corner of section 35); thence south 35 feet; thence southeast along the present fence boundary of the boy scout camp for a distance of 2806.5 feet to place of beginning; for the purpose of a camp site for use in conducting camping programs under responsible and trained camp supervisors for the girl scouts of America. Such lease shall contain a provision authorizing the state of Kansas to sell or lease and reserving all mine and mineral rights to such lands and a termination clause that in the event such lands ever shall cease to be used for the camping purposes above specified, which purposes shall be set forth in such lease, then the lease shall expire and become null and void and the possession thereof shall immediately revert to the state of Kansas. Notwithstanding the above condition relating to the use of such land for camping purposes, the lessee shall be entitled to sublease a portion of such land to any licensed day care center for an amount not to exceed the reasonable costs of maintaining any structures located on such land which are used by such day care center and the reasonable costs of utility services provided to such day care center, the payment of which is to be assumed by the girl scout council or the lessee may sublease such land to Pawnee county for park and recreational purposes deemed appropriate by the board of county commissioners.

(b) Upon the expiration of any lease entered pursuant to subsection (a), the secretary of ~~social and rehabilitation services for children and families~~ shall convey by deed such tract of land described in subsection (a) to Pawnee county for park and recreational purposes deemed appropriate by the board of county commissioners. Such deed shall contain a reversionary clause that in the event that such land ever shall cease to be used for such purposes, which purposes shall be set forth in such deed, then the title thereto and the possession thereof immediately shall revert to the state of Kansas.

(c) Liability for damages resulting from the use of the property described in this section shall be subject to the limitation of subsection (o) of K.S.A. 75-6104, and amendments thereto.

Sec. 326. K.S.A. 75-3328 is hereby amended to read as follows: 75-3328. Whenever it is found by the secretary of ~~social and rehabilitation for aging and disability~~ services that any person admitted to any institution operated by the commissioner of ~~mental health and developmental disabilities~~ ~~community services and programs~~ or by the commissioner of youth services requires specialized diagnosis, treatment or care not available at the institution where the person resides and that the specialized diagnosis, treatment or care is available at another institution operated by the secretary of ~~social and rehabilitation for aging and disability~~ services, such person upon the order of the commissioner of ~~mental health and developmental disabilities~~ ~~community services and programs~~ or the commissioner of youth services, as appropriate, shall be transferred to such other institution for the purpose of receiving the specialized diagnosis, treatment or care available there and when the purposes for which the person was transferred have been fulfilled, the person shall be returned to the original institution.

Any person transferred as provided in this section shall remain subject to the same statutory provisions as were applicable at the institution from which that person was transferred and in addition thereto shall abide by and be subject to all the rules and regulations of the institution to which such person has been transferred. The person's next of kin and guardian, if one has been appointed, shall be notified of the transfer and if the

person has been committed to the original institution by a court notice shall be sent to the committing court. Except in cases of emergency, the notice shall be given at least two weeks prior to the date of the transfer. If the person objects to the transfer to another institution, either personally or through a guardian, then the regular procedure for admission or commitment to the receiving institution shall be followed.

Sec. 327. K.S.A. 2013 Supp. 75-3329 is hereby amended to read as follows: 75-3329. As used in this act:

(a) “Board” means the secretary of ~~social and rehabilitation~~ *for aging and disability* services.

(b) “State institution” means institution as defined in K.S.A. 76-12a01, and amendments thereto.

(c) “Child” or “children” means a person or persons under the age of 18.

(d) “Private children’s home” means any licensed home, institution or charitable organization which is operated by a corporation organized under the laws of this state which the secretary finds has and maintains adequate facilities and is properly staffed to provide adequate care, custody, education, training and treatment for any child which the secretary may place therein under the authority of this act, or a licensed foster care home, boarding home, personal care home or nursing home.

Sec. 328. K.S.A. 75-3337 is hereby amended to read as follows: 75-3337. For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of 20 U.S.C. § 107, of 1936, and ~~acts amendatory~~ *amendments* thereto, an act of the congress of the United States of America commonly known as the Randolph-Sheppard vending stand act, shall be authorized to operate vending facilities on any state, county; and city or other property. In authorizing the operation of vending facilities on state, county; and city property preference shall be given, so far as feasible, to blind persons licensed by the division of services for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*; and the head of each department or agency in control of the maintenance, operation; and protection of state property shall, after consultation with the secretary of ~~social and rehabilitation services~~ *for children and families*, prescribe regulations designed to assure such preference, including exclusive assignment of vending machine income to achieve and protect such preference for such licensed blind persons without adversely affecting the interests of the state of Kansas.

Sec. 329. K.S.A. 75-3338 is hereby amended to read as follows: 75-3338. As used in this act, unless the context otherwise requires: (a) The term “state of Kansas” shall include political subdivisions of the state of Kansas, except schools, cities of the third class and townships.

(b) The term “blind person” means a person whose central visual acuity does not exceed 20 over 200, in the better eye with correcting lens or whose visual acuity if better than 20 over 200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(c) The term “vending facility” includes, but is not limited to, automatic vending machines, cafeterias, snack bars, cart service, shelters, counters; and such other appropriate auxiliary equipment as rules and regulations of the division of services for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* prescribe and as are necessary for the sale of the articles or services referred to in paragraph (4) of subsection (a) of K.S.A. 75-3339, *and amendments thereto*, which are, or may be operated by blind licensees.

Sec. 330. K.S.A. 2013 Supp. 75-3339 is hereby amended to read as follows: 75-3339. (a) The division of services for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall:

- (1) Make surveys of concession vending opportunities for blind persons on state, county, city and other property;
- (2) make surveys throughout the state of Kansas of industries with a view to obtaining information that will assist blind persons to obtain employment;



(3) make available to the public, especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(4) issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on state, county, city and other property for the vending of foods, beverages and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the licensing agency; and

(5) take such other steps, including the adoption of rules and regulations, as may be necessary and proper to carry out the provisions of this act.

(b) The division of services for the blind, in issuing each such license for the operation of a vending facility, shall give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by such division if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such division. Such licenses shall be issued only to applicants who are blind as defined by subsection (b) of K.S.A. 75-3338, and amendments thereto.

(c) The division of services for the blind, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the state, county and city or other property on which the vending facility is to be located but subject to rules and regulations prescribed pursuant to the provisions of this act, shall select a location for such vending facility and the type of facility to be provided.

(d) In the design, construction or substantial alteration or renovation of each public building after July 1, 1970, for use by any department, agency or instrumentality of the state of Kansas, except the Kansas department of wildlife, parks and tourism and the Kansas turnpike authority, there shall be included, after consultation with the division of services for the blind a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. No space shall be rented, leased or otherwise acquired for use by any department, agency or instrumentality of the state of Kansas after July 1, 1970, except the Kansas department of wildlife, parks and tourism and the Kansas turnpike authority, unless such space includes, after consultation with the division of services for the blind, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. All departments, agencies and instrumentalities of the state of Kansas, except the Kansas department of wildlife, parks and tourism and the Kansas turnpike authority, shall consult with the ~~secretary of social and rehabilitation services for children and families~~ or the secretary's designee and the division of services for the blind in the design, construction or substantial alteration or renovation of each public building used by them, and in the renting, leasing or otherwise acquiring of space for their use, to insure that the requirements set forth in this subsection are satisfied. This subsection shall not apply when the ~~secretary of social and rehabilitation services for children and families~~ or the secretary's designee and the division of services for the blind determine that the number of people using the property is insufficient to support a vending facility.

Sec. 331. K.S.A. 75-3339a is hereby amended to read as follows: 75-3339a. There is hereby established the vending facilities account, to which shall be credited all moneys received by or for the ~~secretary of social and rehabilitation services for children and families~~ in connection with the program authorized by K.S.A. 75-3337 et seq., *and amendments thereto*. All such moneys shall be deposited in a bank account designated by the pooled money investment board. Checks may be written upon such bank account for such program upon the signature of a person or persons designated by the ~~secretary of social and rehabilitation services for children and families~~. Moneys of the vending facilities account shall not be in or a part of the state treasury but shall be subject to post audit under article 11 of chapter 46 of Kansas Statutes Annotated, *and amendments thereto*.

Sec. 332. K.S.A. 75-3340 is hereby amended to read as follows: 75-3340. (a) The division of services for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall:

(1) Provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom as may be necessary. Such equipment and stock may be owned by the division of services for the blind, or by the blind individual to whom the license is issued. If ownership of such equipment is vested in the blind licensee:

(A) The division of services for the blind shall retain a first option to repurchase such equipment; and

(B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the division of services for the blind, for transfer to a successor licensee, subject to an obligation on the part of the division of services for the blind to pay to such individual or to such individual's estate the fair value of such individual's interest therein as later determined in accordance with *rules and* regulations of the division of services for the blind and after opportunity for a fair hearing.

(2) If any funds are set aside, or caused to be set aside, from the proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of: (A) Maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; and (D) assuring a fair minimum return to operators of vending facilities. In no event shall the amount of such funds to be set aside from the proceeds of any vending facility exceed a reasonable amount as determined by the provisions of 20 U.S.C. § 107, of 1936, and ~~acts amendatory~~ *amendments* thereto, an act of congress commonly known as the Randolph-Sheppard vending stand act.

(3) If inventories are required by the division of services for the blind to be made of the stock and supplies of vending facilities, permit the licensed operator to elect to make such licensed operator's own inventories and report the same on forms furnished by the division. Inventory of each vending facility shall be made at least once every four months. In the event of the election of the licensed operator to make such licensed operator's own inventory, the division shall have the right to take an inventory of the vending facility at any mutually agreeable time.

(4) Issue such rules and regulations, consistent with the provisions of this chapter, as may be necessary for the operation of this program.

(5) Provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, including binding arbitration by three persons consisting of one person designated by the director of the division of services for the blind, one person designated by the licensed blind operator, and a third person selected by the two.

(6) In employing any personnel as may be necessary for the operation of the vending facility program give preference to blind persons who are capable of discharging the required duties, except that the licensed operator of a vending facility shall have final authority to hire and to discharge employees of ~~his or her~~ *the licensed operator's* vending facility.

(b) Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 333. K.S.A. 75-3343a is hereby amended to read as follows: 75-3343a. (a) The division of services for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, in cooperation with the department of transportation, is authorized to operate vending machines at rest and recreation areas and in safety rest areas, constructed or located on rights-of-way of the interstate highways in the state of Kansas, as authorized by subsection (b) of 23 U.S.C. § 111.

(b) As used in this section, "vending machine" means a coin or currency operated machine which dispenses articles or services.

(c) The provisions of this section shall not apply to any highway under the jurisdiction of the Kansas turnpike authority.

Sec. 334. K.S.A. 75-3347 is hereby amended to read as follows: 75-

3347. The instruments of conveyance quitclaiming, releasing and remising the real estate described in K.S.A. 75-3346, *and amendments thereto*, shall be executed in the name of the secretary ~~of social and rehabilitation services for children and families~~. ~~Said~~ The secretary shall execute the quitclaim deed for the reason that such real estate is no longer needed or used for purposes which existed on the date the United States of America, grantor, conveyed such real estate and appurtenances to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

Sec. 335. K.S.A. 75-3354 is hereby amended to read as follows: 75-3354. (a) As used in this section, “ward” means any child committed to or in the custody of the secretary ~~of social and rehabilitation services for children and families~~.

(b) There is hereby established the wards’ trust fund. The secretary ~~of social and rehabilitation services for children and families~~ shall designate one or more employees to manage and be in charge of the wards’ trust fund and subsidiary accounts thereof. All moneys in the possession of the secretary belonging to wards shall be within the wards’ trust fund. The persons in charge of the wards’ trust fund shall maintain a separate subsidiary account for each ward having any money in the wards’ trust fund.

(c) All moneys received that are within the wards’ trust fund shall be deposited in a bank account in a bank designated by the pooled money investment board. The persons in charge of the wards’ trust fund shall be the persons authorized to write checks on such bank account.

(d) The persons in charge of the wards’ trust fund may withdraw money from such bank account and deposit amounts in savings accounts of a bank or savings and loan association which is insured by the federal government or agency thereof and designated by the pooled money investment board for this purpose. Interest earned on money deposited in savings accounts under this subsection shall be distributed proportionately to each subsidiary account of the wards’ trust fund.

(e) Moneys in the wards’ trust fund and in all subsidiary accounts thereof shall not be in or a part of the state treasury but shall be subject to post audit under the legislative post audit act.

(f) The wards’ account established by former K.S.A. 38-828a is hereby continued in existence as the wards’ trust fund established by this section. The use and management of the wards’ account and subsidiary accounts thereof in the manner prescribed by former K.S.A. 38-828a during the period from January 1, 1983, until the effective date of this act is hereby ratified but shall be subject to post audit under the legislative post audit act. Whenever the wards’ account established by former K.S.A. 38-828a or any subsidiary account thereof is mentioned by statute, contract or other document, the reference shall be deemed to apply to the wards’ trust fund or the appropriate subsidiary account thereof, respectively.

Sec. 336. K.S.A. 75-3728a is hereby amended to read as follows: 75-3728a. As used in this act, unless the context otherwise requires:

(a) “State agency” means any state office or officer, department, board, commission, institution, bureau or any other state authority which may lawfully request a state appropriation.

(b) “Head of a state agency” means the secretary of revenue, the secretary of administration, the secretary ~~of social and rehabilitation services for children and families~~, the state board of regents, the chief executive officer of a state educational institution, the state board of education and the officer, board, commission or authority determined by the director of accounts and reports to have the chief policy making executive function of a state agency.

Sec. 337. K.S.A. 2013 Supp. 75-37,121 is hereby amended to read as follows: 75-37,121. (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in

subsection (h). The office shall conduct adjudicative proceedings of any state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: ~~Department of social and rehabilitation services~~ *Kansas department for children and families*, juvenile justice authority, ~~department on aging~~ *Kansas department for aging and disability services*, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas department of agriculture division of animal health and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife, parks and tourism and state court of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, Kansas department of agriculture division of conservation, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

Sec. 338. K.S.A. 2013 Supp. 75-4265 is hereby amended to read as follows: 75-4265. (a) The secretary of ~~social and rehabilitation services~~ *health and environment* and the secretary of ~~aging~~ *aging and disability services* shall take necessary actions to establish an intergovernmental

transfer program as a part of the nursing facility services payment program within the medicaid state plan.

(b) In implementing the intergovernmental transfer program, the ~~secretary of aging for aging and disability services~~ shall disburse moneys received from the federal government for the intergovernmental transfer program and moneys transferred from the state general fund to the intergovernmental transfer fund for the program to units of government which have entered into participation agreements with the ~~secretary of aging for aging and disability services and the secretary of social and rehabilitation services~~ *health and environment*. The amount of moneys disbursed to the units of government from moneys transferred from the state general fund to the intergovernmental transfer fund for the program shall not exceed the amount necessary to match federal funds available to the state under the intergovernmental transfer program. The ~~secretary of aging for aging and disability services~~ shall periodically calculate the amount of federal funds available under the program according to the methodology prescribed for the intergovernmental transfer program in the medicaid state plan.

(c) The ~~secretary of social and rehabilitation services~~ *health and environment* and the ~~secretary of aging for aging and disability services~~ are authorized to enter into intergovernmental transfer program participation agreements with units of government which own and operate nursing facilities. The participation agreements may permit the units of government to retain a participation fee specified by the ~~secretary of aging for aging and disability services~~ from moneys received under the intergovernmental transfer program which are otherwise required to be transferred back to the ~~secretary of aging for aging and disability services~~.

(d) (1) There is hereby established the intergovernmental transfer fund in the state treasury which shall be administered by the ~~secretary of aging for aging and disability services~~ in accordance with this act. All expenditures from the intergovernmental transfer fund shall be to disburse the state match amount under the intergovernmental transfer program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~secretary of aging for aging and disability services~~ or the secretary's designee. Subject to the provisions of appropriation acts, when the ~~secretary of aging for aging and disability services~~ determines that an amount of federal medicaid moneys is available for the intergovernmental transfer program, the ~~secretary of aging for aging and disability services~~ shall determine the amount required as the state match and shall certify that amount to the director of accounts and reports. Upon receipt of each such state match certification, the director of accounts and reports shall transfer the amount certified by revenue transfer from the state general fund to the intergovernmental transfer fund. Upon the crediting of such state match amount in the intergovernmental transfer fund, the ~~secretary of aging for aging and disability services~~ shall disburse the amount of federal moneys and the state match amount to the units of government that have entered into participation agreements under the program.

(2) Each unit of government receiving a disbursement under the intergovernmental transfer program shall reimburse the amount of money received, less the amount of the participation fee, to the ~~secretary of aging for aging and disability services~~. Upon receipt of each amount of moneys from participating units of government under the intergovernmental transfer program, the ~~secretary of aging for aging and disability services~~ shall deposit the entire amount in the state treasury to the credit of the intergovernmental transfer fund. The ~~secretary of aging for aging and disability services~~ shall determine the amount of each such deposit that was transferred from the state general fund to match medicaid federal funds under the intergovernmental transfer program and shall certify such amount to the director of accounts and reports. Upon receipt of each such certification, the director of accounts and reports shall retransfer the amount certified from the intergovernmental transfer fund to the state general fund.

(e) There is hereby established the intergovernmental transfer administration fund in the state treasury which shall be administered by the ~~secretary of aging for aging and disability services~~ in accordance with this act. All expenditures from the intergovernmental transfer administration fund shall be to pay the costs of administering the intergovernmental

transfer program and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~aging for aging and disability services~~ or the secretary's designee. The secretary of ~~aging for aging and disability services~~ shall recover the costs of administering the intergovernmental transfer program from the intergovernmental transfer fund by certifying the amount of such costs to the director of accounts and reports each calendar quarter. Upon receipt of each certification of costs from the secretary of ~~aging for aging and disability services~~ under this subsection, the director of accounts and reports shall transfer the amount certified from the intergovernmental transfer fund to the intergovernmental transfer administration fund.

(f) After each amount of moneys is credited to the intergovernmental transfer fund and the amount of the state match that had been transferred from the state general fund has been transferred back to the state general fund pursuant to subsection (d)(2), and after the transfer of the amount certified by the secretary of ~~aging for aging and disability services~~ to the intergovernmental transfer administration fund pursuant to subsection (e), if any, the director of accounts and reports shall transfer the remaining amount in the intergovernmental transfer fund as follows:

Seventy percent of such amount shall be transferred to the senior services trust fund, 5% of such amount shall be transferred to the long-term care loan and grant fund and 25% of such amount shall be transferred to the following special revenue funds in an amount specified by appropriation acts of the legislature for each such fund: State medicaid match — ~~fund — department on aging~~ *Kansas department for aging and disability services* and the state medicaid match fund — ~~SRS department of health and environment~~.

(g) There is hereby established the senior services fund in the state treasury which shall be administered by the secretary of ~~aging for aging and disability services~~ in accordance with this act. All expenditures from the senior services fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~aging for aging and disability services~~ or the secretary's designee. Moneys in the senior services fund shall be used by the secretary of ~~aging for aging and disability services~~ only for projects intended: (1) To reduce future medicaid costs to the state;; (2) to help seniors avoid premature institutionalization;; (3) to improve the quality of care or the quality of life of seniors who are customers of long-term care programs;; (4) to satisfy state matching requirements for senior service programs authorized by federal law;; or (5) to provide financial assistance under the senior pharmacy assistance program. Moneys credited to the senior services fund from income of investments of the moneys in the senior services trust fund shall not be used to create or fund any entitlement program not in existence on the effective date of this act.

(h) There is hereby established the long-term care loan and grant fund in the state treasury which shall be administered by the secretary of ~~aging for aging and disability services~~ in accordance with this act. All expenditures from the long-term care loan and grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~aging for aging and disability services~~ or the secretary's designee. Moneys in the long-term care loan and grant fund shall be used to make loans under the long-term care loan program developed by the secretary of ~~aging for aging and disability services~~ in accordance with this section and grants under the long-term grant program developed by the secretary of ~~aging for aging and disability services~~ in accordance with this section.

(i) The secretary of ~~aging for aging and disability services~~ is hereby authorized to develop and implement a long-term care loan program in accordance with this section. Subject to the provisions of this section and the provisions of appropriation acts, the secretary of ~~aging for aging and disability services~~ may enter into loan agreements for market-rate, low-interest or no-interest, fully or partially secured or unsecured loans with repayment provisions and other terms and conditions as may be prescribed by the secretary under such program. Loans under the long-term care loan program may be made for the following:

- (1) Converting all or parts of some types of licensed adult care homes

from their existing licensure types to different licensure types to meet demonstrated changing service demands in their communities;

(2) converting private residences to licensed homes plus facilities, as defined by K.S.A. 39-923, and amendments thereto;

(3) converting space in rural hospitals to hospital-based long-term care facilities;

(4) improving quality in some types of licensed adult care homes;

(5) rural hospitals contracting for physician, physician assistant or licensed professional nurse services; or

(6) building congregate housing for seniors in Kansas cities with populations of 2,500 or less.

(j) The ~~secretary of aging~~ *for aging and disability services* may consider the following factors to prioritize and select loans under the long-term care loan program, grants under the long-term care grant program and projects financed from the senior services fund:

(1) Type of loan — higher interest is preferable to lower interest and more secured is preferable to less secured;

(2) size of facility — facilities having less than 60 beds are preferable to facilities having 60 beds or more;

(3) availability and utilization of the same type of facilities or services in the proposed loan or project area;

(4) type of facility owner or borrower — unit of government, not-for-profit organizations, for-profit organizations, and individuals, in that order of preference; and

(5) type of research project organization — geriatric schools or programs in Kansas colleges or universities, Kansas colleges or universities, educational foundations, foreign colleges or universities, Kansas not-for-profit organizations, Kansas for-profit organizations, foreign not-for-profit organizations, foreign for-profit organizations, and individuals, in that order of preference.

(k) All moneys received from repayments of principal and interest of any loan made under this act shall be deposited in the state treasury and credited to the long-term care loan and grant fund within the state treasury and used to make new loans or grants under this section. The repayment of a loan or of a senior services fund project contract or grant may not be forgiven, in whole or in part, except as authorized by law.

(l) The ~~secretary of aging~~ *for aging and disability services* is hereby authorized to develop and implement a long-term care grant program in accordance with this section. Subject to the provisions of this section and the provisions of appropriation acts, the ~~secretary of aging~~ *for aging and disability services* may make competitive matching grants under such terms and conditions as may be prescribed by the secretary under such program. Grants under the long-term care grant program may be made only from the amount of moneys received for interest payments under loan agreements under the long-term care loan program and credited to the long-term care loan and grant fund. Grants under the long-term care grant program may be made for the following:

(1) Grants for improvements in the quality of case management services under home and community-based services (HCBS) programs and for improvements for adult care homes; and

(2) financial assurance grants for community service providers under home and community-based services (HCBS) programs.

(m) For purposes of this section, “units of government” and “units of government which own and operate nursing facilities” which are eligible to enter into intergovernmental transfer program participation agreements shall be limited to cities of the first class, cities of the second class, counties, hospital districts, or health care facilities and services hospital districts which hold legal title to and are actively involved in the day-to-day operations of any of the following:

(1) Medicaid-certified nursing facilities and nursing facilities for mental health, as defined in K.S.A. 39-923, and amendments thereto;

(2) medicaid-certified long-term care facilities which are operated in connection with city hospitals established under K.S.A. 13-14b01 et seq., and amendments thereto or K.S.A. 14-601 et seq., and amendments thereto, county hospitals established under K.S.A. 19-4601 et seq., and amendments thereto, or district hospitals established under K.S.A. 80-2501 et seq., and amendments thereto; or



(3) medicaid-certified long-term care facilities operated under authority of K.S.A. 80-2550 et seq., and amendments thereto.

(n) Entities eligible to apply for loans under the long-term care loan program under this section shall be limited to the owners of:

(1) Licensed adult care homes, excluding nursing facilities for mental health and intermediate care facilities for people with intellectual disability, as defined in K.S.A. 39-923, and amendments thereto;

(2) medicaid-certified licensed hospitals and medicaid-certified long-term care facilities based in or operated in connection with licensed hospitals as defined in K.S.A. 65-425, and amendments thereto;

(3) private residences which the owners will contract to convert into licensed homes plus facilities, as defined in K.S.A. 39-923, and amendments thereto, and in which the owners will reside after the conversion and licensure; or

(4) congregate senior housing projects being built with loans in Kansas cities with a population of 2,500 or less.

~~(o)(1)~~ There is hereby established the state medicaid match fund — ~~department on aging~~ *Kansas department for aging and disability services* in the state treasury which shall be administered by the secretary of ~~aging~~ *for aging and disability services* in accordance with this act. All expenditures from the state medicaid match fund — ~~department on aging~~ *Kansas department for aging and disability services* shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~aging~~ *for aging and disability services* or the secretary's designee. Moneys in the state medicaid match fund — ~~department on aging~~ *Kansas department for aging and disability services* shall be used to match moneys for federal medicaid programs which are the most cost efficient in providing services.

~~(2)~~ There is hereby established the state medicaid match fund — SRS in the state treasury which shall be administered as provided by law and in accordance with this act. All expenditures from the state medicaid match fund — SRS shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved as provided by law. Moneys in the state medicaid match fund — SRS shall be used to match moneys for federal medicaid programs which are the most cost efficient in providing services.

(p) There is hereby established the HCBS programs fund in the state treasury which shall be administered by the secretary of ~~social and rehabilitation~~ *for aging and disability services*. All moneys in the HCBS programs fund shall be used for programs and services under the home and community-based services (HCBS) programs and as otherwise provided by law. All expenditures from the HCBS programs fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~social and rehabilitation~~ *for aging and disability services* or the secretary's designee.

Sec. 339. K.S.A. 2013 Supp. 75-4266 is hereby amended to read as follows: 75-4266. (a) The board of trustees is responsible for the management and investment of the senior services trust fund which is hereby established in the state treasury. The board of trustees shall discharge the board's duties relative to the fund for the exclusive purpose of providing investment revenue for the purposes for which the fund moneys may be used and defraying reasonable expenses of administering the fund. The board shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights, and dispose of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(b) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide income and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(c) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board of trustees shall exercise the judgment, care, skill, prudence and diligence

under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(d) In the discharge of such management and investment responsibilities the board of trustees may contract for services of one or more professional investment advisors or other consultants in the management and investment of moneys in the fund and otherwise in the performance of the duties of the board of trustees under this act.

(e) The board of trustees shall require that each person contracted with under subsection (d) to provide services shall obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board of trustees. The amount of such coverage specified by the board of trustees shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board of trustees shall require a person contracted with under subsection (d) to provide services give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board of trustees, with corporate surety authorized to do business in this state. Such persons contracted with the board of trustees pursuant to subsection (d) and any persons contracted with such persons to perform the functions specified in subsection (b) shall be deemed to be fiduciary agents of the board of trustees in the performance of contractual obligations.

(f) (1) Subject to the objective set forth in subsection (b) and the standards set forth in subsection (c), the board of trustees shall formulate and adopt policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall be in writing and shall include:

- (A) Specific asset allocation standards and objectives;
- (B) establishment of criteria for evaluating the risk versus the potential return on a particular investment; and
- (C) a requirement that all investment advisors, and any managers or others with similar duties and responsibilities as investment advisors, shall immediately report all instances of default on investments to the board of trustees and provide such board of trustees with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment.

(2) The board of trustees shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(g) (1) Except as provided in subsection (d) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board of trustees may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale.

(2) The state treasurer and the board of trustees shall collect the principal and interest or other income of investments or the proceeds of sale of securities of the fund in the custody of the state treasurer and shall pay such moneys when so collected into the state treasury to the credit of the fund.

(3) The principal and interest or other income or the proceeds of sale of securities of the fund as provided in paragraph (1) of this subsection shall be reported to the state treasurer, the director of accounts and reports and the board of trustees and credited to the fund.

(h) All interest or other income of the investments of the moneys in the fund, after payment of any management fees, shall be considered income of the fund and shall be withdrawn and deposited quarterly in the state treasury to the credit of the senior services fund to be used by

the secretary ~~of aging~~ *for aging and disability services* for the purposes permitted by K.S.A. 2013 Supp. 75-4265, and amendments thereto.

(i) As used in this section:

(1) “Board of trustees” means the board of trustees of the Kansas public employees retirement system established by K.S.A. 74-4905, and amendments thereto.

(2) “Fiduciary” means a person who, with respect to the fund, is a person who:

(A) Exercises any discretionary authority with respect to administration of the fund;

(B) exercises any authority to invest or manage assets of the fund or has any authority or responsibility to do so;

(C) provides investment advice for a fee or other direct or indirect compensation with respect to the assets of the fund or has any authority or responsibility to do so;

(D) provides actuarial, accounting, auditing, consulting, legal or other professional services for a fee or other direct or indirect compensation with respect to the fund or has any authority or responsibility to do so; or

(E) is a member of the board of trustees or of the staff of the board of trustees.

(3) “Fund” means the senior services trust fund.

(4) With respect to the investment of moneys in the senior services trust fund, “purposes for which the moneys may be used” means the purposes for which the moneys in the senior services fund may be used, as provided in K.S.A. 2013 Supp. 75-4265, and amendments thereto.

Sec. 340. K.S.A. 2013 Supp. 75-4375 is hereby amended to read as follows: 75-4375. (a) Each state officer or employee: (1) Who is employed by an institution that is closed or abolished or otherwise ceases operations or that is scheduled for such closure, abolition or cessation of operations and has a budget reduction imposed that is associated with such closure, abolition or cessation of operations; and (2) who is a direct care employee as defined by this section; and (3) who is laid off from employment with such institution for the reason of such closure, abolition, or cessation of operations or such imposition of a budget reduction; and (4) who remains in such employment until the date the employee is laid off, shall receive compensation from the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* for the following:

(A) Forty hours of pay at the state officer or employee’s regular hourly rate of pay on the date the employee is laid off if such employee has completed one full year of service but less than two full years of service on the layoff date;

(B) eighty hours of pay at the state officer or employee’s regular hourly rate of pay on the date the employee is laid off if such employee has completed two full years of service but less than three full years of service on the layoff date;

(C) one hundred twenty hours of pay at the state officer or employee’s regular hourly rate of pay on the date the employee is laid off if such employee has completed three full years of service but less than four full years of service on the layoff date; or

(D) one hundred sixty hours of pay at the state officer or employee’s regular hourly rate of pay on the date the employee is laid off if the employee has completed four full years of service or more on the layoff date.

(b) As used in this section, “direct care employee” means state officers or employees in the classified service under the Kansas civil service act who: (1) Are exempt from the provisions of K.S.A. 75-6801, and amendments thereto, as prescribed in policies and procedures prescribed by the secretary of administration, including, but not limited to, state officers and employees whose positions are in the following job class series: (A) Activity therapist, (B) activity therapy technician, (C) licensed mental health technician, (D) licensed mental health technician specialist, (E) licensed practical nurse, (F) licensed practical nurse, senior, (G) mental health aide, (H) radiologic technologist, (I) registered nurse, (J) activity specialist, (K) intellectual disability specialist, (L) intellectual disability technician, and (M) intellectual disability trainee; or

(2) are in positions that are assigned to job classes or job class series

that are designated as direct care employee job classes or job class series by the secretary of social and rehabilitation for aging and disability services for purposes of this section, ~~except that no such designation shall be effective until the secretary of social and rehabilitation services has presented such designation to the SRS transition oversight committee created by K.S.A. 46-2701, and amendments thereto.~~

Sec. 341. K.S.A. 2013 Supp. 75-4376 is hereby amended to read as follows: 75-4376. As used in K.S.A. 75-4370 through 75-4376, and amendments thereto, except as otherwise specifically provided in such statutes:

(a) “Institution” means ~~Topoka state hospital, Winfield state hospital and training center and the~~ Kansas industries for the blind of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*;

(b) “laid off” means: (1) In the case of a state officer or employee in the classified service under the Kansas civil service act, being laid off under K.S.A. 75-2948, and amendments thereto; *and* (2) in the case of a state officer or employee in the unclassified service under the Kansas civil service act, being terminated from employment with the state agency by the appointing authority, except that “laid off” shall not include any separation from employment pursuant to a budget reduction or expenditure authority reduction and a reduction of F.T.E. positions under K.S.A. 75-6801, and amendments thereto; ~~and (3) in the case of blind persons employed by Kansas industries for the blind, being terminated or otherwise separated from employment at Kansas industries for the blind at the facilities located on the Topoka state hospital property because Kansas industries for the blind is closed, abolished or otherwise ceases operations as a state program at such location, and~~

~~(c) “Topoka state hospital property” has the meaning ascribed thereto by K.S.A. 2013 Supp. 75-37,123, and amendments thereto.~~

Sec. 342. K.S.A. 2013 Supp. 75-4378 is hereby amended to read as follows: 75-4378. The secretary of social and rehabilitation services for *children and families* is hereby authorized and directed to develop and administer provisions for health care benefits and related assistance which shall be provided to each person who is a blind person who was employed prior to the effective date of this act at Kansas industries for the blind at facilities on the Topoka state hospital property, as defined by K.S.A. 2013 Supp. 75-37,123, and amendments thereto, and who voluntarily terminates or retires or who is laid off from such employment due to the closure, abolition or other cessation of operations of the Kansas industries for the blind as a state program at such location.

Sec. 343. K.S.A. 2013 Supp. 75-5268 is hereby amended to read as follows: 75-5268. ~~(1)~~ Any inmate who is allowed to participate in such paid employment or in such job training or paid employment for which a subsistence allowance is paid in connection with such job training shall pay over to the secretary or the designated representative of the secretary all moneys received from such paid employment or job training except that, pursuant to rules and regulations adopted by the secretary of corrections, the inmate shall retain a stipulated reasonable amount of the money as the secretary or the designated representative of the secretary deems necessary for expenses connected with the employment or job training. The balance of the moneys paid to the secretary or the designated representative of the secretary shall be disbursed for the following purposes:

(a) A designated minimum amount of that money paid to the secretary shall be returned to the state general fund or to the political subdivision, federal government or community-based center for such inmate’s food and lodging or, if the inmate is participating in a private industry program other than work release, the minimum amount collected shall be deposited to the correctional industries fund;

(b) transportation to and from the place of employment at the rate allowed in K.S.A. 75-3203, and amendments thereto;

(c) if any of the dependents of the inmate are receiving public assistance, a reasonable percentage of the inmate’s net pay after deduction of the above expenses shall be forwarded to the court which ordered support for the dependent or, if there is no order, to the secretary of social and ~~rehabilitation services~~ *for children and families*;

(d) a reasonable percentage of the inmate’s net pay after deduction

of the above expenses shall be disbursed for the payment, either in full or ratable, of the inmate's obligations if such obligations relate to the care and support of the defendant's immediate family and have been reduced to judgment;

(e) after deduction of the above amounts, payment of a reasonable amount for costs assessed to the inmate pursuant to the code of civil procedure;

(f) to the clerk of the district court in which the crime occurred, payment of a reasonable amount pursuant to an order for all costs, fines, fees and restitution assessed. Such payment shall be distributed in the following order of priority: Restitution, costs, fines and fees;

(g) payment of a reasonable amount into a savings account for disbursement to the inmate upon release from custody;

(h) after deduction of the above amounts, a reasonable percentage of the inmate's net pay shall be disbursed for the payment, either in full or ratable, of the inmate's other obligations acknowledged by the inmate in writing, as authorized by the secretary; and

(i) the balance, if any, shall be credited to the inmate's account and shall be made available to the inmate in such manner and for such purposes as are authorized by the secretary.

Sec. 344. K.S.A. 2013 Supp. 75-5301 is hereby amended to read as follows: 75-5301. (a) There is hereby created ~~a department of social and rehabilitation services~~ *the Kansas department for children and families*, the head of which shall be the secretary ~~of social and rehabilitation services~~ *for children and families*. The governor shall appoint the secretary ~~of social and rehabilitation services for children and families~~, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate. ~~The department of social and rehabilitation services created by this order~~ *Kansas department for children and families* shall be administered under the direction and supervision of the secretary ~~of social and rehabilitation services for children and families~~. The secretary ~~of social and rehabilitation services for children and families~~ shall receive an annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations accountability law apply to the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, and the department is subject to audit, review and evaluation under such law.

Sec. 345. K.S.A. 75-5308e is hereby amended to read as follows: 75-5308e. There is hereby established, within and as a part of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* and under the supervision of the secretary ~~of social and rehabilitation~~ *for aging and disability services*, *services for mental health and developmental disabilities*, the head of which shall be the commissioner ~~of mental health and developmental disabilities~~ *community services and programs*. Under the supervision of the secretary ~~of social and rehabilitation~~ *for aging and disability services*, the commissioner ~~of mental health and developmental disabilities~~ *community services and programs* shall administer *services for mental health and developmental disabilities*. The secretary ~~of social and rehabilitation~~ *for aging and disability services* shall appoint the commissioner ~~of mental health and developmental disabilities~~ *community services and programs*, and the commissioner shall serve at the pleasure of the secretary ~~of social and rehabilitation~~ *for aging and disability services*. The commissioner ~~of mental health and developmental disabilities~~ *community services and programs* shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the secretary ~~of social and rehabilitation~~ *for aging and disability services* and approved by the governor.

Sec. 346. K.S.A. 75-5309a is hereby amended to read as follows: 75-5309a. (a) All employees of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability services* in the coordinator of medical services job class, or any successor job class that may be approved under K.S.A. 75-2938, and amendments thereto, and has substantially the same duties and responsibilities, shall be in the unclassified service under the Kansas civil service act.

(b) (1) All persons appointed to provide attendant care services under the home and community based services program shall be in the unclassified service of the Kansas civil service act.

(2) Subject to available appropriations, the governor is authorized and directed to approve a salary plan for persons appointed to provide attendant care services under the secretary of social and rehabilitation for aging and disability services. Such salary plan for persons appointed to provide attendant care services shall be subject to modification and approval by the governor and to any enactments of the legislature applicable thereto and shall be effective on a date or dates specified by the governor.

(3) As used in this subsection, the term “persons appointed to provide attendant care services” means persons appointed to perform attendant care services directed by or on behalf of an individual in need of in-home care, the term “home and community based services program” has the meaning ascribed thereto under K.S.A. 39-7,100, and amendments thereto, and the terms “attendant care services” and “individual in need of in-home care” have the meanings respectively ascribed thereto under K.S.A. 65-6201, and amendments thereto.

Sec. 347. K.S.A. 75-5310 is hereby amended to read as follows: 75-5310. The secretary of social and rehabilitation services for children and families may appoint a chief attorney and other attorneys for the department of social and rehabilitation services Kansas department for children and families. The chief attorney shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor. The secretary may also appoint staff assistants. Such staff assistants and attorneys other than the chief attorney shall be in the classified service under the Kansas civil service act. The secretary may appoint one public information officer, one personal secretary and one special assistant who shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall receive annual salaries fixed by the secretary and approved by the governor. The secretary may appoint a deputy secretary who shall serve at the pleasure of the secretary, be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor.

The secretary may appoint commissioners and deputy commissioners as determined necessary by the secretary to effectively carry out the mission of the department. All commissioners and deputy commissioners shall serve at the pleasure of the secretary, shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor. The secretary may also appoint a director for each of the department’s management areas. Each area director shall serve at the pleasure of the secretary, be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary and approved by the governor. Nothing in this act shall affect the classified status of any person employed as a deputy commissioner or area director on the day immediately preceding the effective date of the act and the unclassified status shall apply only to persons appointed to such positions on or after the effective date of the act.

Sec. 348. K.S.A. 75-5310a is hereby amended to read as follows: 75-5310a. The secretary of social and rehabilitation services for children and families is hereby authorized to contract for the services of persons to assist in the preparation of expert testimony for litigation and to act as expert witnesses in litigation. Any such contracts shall be exempt from the competitive bid requirements of K.S.A. 75-3739, and amendments thereto.

Sec. 349. K.S.A. 75-5313 is hereby amended to read as follows: 75-5313. The secretary of social and rehabilitation services for children and families may create advisory committees and appoint the members thereof when the secretary determines that such advisory committees are needed for the efficient administration of the program and, when such advisory committees are approved by the governor. Such advisory committees shall consult with and advise the secretary with reference to the management, control and operation of institutions or programs under the jurisdiction of the department. Members of any advisory committee cre-

ated under authority of this section attending meetings of such committee or attending a subcommittee meeting thereof authorized by such committee shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, ~~or any~~ and amendments thereto, but shall receive no compensation for services as such members. The secretary is authorized to expend funds to provide space for holding meetings, including the cost of a meal, for the committee members not receiving subsistence allowances and may pay to or on behalf of any committee members who are clients of the agency child care or travel expenses occasioned by their attendance at the meeting.

Sec. 350. K.S.A. 75-5316a is hereby amended to read as follows: 75-5316a. (a) As used in this section and K.S.A. 75-5310, ~~and amendments thereto~~, “secretary” means the secretary ~~of social and rehabilitation services for children and families~~.

(b) Subject to the limitations of this section, the secretary ~~of social and rehabilitation services for children and families~~ may organize the ~~department of social and rehabilitation services~~ *Kansas department for children and families* in the manner the secretary determines most efficient. Commission heads, division heads and employees of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* not within a particular commission or division shall perform such duties and exercise such powers as are prescribed by law and such other duties as the secretary may prescribe. Such commission heads, division heads and employees shall act for, and exercise the powers of, the secretary to the extent authority to do so is delegated by the secretary.

(c) Subject to the provisions of subsection (b), personnel of each commission and division of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall perform such duties and shall exercise such powers as the head of the commission or division may prescribe and shall perform such duties and shall exercise powers as are prescribed by law. Personnel of each commission and division shall act for, and exercise the powers of, their commission or division head to the extent the authority to do so is delegated by the commission or division head.

Sec. 351. K.S.A. 75-5319 is hereby amended to read as follows: 75-5319. Except as otherwise provided in this order, the secretary ~~of social and rehabilitation services for children and families~~ shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof, of any act, transaction, occurrence or event of the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

Sec. 352. K.S.A. 75-5320 is hereby amended to read as follows: 75-5320. The secretary ~~of social and rehabilitation services for children and families~~ shall keep a seal which shall be surrounded by the words “secretary ~~of social and rehabilitation services for children and families~~ of Kansas,” which shall be of such diameter and with such device as the governor and the secretary ~~of social and rehabilitation services for children and families~~ may prescribe, an impression of which shall be filed in the office of secretary of state.

Sec. 353. K.S.A. 75-5321 is hereby amended to read as follows: 75-5321. The secretary ~~of social and rehabilitation services for children and families~~ shall adopt all general policies and rules and regulations relating to all forms of social and rehabilitation services which are administered or supervised by or under the ~~department of social and rehabilitation services~~ *Kansas department for children and families*. The secretary ~~of social and rehabilitation services for children and families~~ may provide social service outreach services to the people of the state including educational and other activities designed to increase the individual’s awareness and appropriate use of programs and services provided by the ~~department of social and rehabilitation services~~ *Kansas department for children and families*.

Sec. 354. K.S.A. 75-5326 is hereby amended to read as follows: 75-5326. The secretary ~~of social and rehabilitation services for children and families~~ shall make an annual report to the governor and to the legislature concerning the activities of the division during the preceding calendar year, together with any findings and recommendations relating to the needs of children and youth in the state.

Sec. 355. K.S.A. 75-5328a is hereby amended to read as follows: 75-5328a. The secretary of the department of social and rehabilitation services for children and families may procure a policy of accident, personal liability and excess automobile liability insurance insuring volunteers participating in the family foster care program against loss in accordance with specifications of department of administration guidelines. Such agency may purchase such policy of insurance independent of the committee on surety bonds and insurance without complying with K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto.

Sec. 356. K.S.A. 75-5343 is hereby amended to read as follows: 75-5343. (a) There is hereby established in the state treasury the self-sufficiency trust fund.

(b) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the self-sufficiency trust fund interest earnings based on:

(1) The average daily balance of moneys in the self-sufficiency trust fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(c) The secretary of social and rehabilitation for aging and disability services may accept moneys from a self-sufficiency trust for deposit in the self-sufficiency trust fund pursuant to an agreement with the trust naming one or more beneficiaries who are developmentally disabled individuals or individuals otherwise eligible for services from the department of social and rehabilitation *Kansas department for aging and disability* services residing in this state and specifying the care, support or treatment to be provided for such individuals. The secretary of social and rehabilitation for aging and disability services shall maintain a separate account in the trust fund for each named beneficiary. The moneys in each such account shall be expended by the secretary, in accordance with rules and regulations of the secretary, only to provide care, support and treatment for the named beneficiaries in accordance with the terms of the agreement. Interest earned on moneys in the trust fund and transferred to the trust fund under subsection (b) shall be prorated in accordance with procedures approved by the director of accounts and reports and credited monthly to each such account.

(d) If the secretary determines that the moneys in the account of a named beneficiary cannot be used for the care, support or treatment of that beneficiary in a manner consistent with the rules and regulations of the secretary and the agreement, or upon the request of the self-sufficiency trust, the remaining moneys in such account, together with any accumulated interest thereon, shall be promptly paid to the self-sufficiency trust which deposited such moneys in the trust fund.

(e) The secretary shall adopt rules and regulations and procedures as may be necessary or useful for the administration of the trust fund. All payments and disbursements from the trust fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary. The receipt by a beneficiary of money from the trust fund, or of care, treatment or support provided with such money, shall not in any way reduce, impair or diminish the benefits to which such beneficiary is otherwise entitled by law.

(f) As used in this section:

(1) “Secretary” means the secretary of social and rehabilitation for aging and disability services.

(2) “Self-sufficiency trust” means a trust created by a not-for-profit corporation which is a 501(c)(3) organization under the federal internal revenue code of 1986 and which was organized for the purpose of providing for the care, support or treatment of one or more developmentally disabled individuals or individuals otherwise eligible for services from the department of social and rehabilitation *Kansas department for aging and disability* services.

(3) “Trust fund” means the self-sufficiency trust fund established under this section.

Sec. 357. K.S.A. 75-5344 is hereby amended to read as follows: 75-5344. There is hereby established in the state treasury the special fund for the developmentally disabled which shall be administered by the sec-



retary of ~~social and rehabilitation~~ *for aging and disability* services. The secretary of ~~social and rehabilitation~~ *for aging and disability* services may accept money from any source for deposit in the special fund for the developmentally disabled. All moneys in the special fund for the developmentally disabled shall be used for the purposes of providing for the care and treatment of low-income persons who are developmentally disabled, mentally ill or physically handicapped or low-income persons otherwise eligible for assistance or services provided by the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services. All expenditures from the special fund for the developmentally disabled shall be in accordance with the provisions of appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~social and rehabilitation~~ *for aging and disability* services or by the secretary's designee.

Sec. 358. K.S.A. 75-5345 is hereby amended to read as follows: 75-5345. The positions of persons who are employed at the industries for the blind workshop of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* in Topeka, Kansas, and who are not employed in positions within the classified service under the Kansas civil service act, shall be within the unclassified service under such act.

Sec. 359. K.S.A. 75-5365 is hereby amended to read as follows: 75-5365. The secretary of ~~social and rehabilitation~~ *for children and families* services may enter into contracts with one or more public or private entities for the performance of any or all support enforcement services that the secretary is required to provide under part D of title IV of the federal social security act ~~42 U.S.C. § 651 et seq.~~ Such contracts shall be based on competitive bids in accordance with the statutes governing state agency contracts.

Sec. 360. K.S.A. 2013 Supp. 75-5366 is hereby amended to read as follows: 75-5366. (a) The secretary of ~~social and rehabilitation services~~ *for children and families* is authorized to enter into an agreement with any entity that engages in the business of matching information about child support debtors against information about insurance claimants. Any such agreement shall be subject to the provisions of K.S.A. 39-759, and amendments thereto, concerning confidential information. If the entity is a consortium or similar joint venture of two or more states, or if the entity is an agency of the United States, the requirements of K.S.A. 75-5365, and amendments thereto, shall not apply.

(b) Pursuant to an agreement made under subsection (a), the secretary of ~~social and rehabilitation services~~ *for children and families* may disclose information about any individual who owes past due support in a title IV-D case if the support debtor owes at least \$25 in past due support. "Title IV-D" means part D of title IV of the federal social security act ~~42 U.S.C. § 651 et seq.~~

(c) To the extent feasible, the secretary of ~~social and rehabilitation services~~ *for children and families* shall require or provide secure electronic processes for disclosing information about support debtors to any entity conducting matches pursuant to this section and for any insurers disclosing information about claimants to such an entity.

(d) The secretary of ~~social and rehabilitation services~~ *for children and families* shall have the authority to adopt such rules and regulations as may be necessary to administer the provisions of this act.

Sec. 361. K.S.A. 2013 Supp. 75-5367 is hereby amended to read as follows: 75-5367. (a) As used in K.S.A. 2013 Supp. 75-5366 and 75-5367, and amendments thereto:

(1) "Insurer" means any entity regulated under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, that provides coverage for liability insurance.

(2) "Claimant" means any individual who has submitted a claim for payment under a liability insurance contract.

(b) An insurer shall be required to comply with the provisions of this section only after the secretary of ~~social and rehabilitation services~~ *for children and families* has entered into an agreement pursuant to K.S.A. 2013 Supp. 75-5366, and amendments thereto. The secretary of ~~social and rehabilitation services~~ *for children and families* shall make available

to insurers information about the data matching process, including instructions for disclosing claimant information.

(c) (1) An insurer shall have the option of receiving request for information about an identified claimant from either the secretary of ~~social and rehabilitation services for children and families~~ or from the entity responsible for the data matching pursuant to K.S.A. 2013 Supp. 75-5366, and amendments thereto.

(2) An insurer shall respond by disclosing the requested information about the claimant only if the amount of the claim totals \$1,000 or more.

(d) A disclosure required pursuant to subsection (c) shall be made as soon as reasonably possible after the first submission of the claim.

(e) An insurer, including any agent of the insurer, shall not be liable under any state law to any person for any disclosure required or authorized by this section, or for any other action taken in good faith in accordance with this section.

(f) At the insurer's discretion, an insurer may disclose information as provided in this section about a claimant whose aggregate claim is less than \$1,000.

(g) Nothing in K.S.A. 2013 Supp. 75-5366 or 75-5367, and amendments thereto, shall require an insurer to make any payment that is not otherwise required under the contract of insurance. An insurer shall not be assessed any fee by the secretary of ~~social and rehabilitation services for children and families~~ or by any entity that has entered into an agreement pursuant to K.S.A. 2013 Supp. 75-5366, and amendments thereto.

Sec. 362. K.S.A. 75-5371 is hereby amended to read as follows: 75-5371. The secretary of ~~social and rehabilitation services for children and families~~ is hereby authorized in cooperation with the Kansas dental association and the national foundation of dentistry for the handicapped to establish a donated dental services program. The donated dental services program shall provide through volunteers who are licensed dentists comprehensive dental care without charge to needy, disabled, aged and medically-compromised individuals. Volunteer licensed dentists will provide treatment under the donated dental services program in their respective offices or at the location at which the participating dentist agrees to provide the service. Patients will be treated under the program based upon arrangements as to the number of patients and the types of cases the participating volunteer dentists are willing to undertake. The secretary of ~~social and rehabilitation services for children and families~~ may adopt rules and regulations as necessary for the administration of this program.

Sec. 363. K.S.A. 75-5375 is hereby amended to read as follows: 75-5375. The secretary of ~~social and rehabilitation for aging and disability services~~ is hereby authorized and directed:

(a) To coordinate the total drug abuse treatment and prevention effort within the state of Kansas;

(b) to plan for, develop, implement and utilize objective devices and methodologies for the evaluation of all drug abuse treatment and prevention functions within this state;

(c) to pass on and coordinate the delivery of all funding applications, from whatever source, to state agencies, local units of government and private agencies, with regard to drug abuse treatment and prevention functions;

(d) to require such information and reports as may reasonably be necessary from state agencies, local units of government and private agencies for planning, management, coordination and evaluation and for carrying out the provisions of this act;

(e) to receive, administer and expend all federal and other financial assistance in the form of grants, contracts or otherwise, including cost reimbursement and similar contracts administered by the secretary for local programs or local units of government, which is or may become available to the state for furthering the purposes of this act, and the secretary may take such action as may be necessary to enable the state to meet any requirement set forth in federal laws or regulations in effect on the effective date of this act for obtaining federal financial assistance for drug abuse, prevention, treatment or rehabilitation;

(f) to prepare and administer, or supervise the preparation and administration of a comprehensive state plan for planning, establishing, conducting and coordinating projects and efforts for the development of

more effective drug abuse treatment and prevention functions in the state;

(g) to cooperate with local authorities in conducting, maintaining and distributing detailed surveys of state and local problems and needs for drug abuse treatment and prevention and periodically advise the governor, legislature and local officials and citizens relative to such problems and needs;

(h) to establish a state clearinghouse for drug abuse information to serve the educational, informational and research needs of the state;

(i) to establish a centralized drug abuse data collection, dissemination and management information system for all drug abuse treatment and prevention functions;

(j) to devise policies and procedures to foster greater cooperation and interaction among organizations, agencies and other bodies, public and private, engaged in drug abuse treatment and prevention;

(k) to cooperate with all drug abuse education and training programs conducted within the state through cooperation with state and local boards of education, schools and other public and private agencies in establishing education programs for the prevention of drug abuse and for training in the treatment of drug involved individuals;

(l) to review annually and update the state plan for drug abuse treatment and prevention in such a manner as to maximize citizen involvement in the reviewing and updating process;

(m) to report annually to the governor and the legislature concerning activities under this act for the past year;

(n) to cooperate with federal, state and local criminal justice systems in the development of improved methods of treating and rehabilitating drug offenders;

(o) to foster, encourage and assist in the development of local and regional plans and programs for improving local and regional treatment and prevention capabilities and insure that such local and regional efforts impact on the overall state planning effort;

(p) to foster, encourage and assist in the development of scientific and operational research efforts designed to further define the nature and causes of drug misuse, drug abuse and drug addiction and to improve treatment and prevention methods and capabilities in these areas;

(q) to assist in the development of programs within business, industry and agriculture designed to reduce the problem of drug abuse and the costs of crime related thereto;

(r) to foster, encourage and assist in the development of programs designed to reduce the misuse and abuse of drugs;

(s) to adopt rules or regulations to carry out the provisions of this act.

Sec. 364. K.S.A. 75-5376 is hereby amended to read as follows: 75-5376. For the purposes of this act and within the limits of appropriations and resources available therefor, all agencies and officers of the state and political subdivisions thereof shall cooperate fully with the secretary of ~~social and rehabilitation~~ *for aging and disability* services.

Sec. 365. K.S.A. 75-5381 is hereby amended to read as follows: 75-5381. The Kansas citizens' committee on alcohol and other drug abuse is hereby established and shall be within the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services as a part thereof.

Sec. 366. K.S.A. 75-5382 is hereby amended to read as follows: 75-5382. It shall be the duty of the Kansas citizens' committee on alcohol and other drug abuse to confer, advise and consult with the commissioner of alcohol and drug abuse services, on behalf of the secretary of ~~social and rehabilitation~~ *for aging and disability* services, with respect to the powers, duties and functions imposed upon the secretary under K.S.A. 65-4006, 65-4007 and 75-5375, and amendments to such sections ~~thereto~~.

Sec. 367. K.S.A. 75-5383 is hereby amended to read as follows: 75-5383. (a) The Kansas citizens' committee on alcohol and other drug abuse shall be composed of 24 members appointed by the secretary of ~~social and rehabilitation~~ *for aging and disability* services.

(b) In making appointments to the first committee, the secretary shall appoint ½ of the members to one-year terms and ½ of the members to two-year terms. Members first appointed to the committee shall serve for

their appointed terms and until the appointment and qualification of their successors.

(c) On the expiration of any member's term of office, the secretary shall appoint a successor who shall serve for a term of two years and until such member's successor has been appointed and qualified. Any vacancy in the membership of the committee which occurs before the expiration of any member's term of office shall be filled by appointment by the secretary for the unexpired term.

Sec. 368. K.S.A. 75-5386 is hereby amended to read as follows: 75-5386. (a) The Kansas citizens' committee on alcohol and other drug abuse shall organize at its first meeting after this law takes effect and thereafter at the first meeting held in each calendar year by electing one of its members as chairperson, one as chairperson-elect and one as recorder.

(b) The Kansas citizens' committee on alcohol and other drug abuse shall keep records and minutes of its business and official actions, which shall be filed with the secretary of ~~social and rehabilitation~~ *for aging and disability* services and be open to public inspection. The secretary shall provide to the committee all necessary clerical services.

The committee shall meet at least quarterly and special meetings of the committee may be called by the chairperson of the committee or by the secretary of ~~social and rehabilitation~~ *for aging and disability* services.

(c) The committee may adopt such bylaws, which are not in conflict with the provisions of this act, as may be necessary or desirable to regulate its procedures and actions.

Sec. 369. K.S.A. 75-5391 is hereby amended to read as follows: 75-5391. (a) There is hereby established within the ~~department of social and rehabilitation services~~ *Kansas department for children and families* the Kansas commission for the deaf and hard of hearing. The commission shall:

(1) Advocate services affecting the deaf and hard of hearing in the areas of public services, health care, educational, vocational and employment opportunity;

(2) act as a bureau of information for the deaf and hard of hearing to state agencies and public institutions providing general health and mental health care, employment, vocational, and educational services, and to local agencies and programs;

(3) collect facts and statistics and other special studies of conditions affecting the health and welfare of the deaf and hard of hearing in this state;

(4) provide for a mutual exchange of ideas and information on the national, state and local levels;

(5) provide public education of prenatal and postnatal warning signs of conditions which may lead to deafness or hearing impairment in the fetus or newborn child;

(6) encourage and assist local governments in the development of programs for the deaf and hard of hearing;

(7) cooperate with public and private agencies and units of local, state and federal governments in promoting coordination in programs for the deaf and hard of hearing;

(8) provide for the social, emotional, educational and vocational needs of the deaf and hard of hearing and their families;

(9) serve as an advisory board to the governor on the needs of the deaf and hard of hearing by preparing an annual report which reviews the status of all state services to the deaf and hard of hearing within Kansas, and to recommend priorities to the governor for the development and coordination of services to the deaf and hard of hearing;

(10) make recommendations for needed improvements, and serve as an advisory board in regard to new legislation affecting the deaf and hard of hearing.

(b) Except as otherwise provided by this act, all budgeting, purchasing and related management functions of the Kansas commission for the deaf and hard of hearing shall be administered under the direction and supervision of the secretary of ~~social and rehabilitation services~~ *for children and families*. Within the limitations of available appropriations, the secretary of ~~social and rehabilitation services~~ *for children and families* shall provide additional clerical and other assistance as may be required for the commission.

Sec. 370. K.S.A. 75-5393 is hereby amended to read as follows: 75-5393. (a) The Kansas commission for the deaf and hard of hearing shall employ an executive director and shall fix the duties, responsibilities and qualifications thereof. The executive director shall be a full-time employee of the commission who shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the commission. The executive director shall receive actual and necessary expenses incurred while in the discharge of official duties.

(b) The executive director, with the advice and consent of the commission shall:

(1) Within the limitations of available appropriations, plan and oversee the establishment of service centers for the deaf and hard of hearing in areas where the commission deems they are needed and in concurrence with the secretary of ~~social and rehabilitation services~~ *for children and families* and in consultation with local boards of directors of community service centers and local groups promoting or providing services to the deaf or hard of hearing, or both;

(2) promote accessibility of all governmental services to deaf and hard of hearing citizens in Kansas including those deaf and hard of hearing persons with multiple disabilities;

(3) identify agencies, both public and private which provide community services, evaluate the extent to which they make services available to deaf and hard of hearing people and their families, and cooperate with the agencies in coordinating and extending these services;

(4) provide for the mutual exchange of ideas and information on services for deaf and hard of hearing people between federal, state and local governmental agencies and private organizations and individuals;

(5) survey the needs of the deaf and hard of hearing population in Kansas and assist the commission in the preparation of its report to the governor;

(6) maintain a listing of persons qualified in various types of interpreting and aural rehabilitation for the deaf and make this information available to local, state, federal and private organizations and to individuals;

(7) promote the training of interpreters for the deaf and hard of hearing;

(8) serve as an advocate for the rights of deaf and hard of hearing people and perform such other duties as may be required by law;

(9) provide interpreter services for the deaf and hard of hearing to be funded from user fees;

(10) provide a telecommunication message relay service for the deaf and hard of hearing;

(11) provide for a program of regulation and certification of interpreters; and

(12) employ such persons as may be needed from time to time, in the judgment of the executive director, to carry out the director's responsibilities under paragraphs (9), (10) and (11) of this subsection. Such employees shall be in the unclassified civil service and shall receive an annual salary to be fixed by the commission.

(c) In selecting an executive director, the commission shall select an individual who is fluent in the American sign language of the deaf and shall give consideration and priority to qualified applicants who are deaf or hard of hearing.

Sec. 371. K.S.A. 2013 Supp. 75-5397a is hereby amended to read as follows: 75-5397a. (a) The Kansas commission for the deaf and hard of hearing may fix, charge and collect reasonable fees for providing interpreter services, interpreter certification and sign language instruction.

(b) The secretary of ~~social and rehabilitation services~~ *for children and families* shall remit all moneys received by the commission for such services to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~SRS~~ *Kansas department for children and families* enterprise fund.

Sec. 372. K.S.A. 2013 Supp. 75-5399 is hereby amended to read as follows: 75-5399. When used in this act:

(a) "Individuals with disabilities" means individuals with intellectual

disability, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities.

(b) “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(c) “Transition planning services” means rehabilitation counseling, information and referral to community services for students age 16 and older in secondary special education programs.

(d) “Local education authority” means the special education inter-local or cooperative or school district responsible for the local special education program.

(e) “Special education program” means services that are provided pursuant to public law 94-142 (the education of all handicapped children’s act) as implemented in Kansas through K.S.A. 72-961 et seq., and amendments thereto, and public law 101-476 (the individuals with disabilities education act).

(f) “Secretary” means the ~~secretary of social and rehabilitation services for children and families~~ or the designee of the secretary.

(g) “Local transition council” means a representative group of persons with disabilities and their families, school personnel, adult service agency personnel and members of the general public such as employers which develops an annual plan to improve secondary special education, transition and transition planning services.

Sec. 373. K.S.A. 75-53,100 is hereby amended to read as follows: 75-53,100. The ~~secretary of social and rehabilitation services for children and families~~, within available funding and staffing, shall provide transition planning services in cooperation with the transition services part of the individual education plan for individuals with disabilities enrolled in secondary special education programs.

Sec. 374. K.S.A. 2013 Supp. 75-53,105 is hereby amended to read as follows: 75-53,105. (a) The ~~secretary of social and rehabilitation services for children and families~~ shall upon request receive from the Kansas bureau of investigation such criminal history record information as necessary for the purpose of determining initial and continuing qualification for employment or for participation in any program administered by the secretary for the placement, safety, protection or treatment of vulnerable children or adults.

(b) The secretary shall have access to any court orders or adjudications of any court of record, any records of such orders, adjudications, arrests, nonconvictions, convictions, expungements, juvenile records, juvenile expungements, diversions and any criminal history record information in the possession of the Kansas bureau of investigation concerning such employee or individual.

(c) If a nationwide criminal records check of all records noted above is necessary, as determined by the secretary, the secretary’s request will be based on the submission of fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for the identification of the individual and to obtain criminal history record information, including arrest and nonconviction data.

(d) Fees for such records checks shall be assessed to the secretary.

(e) Disclosure or use of any such information received by the secretary or a designee of the secretary or of any record containing such information, for any purpose other than that provided by this act is a class A misdemeanor and shall constitute grounds for removal from office or termination of employment. Nothing in this act shall be construed to make unlawful or prohibit the disclosure of any such information in a hearing or court proceeding involving programs administered by the sec-

retary or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act.

Sec. 375. K.S.A. 2013 Supp. 75-53,112 is hereby amended to read as follows: 75-53,112. As used in the Kansas foster child educational assistance act:

(a) “Kansas educational institution” means and includes any community college, the municipal university, state educational institution, the institute of technology at Washburn university or technical college.

(b) “Eligible foster child” means anyone ~~(1)~~ who: (1) (A) Is in the custody of the secretary and in a foster care placement on the date such child attained 18 years of age;; (B) has been released from the custody of the secretary prior to attaining 18 years of age, after having graduated from a high school or fulfilled the requirements for a general educational development (GED) certificate while in foster care placement and the custody of the secretary;; (C) is adopted from a foster care placement on or after such child’s 16th birthday;; or (D) left a foster care placement subject to a guardianship under chapter 38 or 59 of the Kansas Statutes Annotated, *and amendments thereto*, on or after such child’s 16th birthday; and

(2) ~~who~~ enrolls in a Kansas educational institution on or after July 1, 2006.

(c) “Kansas foster child educational assistance program” or “program” means the program established pursuant to the provisions of the Kansas foster child educational assistance act which shall provide for undergraduate enrollment of eligible foster children through the semester the eligible foster child attains 23 years of age.

(d) “Educational program” means a program which is offered and maintained by a Kansas educational institution and leads to the award of a certificate, diploma or degree upon satisfactory completion of course work requirements.

(e) “Secretary” means the secretary ~~of social and rehabilitation services for children and families.~~

Sec. 376. K.S.A. 2013 Supp. 75-5674 is hereby amended to read as follows: 75-5674. The secretary of health and environment shall establish and maintain family planning centers in cooperation with the secretary ~~of social and rehabilitation services for children and families~~ and county, city-county and multicounty health departments. Such family planning centers, upon request of any person who is over ~~eighteen (18)~~ 18 years of age and who is married or who has been referred to ~~said~~ such center by a person licensed to practice medicine and surgery and who resides in this state, may furnish and disseminate information concerning, and means and methods of planned parenthood, including such contraceptive devices as recommended by the secretary of health and environment. Such methods and means shall be consistent with the religious and personal convictions of the individual to whom furnished.

Sec. 377. K.S.A. 2013 Supp. 75-5675 is hereby amended to read as follows: 75-5675. The secretary ~~of social and rehabilitation services for children and families~~ and county, city-county and multicounty health departments shall cooperate with and assist the secretary of health and environment in the establishment, maintenance and operation of the family planning centers required to be established and maintained by K.S.A. 75-5674, *and amendments thereto*.

Sec. 378. K.S.A. 2013 Supp. 75-5741 is hereby amended to read as follows: 75-5741. (a) The secretary of commerce shall establish within the limits of appropriations therefor and in accordance with the provisions of this section the older Kansans employment program. The secretary may make grants to and enter into contracts with nonprofit agencies or organizations or public bodies for the purpose of providing for the development and operation of the older Kansans employment program.

(b) The older Kansans employment program shall be designed as follows:

(1) The program shall provide to older Kansans an employment placement service with emphasis on employment in the private sector, including nontraditional patterns of employment; and

(2) the program shall provide training in job seeking skills to potential

employees who are older Kansans and assistance to potential employers in utilizing the contributions of older Kansans to their work force.

(c) The secretary shall prepare annually a report evaluating the effectiveness of the older Kansans employment program and recommending measures to increase the number of older Kansans gainfully employed. The report shall be prepared and made available annually to the governor, members of the legislature, the secretary of ~~aging~~ *for aging and disability services*, the commerce development council and the members of the advisory council on aging no later than December 15 each year.

(d) As used in this section, “older Kansan” means a resident of the state of Kansas who is 55 years of age or older.

Sec. 379. K.S.A. 2013 Supp. 75-5742 is hereby amended to read as follows: 75-5742. (a) The department of labor is hereby designated as the agency to collect the new hires information required by the personal responsibility and work opportunity act of 1996. The secretary of labor shall contract with the secretary of ~~social and rehabilitation services for children and families~~ to provide the information needed to be in compliance with the personal responsibility and work opportunity act of 1996.

(b) The state directory of new hires shall receive, retain and, to the extent permitted by federal law, make information reported to the directory available pursuant to subsection (c).

(c) Except as otherwise permitted by federal law, any agency receiving information from the state directory of new hires shall handle the information as confidential information for use in administering the programs for which it was received. The state directory of new hires shall make information available:

(1) Upon implementation of the national directory of new hires, to the national directory; and

(2) to the secretary of ~~social and rehabilitation services for children and families~~ for use in administering an eligibility verification system and, not later than May 1, 1998, the title IV-D program.

(d) Any employer who reports electronically or magnetically and is required to report newly hired employees to more than one state may elect to transmit all such reports to one state by complying with the requirements of title IV-D.

(e) Beginning July 1, 1999, the secretary of labor shall annually delete information about individuals contained in the new hires directory if the information is at least two years old. Nothing in this subsection shall be construed as requiring the secretary of labor to delete information needed to administer the employment security or workers compensation programs.

Sec. 380. K.S.A. 2013 Supp. 75-5743 is hereby amended to read as follows: 75-5743. (a) All employers and labor organizations doing business in this state shall submit information concerning each new employee to the secretary of labor within 20 business days of the hiring, rehiring or return to work of the newly hired employee or within 20 business days from the date the newly hired employee first receives wages or other compensation from the employer. The information shall include the newly hired employee’s name, address, social security number and the date services for remuneration were first performed by the newly hired employee and the employer’s name, address, federal tax identification number and any other information as may be required by section 453A of the social security act, 42 U.S.C. § 653a.

(b) For purposes of this section, the term “newly hired employee” means an employee who has not previously been employed by the employer, or was previously employed by the employer, but has been separated from such prior employment for at least 60 consecutive days.

(c) The ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall have access to such information to match the employee’s social security number with title IV-D cases.

Sec. 381. K.S.A. 75-5902 is hereby amended to read as follows: 75-5902. As used in this act, unless the context clearly requires otherwise, the following terms shall have the meanings ascribed to them in this section:

(a) “Department” means the ~~department on aging~~ *Kansas department for aging and disability services* created by K.S.A. 75-5903, and *amendments thereto*.



(b) “Secretary” means the secretary ~~of aging~~ *for aging and disability services*.

(c) “Council” means the advisory council on aging created by K.S.A. 75-5911, *and amendments thereto*.

(d) “Aged” or “senior citizen” means a person ~~sixty (60)~~ 60 years of age or older.

(e) “Services” means those services designed to provide assistance to the aged such as nutritional programs, facilities improvement, transportation services, senior volunteer programs, supplementary health services, programs for leisure-time activities, housing and employment counseling, other informational, referral and counseling programs to aid the aged in availing themselves of existing public or private services or other similar social services intended to aid the senior citizen in attaining and maintaining self-sufficiency, personal well-being, dignity and maximum participation in community life.

Sec. 382. K.S.A. 2013 Supp. 75-5903 is hereby amended to read as follows: 75-5903. (a) There is hereby created ~~a department on aging~~ *the Kansas department for aging and disability services*. The ~~department on aging~~ *Kansas department for aging and disability services* shall be administered under the direction and supervision of the secretary ~~of aging~~ *for aging and disability services*. The secretary shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and shall serve at the pleasure of the governor. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate. In appointing the secretary, the governor shall consider, but is not limited to, persons suggested by the council and persons with responsible administrative experience in the field of gerontology. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the governor.

The ~~department on aging~~ *Kansas department for aging and disability services* shall be the single state agency for receiving and disbursing federal funds made available under the federal older Americans act (public law 89-73), and ~~any~~ amendments thereto, or other federal programs for the aging.

(b) The provisions of the Kansas governmental operations accountability law apply to the ~~department on aging~~ *Kansas department for aging and disability services*, and the department is subject to audit, review and evaluation under such law.

Sec. 383. K.S.A. 2013 Supp. 75-5908 is hereby amended to read as follows: 75-5908. In addition to powers and duties otherwise provided by law, the secretary shall have the following powers and duties:

(a) To evaluate all programs, services and facilities for the aged within the state and determine the extent to which present public or private programs, services and facilities meet the needs of the aged.

(b) To evaluate and coordinate all programs, services and facilities for the aging presently furnished by state and federal agencies, and make appropriate recommendations regarding such services, programs and facilities to the governor and the legislature.

(c) To function as the sole state agency to develop a comprehensive plan to meet the needs of the state’s senior citizens.

(d) To receive and disburse federal funds made available directly to the department, including those funds made available under the federal older Americans act of 1965, 42 U.S.C. § 3001 et seq., and ~~any~~ amendments thereto, for providing services for senior citizens or for purposes related thereto and to develop and administer any state plan for the aging required by federal law.

(e) To solicit, accept, hold and administer in behalf of the state any grants, devises or bequests of money, securities or property to the state of Kansas for services to senior citizens or purposes related thereto.

(f) To provide consultation and assistance to communities and groups developing local and area services for senior citizens.

(g) To promote community education regarding the problems of senior citizens through institutes, publications, radio, television and the press.

(h) To cooperate with agencies of the federal government in studies

and conferences designed to examine the needs of senior citizens and to prepare programs and facilities to meet those needs.

(i) To establish and maintain information and referral sources throughout the state in conjunction with other agencies.

(j) To provide such staff support as may reasonably be required by the council.

(k) To establish state policies for the administration of the department; for the disbursement of federal older Americans act funds within the state; and for state administration of federal older Americans act programs consistent with relevant federal law, rules and regulations, policies and procedures.

(l) To keep informed of the latest developments of research, studies and programs being conducted nationally and internationally on problems and needs of aging.

(m) To adopt such rules and regulations as may be necessary to administer the provisions of article 59 of chapter 75 of the Kansas Statutes Annotated, and ~~acts amendatory thereof and supplemental amendments thereto.~~

(n) To lend surplus state property under the authority of the ~~department on aging~~ *Kansas department for aging and disability services* to area agencies on aging or to the state long-term care ombudsman to help them perform duties required under state and federal programs administered by the ~~department on aging~~ *Kansas department for aging and disability services*.

(o) To enter into any contract or agreement which the secretary finds necessary to perform the powers, duties and functions of the secretary or the department.

Sec. 384. K.S.A. 2013 Supp. 75-5910 is hereby amended to read as follows: 75-5910. (a) Except as otherwise specifically provided by law, and subject to the Kansas civil service act, the secretary ~~of aging~~ *for aging and disability services* shall appoint all subordinate officers and employees of the department and all such subordinate officers and employees shall be within the classified service under the Kansas civil service act.

(b) The secretary may appoint one public information officer, one chief attorney, one personal secretary and one special assistant who shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the secretary and approved by the governor. The secretary may appoint deputy secretaries and commissioners as determined necessary by the secretary to effectively carry out the mission of the department. All deputy secretaries and commissioners shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the secretary and approved by the governor.

(c) Nothing in subsection (b) shall affect the classified status of any person employed by the ~~department on aging~~ *Kansas department for aging and disability services* on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the secretary pursuant to K.S.A. 75-5909 or 75-2948, and amendments thereto.

(d) Personnel of the department shall perform such duties and exercise such powers as the secretary may prescribe or as are designated by law.

Sec. 385. K.S.A. 2013 Supp. 75-5914 is hereby amended to read as follows: 75-5914. The advisory council on aging shall have the following powers and duties:

(a) Provide advocacy for the aging in the affairs of the department, the governor's office and other public and private, state and local agencies affecting the aging;

(b) review and comment upon reports of the department to the governor and the legislature;

(c) prepare and submit to the governor, the legislature and the secretary an annual report evaluating the level and quality of all programs, services and facilities provided to the aging by state agencies;

(d) review and comment upon the comprehensive state plan prepared by the department;

(e) review and comment upon disbursements by the department of public funds to public and private agencies;

(f) recommend candidates to the governor for appointment as sec-

retary of aging for the department on aging for aging and disability services;

(g) consult with the secretary regarding the operations of the department;

(h) serve as the advisory committee to the governor and the ~~department on aging~~ *Kansas department for aging and disability services* as required and defined in the rules and regulations, part 903.50(c), issued under the federal older Americans act of 1965 (public law 89-73), and amendments thereto;

(i) review and comment to the state long-term care ombudsman upon the policies and procedures of the office of long-term care ombudsman; and

(j) consult with the state long-term care ombudsman regarding needs for ombudsman services for aged Kansas residents.

Sec. 386. K.S.A. 75-5923 is hereby amended to read as follows: 75-5923. (a) The secretary of aging for aging and disability services shall establish a telephone system to assist older Kansans, friends and relatives of older Kansans and other persons in obtaining information about and access to services available to both institutionalized and non-institutionalized older Kansans. The telephone system shall be designed to permit any person in the state to place a toll-free call into the system.

(b) The secretary of aging for aging and disability services shall:

(1) Publicize the existence and purpose of the toll-free telephone system established by this section and the telephone number of such system;

(2) develop policies and procedures to document requests for assistance and monitor follow-up on such requests;

(3) develop policies and procedures to maintain confidentiality of requests for assistance;

(4) develop a program to train and coordinate the use of older Kansans within the toll-free telephone system;

(5) provide as part of the toll-free telephone system a call-forward system to assist in providing access to information; and

(6) develop a handbook of information to answer requests and for further referral.

(c) Upon written notification by the secretary of aging for aging and disability services, every adult care home, as defined in subsection (a)(1) of K.S.A. 39-923, and amendments thereto, title XX adult residential home licensed under K.S.A. 75-3307b, and amendments thereto, recuperation center, as defined in subsection (g) of K.S.A. 65-425, and amendments thereto, intermediate care facility, as defined in section 1905(c) of the federal social security act, skilled nursing facility, as defined in section 1861(j) of the federal social security act, and any other institution or facility which is licensed or certified by the state, which offers health, social or dietary care to elderly persons on a regular basis, and which is financed in whole or in part by funds from the federal government, the state of Kansas, or any political subdivision thereof, shall prominently display notice of the existence of the toll-free telephone system established under this section and the telephone number of such system.

Sec. 387. K.S.A. 75-5925 is hereby amended to read as follows: 75-5925. (a) The secretary of aging for aging and disability services shall establish an information and referral network through the existing toll-free telephone system to assist persons with Alzheimer's and related diseases, their relatives and friends and other persons in obtaining information about and access to services available for persons with Alzheimer's and related diseases. The telephone system shall be designed to permit any person in the state to place a toll-free call into the network.

(b) The secretary of aging for aging and disability services shall establish within the ~~department on aging~~ *Kansas department for aging and disability services* an information and referral network under subsection (a) and research national, state and local information on Alzheimer's and related diseases and disseminate this information through the information and referral network. The secretary of aging for aging and disability services shall publicize the existence and purpose of the toll-free telephone network established by this section and the telephone number of such network.

(c) In establishing the information and referral network under this section, the ~~secretary of aging~~ *secretary for aging and disability services* shall:

- (1) Develop policies and procedures to document requests for assistance and monitor follow-up on such requests;
- (2) develop policies and procedures to maintain confidentiality of requests for assistance;
- (3) provide as part of the toll-free telephone network a call-forward system to assist in providing access to information;
- (4) seek the cooperation and assistance of area agencies on aging in disseminating information and making referrals under this section;
- (5) develop and periodically update a resource file of information to answer requests and expedite referrals; and
- (6) assure that staff be trained in the area of Alzheimer's disease and related diseases on an ongoing basis.

(d) This section shall be part of and supplemental to the Kansas act on the aging.

Sec. 388. K.S.A. 2013 Supp. 75-5928 is hereby amended to read as follows: 75-5928. (a) Within the limitations of appropriations therefor, the ~~secretary of aging~~ *secretary for aging and disability services* is hereby authorized to establish a program of in-home services and a program of preventative health services for residents of Kansas 60 years of age or older who have functional limitations which restrict their ability to carry out activities of daily living and impede their ability to live independently.

(b) The ~~secretary of aging~~ *secretary for aging and disability services* shall establish and administer, pursuant to the provisions of the Kansas senior care act, a program of in-home services and a program of preventative health services as authorized under subsection (a). The secretary shall designate area agencies on aging to administer the program in their respective planning and service areas. The secretary shall allocate funds to an area agency on aging only after the area agency on aging has executed a contract with the secretary under the Kansas senior care act.

(c) The program of in-home services authorized under subsection (a) shall serve such planning and service areas and provide such services as may be specified by the secretary and as are consistent with the Kansas senior care act and with appropriation acts relating thereto.

(d) The program of preventative health services authorized under subsection (a) shall serve such planning and service areas and provide such services as may be specified by the secretary and as are consistent with the Kansas senior care act and with the appropriation acts relating thereto.

Sec. 389. K.S.A. 2013 Supp. 75-5933 is hereby amended to read as follows: 75-5933. The secretary shall develop a sliding fee scale which shall be published annually in the Kansas register. Each customer's fee shall be based on the customer's income and assets. All customer fees and donations shall reduce the cost of services paid by the ~~department on aging~~ *Kansas department for aging and disability services* under the Kansas senior care act.

Sec. 390. K.S.A. 75-5940 is hereby amended to read as follows: 75-5940. (a) The ~~secretary of aging and the secretary of social and rehabilitation services~~ *secretary for aging and disability services* shall develop and submit to the legislature at the beginning of each regular session a report on the activities under the client assessment, referral and evaluation (CARE) program under K.S.A. ~~1997 Supp.~~ *39-968*, and amendments thereto, in-home and other services provided by the ~~department on aging~~ *Kansas department for aging and disability services* for older Kansans, and on all activities of the ~~Kansas department on aging and of the department of social and rehabilitation services~~ *Kansas department for aging and disability services* and for the programs and activities under the provisions of this act. The report shall contain detailed information regarding:

(1) The amounts of money allocated, anticipated to be expended, and expended to date for the current fiscal year for the home and community-based services program, assisted living services, institutional-based services program and each other program providing long-term services and the numbers of persons receiving services under each such program;

(2) the categories of and the actual amounts of expenditures for the costs of transferring the long-term care programs from the ~~department of social and rehabilitation services~~ *Kansas department for children and*

~~families to the department on aging~~ *Kansas department for aging and disability services*, including identification of any reallocation of funds to finance the costs of such transfer;

(3) the activities of and resources dedicated to the client assessment, referral and evaluation (CARE) program during the transition period for the transfer of long-term care programs from the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to the ~~department on aging~~ *Kansas department for aging and disability services* under this act, including the persons served and the anticipated growth in the need for such services;

(4) the criteria adopted to evaluate the performance of the area agencies on aging and other providers of services under the client assessment, referral and evaluation (CARE) program and the long-term care services transferred from the ~~department of social and rehabilitation services~~ *Kansas department for children and families* to the ~~department on aging~~ *Kansas department for aging and disability services* under this act and a review of the performance of the area agencies on aging and other providers of services under such criteria to date;

(5) the programs and procedures adopted to provide active advocacy for older Kansans and the activities thereunder, including expenditures therefor and the number of persons served thereby; and

(6) the programs and procedures adopted to provide incentives to control costs under each of the programs providing long-term care services.

(b) ~~The secretary of aging and the secretary of social and rehabilitation~~ *for aging and disability services* shall prepare and submit interim reports of the matters to be contained in the report under subsection (a) to the oversight committee created by K.S.A. 1997 Supp. 46-2701, and amendments thereto, at the request of the oversight committee, and also shall submit a copy of the final report to the legislature under subsection (a) to the oversight committee.

Sec. 391. K.S.A. 2013 Supp. 75-5945 is hereby amended to read as follows: 75-5945. The ~~secretary of aging~~ *for aging and disability services* shall administer the long-term care programs and services transferred in this act. All powers granted in this act are to be interpreted and administered in conformity with federal grant requirements as applicable to programs transferred, even if such powers are limited or excluded:

(a) ~~The secretary of aging~~ *for aging and disability services* shall develop state plans or state plan amendments or portions of state plans or state plan amendments in consultation with the ~~secretary of social and rehabilitation services~~ *for children and families* relating to long-term care programs as provided under the federal social security act. ~~The secretary of aging~~ *for aging and disability services* shall not develop any state plan amendment in duplication of or contrary to any state plan otherwise developed by the ~~secretary of social and rehabilitation services~~ *for children and families*. The ~~secretary of aging~~ *for aging and disability services* may cooperate with the federal government on any other program providing federal financial assistance and long-term care services not otherwise inconsistent with this act. The ~~secretary of aging~~ *for aging and disability services* is not required to develop a state plan for participation or cooperation in all federal social security act programs or other federal programs that are available for long-term care services. The ~~secretary of aging~~ *for aging and disability services* may develop a state plan in regard to long-term care services in which the federal government does not participate.

(b) ~~The secretary of aging~~ *for aging and disability services*, in consultation with the ~~secretary of social and rehabilitation services~~ *for children and families*, may determine the general policies relating to all forms of long-term care programs which are administered or supervised by the ~~secretary of aging~~ *for aging and disability services* and to adopt the rules and regulations therefor.

(c) ~~The secretary of aging~~ *for aging and disability services* shall adopt rules and regulations necessary to protect the confidentiality of all client information as required by federal and state statutes and regulations.

(d) ~~The secretary of aging~~ *for aging and disability services* shall provide that all officers and employees of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* who are

engaged in the exercise and performance of the powers, duties and functions of the programs transferred in this act and are determined by the secretary to be necessary to perform such functions are transferred to the ~~department on aging~~ *Kansas department for aging and disability services*. Officers and employees of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* shall retain all retirement benefits and leave rights which had accrued or vested prior to each date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers, layoffs and abolition of classified service positions under the Kansas civil service act which may result from program transfers shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. The secretary ~~of aging~~ *for aging and disability services* may appoint attorneys as are necessary to effectively carry out the mission of the department and the programs transferred by this act. The attorneys appointed shall be in the unclassified service under the Kansas civil service act, shall serve at the pleasure of the secretary, and shall receive an annual salary fixed by the secretary and approved by the governor. Nothing in this act shall affect the classified status of any transferred person employed as an attorney by the ~~department of social and rehabilitation services~~ *Kansas department for children and families* prior to the date of transfer and the unclassified status shall apply only to persons appointed to such attorney positions on or after the effective date of this act.

(e) The secretary ~~of aging~~ *for aging and disability services* shall establish an adequate system of financial records. The secretary ~~of aging for aging and disability services~~ and the secretary ~~of social and rehabilitation services for children and families~~ shall execute agreements for the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and the ~~department on aging~~ *Kansas department for aging and disability services* to share data systems necessary to maximize the efficiency of program operations and to ensure that federal grant requirements are met. The secretary ~~of aging~~ *for aging and disability services* shall make annual reports to the governor and shall make any reports required by federal agencies.

(f) The secretary ~~of aging~~ *for aging and disability services* may receive, have custody of, protect, administer, disburse, dispose of and account for federal or private equipment, supplies and property which is given, granted, loaned or advanced to the state of Kansas for long-term care programs after the transfer of such programs pursuant to this act.

(g) The secretary ~~of aging~~ *for aging and disability services* may assist other departments, agencies and institutions of the state and federal government and of other states under interstate agreements, when so requested, by performing services in conformity with the purpose of this act.

(h) The secretary ~~of aging~~ *for aging and disability services* may lease real and personal property whenever the property is not available through the state or a political subdivision of the state for performing the functions required by this act.

(i) All contracts shall be made in the name of “secretary ~~of aging~~ *for aging and disability services*” and in that name the secretary may sue and be sued on such contracts. The grant of authority under this subsection shall not be construed to be a waiver of any rights retained by the state under the 11th amendment to the United States constitution and shall be subject to and shall not supersede the provisions of any appropriations act of this state.

(j) The secretary ~~of aging~~ *for aging and disability services*, except as set forth in the Kansas administrative procedure act and paragraphs 5 and 6, shall provide a fair hearing for any person who is an applicant, client or other interested person who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the requirements of any applicable federal grant programs.

(1) The secretary ~~of aging~~ *for aging and disability services* may investigate: (A) Any claims and vouchers and persons, businesses and other entities who provide services to the secretary of aging or to clients served by long-term care programs under the administration of the secretary; and (B) the eligibility of persons to receive services under long-term care

programs under the administration of the secretary; and (C) the eligibility of providers of services.

(2) When conducting investigations, the secretary ~~of aging~~ *for aging and disability services* may issue subpoenas; compel the attendance of witnesses at any place in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of the secretary, may issue an order requiring the person to comply with the subpoena and to testify. Failure to obey the order of the court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying information, except in accordance with the person's constitutional rights and lawful privileges.

(3) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(4) Except as provided in subsection (d) of K.S.A. 77-511, and amendments thereto, and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary ~~of aging~~ *for aging and disability services* may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(5) This appeals procedure shall not have jurisdiction to determine the facial validity of a state or federal statute, rule or regulation.

(6) The secretary ~~of aging~~ *for aging and disability services* shall not be required to provide a hearing if: (A) The appeals procedure lacks jurisdiction over the subject matter; (B) resolution of the matter does not require the secretary to issue an order that determines an applicant's or client's legal rights, duties, privileges, immunities or other legal interests; (C) the matter was not timely submitted for appeal pursuant to regulation or other provision of law; (D) the matter was not submitted in a form substantially complying with any applicable provision of law; or (E) the matter is under the prior or concurrent jurisdiction of the secretary ~~of social and rehabilitation services~~ *for children and families* pursuant to K.S.A. 75-3306, and amendments thereto.

(k) The secretary ~~of aging~~ *for aging and disability services* may establish payment schedules for each group of providers for the long-term care programs. The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result does not conflict with applicable federal law. The secretary shall not be required to make any payments under any federal grant program which do not meet the requirements for state and federal financial participation. The secretary shall not be required to establish or pay at rates which are in excess of the minimum necessary payment requirements regardless of excess costs incurred by a provider.

(l) The secretary ~~of aging~~ *for aging and disability services* shall review all rules and regulations of the department on aging and shall amend and revoke the rules and regulations to conform to the purposes of this act.

(m) The secretary ~~of aging~~ *for aging and disability services* may implement a program which would permit the value of any services provided by the area agencies on aging for the benefit of any long-term care programs administered by the secretary to be considered eligible for federal financial participation for such long-term care programs.

Sec. 392. K.S.A. 75-5946 is hereby amended to read as follows: 75-5946. (a) The secretary ~~of aging~~ *for aging and disability services* may contract for long-term care services with area agencies on aging or other community based entities designated by the secretary ~~of aging~~ *for aging and disability services*. If an area agency on aging or other community based entity fails or is unable to provide services and local administration of the system, the secretary ~~of aging~~ *for aging and disability services* shall enter into contracts for services with qualified local not-for-profit and other service providers to perform such services. All contracts made un-

der this section, and all renewal contracts, shall provide that the contract is subject to successfully meeting performance standards set by the secretary of aging for aging and disability services.

(b) Each such contract with an area agency on aging shall require the area agency on aging to submit to the secretary of aging for aging and disability services a report annually on activities under the contract during the fiscal year by the area agency on aging, which report shall also include information about all kinds of services provided by the area agency on aging, including long-term care services, and the number of persons receiving each kind of service during the fiscal year. The secretary of aging for aging and disability services shall submit to the senate committee on ways and means and the house of representatives committee on appropriations at the beginning of the regular session of the legislature in 1997 and annually thereafter a report of the information contained in such reports from the area agencies on aging.

(c) All such contracts for long-term care services shall be subject to appropriations limitations. No such contracts shall provide for any indemnification of any independent contractor. All such contractors shall be subject to and limited by any applicable federal grant requirements. The secretary may, but is not required to, comply with the competitive bid requirements of K.S.A. 75-3739, and amendments thereto. The secretary of aging for aging and disability services shall be required to adopt rules and regulations for the administration of such contracts. If necessary to comply with applicable federal grant requirements, such powers may be assumed by the secretary of social and rehabilitation for aging and disability services.

Sec. 393. K.S.A. 75-5947 is hereby amended to read as follows: 75-5947. The secretary of aging for aging and disability services may contract for the services of persons to assist in the preparation of expert testimony for litigation and to act as expert witnesses in litigation. Any such contracts shall be exempt from the competitive bid requirements of K.S.A. 75-3739, and amendments thereto.

Sec. 394. K.S.A. 75-5949 is hereby amended to read as follows: 75-5949. Pursuant to the transition plan provided for by K.S.A. 75-5948, and amendments thereto, the secretary of social and rehabilitation services for children and families shall transfer from the department of social and rehabilitation services Kansas department for children and families to the department on aging Kansas department for aging and disability services all applicable appropriations, resources and obligations associated with these programs.

Sec. 395. K.S.A. 2013 Supp. 75-5951 is hereby amended to read as follows: 75-5951. (a) No suit, action or other proceeding, judicial or administrative, which pertains to any of the transferred long-term care programs, and which is lawfully commenced, or could have been commenced, by or against the secretary of social and rehabilitation services for children and families in such secretary's official capacity or in relation to the discharge of such secretary's official duties, shall abate by reason of the transfer of such programs. The secretary of aging for aging and disability services shall be named or substituted as the defendant in place of the secretary of social and rehabilitation services for children and families in any suit, action or other proceeding involving claims arising from facts or events first occurring either on or before the date the pertinent program is transferred or on any date thereafter.

(b) No suit, action or other proceeding, judicial or administrative, pertaining to the transferred long-term care programs which otherwise would have been dismissed or concluded shall continue to exist by reason of any transfer under this act.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

(d) Any final appeal decision of the department of social and rehabilitation services Kansas department for children and families entered pursuant to K.S.A. 75-3306, and amendments thereto, or the Kansas judicial review act currently pertaining to any long-term care program transferred pursuant to this act shall be binding upon and applicable to the secretary of aging for aging and disability services and the department on aging Kansas department for aging and disability services.

Sec. 396. K.S.A. 75-5952 is hereby amended to read as follows: 75-



5952. The secretary of ~~social and rehabilitation services for children and families~~ and the secretary of ~~aging for aging and disability services~~ shall require their agents and employees to be equally available for preparation for and testimony in any administrative hearing of or judicial proceeding pertaining to the ~~department of social and rehabilitation services~~ *Kansas department for children and families* or the ~~department on aging~~ *Kansas department for aging and disability services* and any program or service transferred under this act.

Sec. 397. K.S.A. 75-5956 is hereby amended to read as follows: 75-5956. The secretary of ~~aging for aging and disability services~~ shall ensure statewide service access is available in a timely manner and shall adopt an application procedure for long-term care services which presumes the eligibility of persons applying for long-term care services from the date of application.

Sec. 398. K.S.A. 2013 Supp. 75-5958 is hereby amended to read as follows: 75-5958. Subject to the provisions of appropriations acts, the secretary of ~~aging for aging and disability services~~ shall increase nursing facility reimbursement rates. The secretary of ~~aging for aging and disability services~~ shall implement a base-year model of reimbursement for nursing facilities. For fiscal year 2008, the information from cost reports for calendar years 2003, 2004 and 2005 shall be averaged together to be used to calculate the base year. For fiscal year 2009 and each fiscal year thereafter, the information from the cost reports for the three most recent calendar years preceding the beginning of the fiscal year shall be averaged together to be used to calculate the base year. The secretary of ~~aging for aging and disability services~~ shall not apply the 85% rule regarding number of beds filled for nursing facilities with 60 licensed beds or less to determine nursing facility reimbursement rates.

Sec. 399. K.S.A. 2013 Supp. 75-5961 is hereby amended to read as follows: 75-5961. (a) Within the limits of appropriations therefor, the secretary of ~~aging for aging and disability services~~ shall establish a senior pharmacy assistance program in accordance with the provisions of this section. The senior pharmacy assistance program shall provide financial assistance to eligible individuals for the purchase of prescription drugs.

(b) The secretary of ~~aging for aging and disability services~~ shall adopt rules and regulations establishing eligibility for the senior pharmacy assistance program subject to the following criteria:

(1) An individual to be eligible for the program must be 65 years of age or older;;

(2) an eligible individual's income must not exceed 200% of the federal poverty guidelines for a one person family unit and the individual's household income must not exceed 200% of the federal poverty guidelines for a two person family unit;;

(3) an eligible individual must not qualify for funding from any other local, state or federal prescription drug program;;

(4) an eligible individual must not be covered under any private prescription reimbursement plan;; and

(5) an eligible individual must not have voluntarily canceled a local, state or federal prescription drug program or a private prescription reimbursement plan, except in an incidence of financial hardship, within six months prior to application for enrollment in the senior pharmacy assistance program.

(c) The secretary of ~~aging for aging and disability services~~ shall adopt rules and regulations as necessary to implement the provisions of the senior pharmacy assistance program at a level that can be supported within appropriated funds available therefor. The secretary of ~~aging for aging and disability services~~ shall adopt rules and regulations which establish the benefits, limitations and cost-sharing requirements for the senior pharmacy assistance program. Enrollment in the program shall be in accordance with applications and procedures established by the secretary of ~~aging for aging and disability services~~.

(d) The provisions of this section and the senior pharmacy assistance program are hereby suspended on the day upon which payments commence under any federal law enacted on or after the effective date of this act which provides financial assistance for the purchase of prescription drugs to individuals eligible for financial assistance for the purchase of prescription drugs.

Sec. 400. K.S.A. 2013 Supp. 75-6202 is hereby amended to read as follows: 75-6202. As used in this act:

(a) “Debtor” means any person who:

(1) Owes a debt to the state of Kansas or any state agency or any municipality;

(2) owes support to an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2013 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended; or

(3) owes a debt to a foreign state agency.

(b) “Debt” means:

(1) Any liquidated sum due and owing to the state of Kansas, or any state agency, municipality or foreign state agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum. A debt shall not include special assessments except when the owner of the property assessed petitioned for the improvement and any successor in interest of such owner of property; or

(2) any amount of support due and owing an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2013 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, which amount shall be considered a debt due and owing the district court trustee or the ~~department of social and rehabilitation services~~ *Kansas department for children and families* for the purposes of this act.

(c) “Refund” means any amount of Kansas income tax refund due to any person as a result of an overpayment of tax, and for this purpose, a refund due to a husband and wife resulting from a joint return shall be considered to be separately owned by each individual in the proportion of each such spouse’s contribution to income, as the term “contribution to income” is defined by rules and regulations of the secretary of revenue.

(d) “Net proceeds collected” means gross proceeds collected through final setoff against a debtor’s earnings, refund or other payment due from the state or any state agency minus any collection assistance fee charged by the director of accounts and reports of the department of administration.

(e) “State agency” means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof and any judicial district of this state or the clerk or clerks thereof. “State agency” also shall include any district court utilizing collection services pursuant to K.S.A. 75-719, and amendments thereto, to collect debts owed to such court.

(f) “Person” means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, corporation, other entity or a governmental agency, unit or subdivision.

(g) “Director” means the director of accounts and reports of the department of administration.

(h) “Municipality” means any municipality as defined by K.S.A. 75-1117, and amendments thereto.

(i) “Payor agency” means any state agency which holds money for, or owes money to, a debtor.

(j) “Foreign state or foreign state agency” means the states of Colorado, Missouri, Nebraska or Oklahoma or any agency of such states which has entered into a reciprocal agreement pursuant to K.S.A. 75-6215, and amendments thereto.

Sec. 401. K.S.A. 2013 Supp. 75-6506 is hereby amended to read as follows: 75-6506. (a) The participation of a person qualified to participate in the state health care benefits program shall be voluntary, and the cost of the state health care benefits program for such person shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the state health care benefits program payable by persons who are on the state payroll when authorized by such persons. Any such periodic payroll deductions in effect on an implementation date for

biweekly payroll periods shall be collected in the manner prescribed by the secretary of administration.

(c) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, as qualified to participate in the state health care benefits program, periodic deductions from payrolls of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, may be made to cover the costs of the state health care benefits program payable by such persons when authorized by such persons. All such moneys deducted from payrolls shall be remitted to the Kansas state employees health care commission in accordance with the directions of the commission.

(d) Whenever the Kansas state employees health care commission designates any entity listed in subsection (c) as qualified to participate in the state health care benefits program, such entity's participation shall be conditioned upon the following:

- (1) At least 70% of such entity's employees shall participate in the state health care plan;
- (2) except as provided by paragraph (6) of this subsection, the rate of the premium paid by the entity as the employer's share of the total amount of premium paid shall be at least equal to the rate paid by the state of Kansas for its employees;
- (3) the entity shall not create, maintain or permit any exemption from participation in the state health care plan for such entity's employees;
- (4) the rate charged to such entity shall be sufficient to pay for any administrative or underwriting costs incurred by the state employees health care commission;
- (5) the rate charged to such entity shall not increase the rate of premium paid by the state of Kansas for its employees;
- (6) the entity shall elect to participate for a minimum of three consecutive years in the state health care benefits program; and
- (7) the commission may authorize an entity to pay less than the state rate for the employee coverage for no more than three years and no more than five years for dependent coverage on the condition that the entity elects to participate for at least three consecutive years after first paying the state rate for employee coverage.

Sec. 402. K.S.A. 2013 Supp. 75-6508 is hereby amended to read as follows: 75-6508. (a) (1) Each state agency which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the agency for such purpose an amount specified by the Kansas state employees health care commission, including any amounts prescribed under a cafeteria plan established under K.S.A. 75-6512, and amendments thereto. All such payments shall continue on the behalf of employees otherwise eligible for participation in the state health care benefits program in accordance with the continuation provisions of the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6. The commission may charge each state agency a uniform amount per person as the cost to the agency for the state's contribution for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(2) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, as qualified to participate in the state health care benefits program, each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for such purpose an amount specified by the commission. The commission may charge each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, a uniform amount per person as the cost to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for the contribution of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the ~~department of social and rehabilitation services~~ *Kansas department for children and families*, nonprofit community mental health center, as provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit community facility for people with intellectual disability, as provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(b) Payments from public funds for coverage under the state health care benefits program for persons participating in that program shall not

be deemed a payment or supplement of wages of such person notwithstanding any other provision of law or rules and regulations relating to wages of any such person.

Sec. 403. K.S.A. 2013 Supp. 75-7023 is hereby amended to read as follows: 75-7023. (a) The supreme court through administrative orders shall provide for the establishment of a juvenile intake and assessment system and for the establishment and operation of juvenile intake and assessment programs in each judicial district. On and after July 1, 1997, the secretary ~~of social and rehabilitation services for children and families~~ may contract with the commissioner of juvenile justice to provide for the juvenile intake and assessment system and programs for children in need of care. Except as provided further, on and after July 1, 1997, the commissioner of juvenile justice shall promulgate rules and regulations for the juvenile intake and assessment system and programs concerning juvenile offenders. If the commissioner contracts with the office of judicial administration to administer the juvenile intake and assessment system and programs concerning juvenile offenders, the supreme court administrative orders shall be in force until such contract ends and the rules and regulations concerning juvenile intake and assessment system and programs concerning juvenile offenders have been adopted.

(b) No records, reports and information obtained as a part of the juvenile intake and assessment process may be admitted into evidence in any proceeding and may not be used in a child in need of care proceeding except for diagnostic and referral purposes and by the court in considering dispositional alternatives. However, if the records, reports or information are in regard to abuse or neglect, which is required to be reported under K.S.A. 2013 Supp. 38-2223, and amendments thereto, such records, reports or information may then be used for any purpose in a child in need of care proceeding pursuant to the revised Kansas code for care of children.

(c) Upon a juvenile being taken into custody pursuant to K.S.A. 2013 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment worker shall complete the intake and assessment process as required by supreme court administrative order or district court rule prior to July 1, 1997, or except as provided above rules and regulations established by the commissioner of juvenile justice on and after July 1, 1997.

(d) Except as provided in subsection (g) and in addition to any other information required by the supreme court administrative order, the secretary, the commissioner or by the district court of such district, the juvenile intake and assessment worker shall collect the following information:

- (1) A standardized risk assessment tool, such as the problem oriented screening instrument for teens;
- (2) criminal history, including indications of criminal gang involvement;
- (3) abuse history;
- (4) substance abuse history;
- (5) history of prior community services used or treatments provided;
- (6) educational history;
- (7) medical history; and
- (8) family history.

(e) After completion of the intake and assessment process for such child, the intake and assessment worker may:

(1) Release the child to the custody of the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that it would be in the best interest of the child and it would not be harmful to the child to do so.

(2) Conditionally release the child to the child's parent, other legal guardian or another appropriate adult if the intake and assessment worker believes that if the conditions are met, it would be in the child's best interest to release the child to such child's parent, other legal guardian or another appropriate adult; and the intake and assessment worker has reason to believe that it might be harmful to the child to release the child to such child's parents, other legal guardian or another appropriate adult without imposing the conditions. The conditions may include, but not be limited to:

- (A) Participation of the child in counseling;

- (B) participation of members of the child's family in counseling;
  - (C) participation by the child, members of the child's family and other relevant persons in mediation;
  - (D) provision of inpatient treatment for the child;
  - (E) referral of the child and the child's family to the secretary of ~~social and rehabilitation services for children and families~~ for services and the agreement of the child and family to accept and participate in the services offered;
  - (F) referral of the child and the child's family to available community resources or services and the agreement of the child and family to accept and participate in the services offered;
  - (G) requiring the child and members of the child's family to enter into a behavioral contract which may provide for regular school attendance among other requirements; or
  - (H) any special conditions necessary to protect the child from future abuse or neglect.
- (3) Deliver the child to a shelter facility or a licensed attendant care center along with the law enforcement officer's written application. The shelter facility or licensed attendant care facility shall then have custody as if the child had been directly delivered to the facility by the law enforcement officer pursuant to K.S.A. 2013 Supp. 38-2232, and amendments thereto.
- (4) Refer the child to the county or district attorney for appropriate proceedings to be filed or refer the child and family to the secretary of ~~social and rehabilitation services for children and families~~ for investigations in regard to the allegations.
- (5) Make recommendations to the county or district attorney concerning immediate intervention programs which may be beneficial to the juvenile.
- (f) The commissioner may adopt rules and regulations which allow local juvenile intake and assessment programs to create a risk assessment tool, as long as such tool meets the mandatory reporting requirements established by the commissioner.
- (g) Parents, guardians and juveniles may access the juvenile intake and assessment programs on a voluntary basis. The parent or guardian shall be responsible for the costs of any such program utilized.

Sec. 404. K.S.A. 2013 Supp. 75-7302 is hereby amended to read as follows: 75-7302. (a) The secretary of ~~aging for aging and disability services~~ and the state long-term care ombudsman shall enter into agreements for the provision of financial assistance to the office by the ~~department on aging Kansas department for aging and disability services~~ from available state and federal funds of the ~~department on aging Kansas department for aging and disability services~~. This financial assistance shall be to assist the office of the state long-term care ombudsman to provide ombudsman services in accordance with the long-term care ombudsman act, applicable federal programs and the provisions of this section.

(b) Subject to the provisions of appropriation acts, the secretary of ~~aging for aging and disability services~~ and the ~~department on aging Kansas department for aging and disability services~~ shall continue to provide financial assistance for the office of the state long-term care ombudsman in an aggregate amount of not less than the aggregate of the amounts provided during the fiscal year ending June 30, 1998, appropriately adjusted for increases attributable to inflation and other applicable factors.

(c) For the fiscal year ending June 30, 2000, and for each fiscal year thereafter, the secretary of ~~aging for aging and disability services~~ shall include in the budget estimate prepared and submitted to the division of the budget for the ~~department on aging Kansas department for aging and disability services~~ under K.S.A. 75-3717, and amendments thereto, in addition to other amounts included in such budget estimate for the ~~department on aging Kansas department for aging and disability services~~, amounts to be provided to the office of the state long-term care ombudsman during such fiscal year pursuant to this section. The amounts included in each such budget estimate to be provided to the office of the state long-term care ombudsman shall include amounts to be appropriated from moneys provided to the ~~department on aging Kansas department for aging and disability services~~ under the federal older Americans act, 42 U.S.C. § 3001 et seq., and amendments thereto, or other federal

programs for the aging or from other moneys of the ~~department on aging Kansas department for aging and disability services~~. In no case shall the aggregate of the amounts included in any such budget estimate of the ~~department on aging Kansas department for aging and disability services~~, that are to be provided to the office of the state long-term care ombudsman, be less than the aggregate of all moneys provided during the fiscal year ending June 30, 1998, by the ~~department on aging Kansas department for aging and disability services~~ for the office of the state long-term care ombudsman from appropriations to the ~~department on aging Kansas department for aging and disability services~~, including moneys received under the federal older Americans act, 42 U.S.C. § 3001 et seq., and amendments thereto, or under any other federal programs for the aging. The aggregate amounts included in each such budget estimate of the ~~department on aging Kansas department for aging and disability services~~, that are to be provided to the office of the state long-term care ombudsman, shall be adjusted appropriately for increases attributable to inflation and other applicable factors.

Sec. 405. K.S.A. 2013 Supp. 75-7306 is hereby amended to read as follows: 75-7306. The state long-term care ombudsman shall be an advocate of residents in facilities throughout the state. The state long-term care ombudsman shall:

(a) Investigate and resolve complaints made by or on behalf of the residents relating to action, inaction or decisions of facilities or the representatives of facilities, or both, except that all complaints of abuse, neglect or exploitation of a resident shall be referred to the secretary ~~of aging for aging and disability services~~ in accordance with provisions of K.S.A. 39-1401 et seq., and amendments thereto;

(b) develop continuing programs to inform residents, their family members or other persons responsible for residents regarding the rights and responsibilities of residents and such other persons;

(c) provide the legislature and the governor with an annual report containing data, findings and outcomes regarding the types of problems experienced and complaints received by or on behalf of residents and containing policy, regulatory and legislative recommendations to solve such problems, resolve such complaints and improve the quality of care and life in facilities and shall present such report and other appropriate information and recommendations to the senate committee on public health and welfare, the senate committee on ways and means, the house of representatives committee on health and human services and the house of representatives committee on appropriations during each regular session of the legislature;

(d) analyze and monitor the development and implementation of federal, state and local government laws, rules and regulations, resolutions, ordinances and policies with respect to long-term care facilities and services provided in this state, and recommend any changes in such laws, regulations, resolutions, ordinances and policies deemed by the office to be appropriate;

(e) provide information and recommendations directly to news media representatives, public agencies, legislators and others, as deemed necessary by the office, regarding the problems and concerns of residents in facilities, including recommendations related thereto, except that the state long-term care ombudsman shall give the information or recommendations to any directly affected parties or their representatives before providing such information or recommendations to news media representatives;

(f) prescribe and provide for the training of each regional long-term care ombudsman and any individual designated as an ombudsman under subsection (h) of this section, and any individual who is an ombudsman volunteer in (1) federal, state and local laws, rules and regulations, resolutions, ordinances and policies with respect to facilities located in Kansas, (2) investigative techniques, and (3) such other matters as the state long-term care ombudsman deems appropriate;

(g) coordinate ombudsman services provided by the office with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the federal developmental disabilities assistance and bill of rights act, 42 U.S.C.A. § 6001

et seq., and under the federal protection and advocacy for mentally ill individuals act of 1986, public law 99-316;

(h) authorize an individual, who is an employee of the office and who has satisfactorily completed the training prescribed by the state long-term care ombudsman under subsection (f), to be an ombudsman or a volunteer ombudsman and to be a representative of the office and such an authorized individual shall be deemed to be a representative of the office for the purposes of and subject to the provisions of the long-term care ombudsman act;

(i) establish and maintain a system to recruit and train individuals to become volunteer ombudsmen;

(j) develop and implement procedures for authorizing and for withdrawing the authorization of individuals to be ombudsmen or volunteer ombudsmen to represent the office in providing ombudsman services;

(k) provide services to residents of facilities throughout the state directly or through service providers to meet needs for ombudsman services;

(l) collaborate with the ~~department of social and rehabilitation services and the department on aging~~ *Kansas department for aging and disability services* to establish a statewide system to collect and analyze information on complaints and conditions in facilities; and

(m) perform such other duties and functions as may be provided by law.

Sec. 406. K.S.A. 2013 Supp. 75-7310 is hereby amended to read as follows: 75-7310. All information, records and reports received by or developed by an ombudsman or a volunteer ombudsman which relate to a resident of a facility, including written material identifying a resident or other complainant, are confidential and not subject to the provisions of K.S.A. 45-215 to 45-226, inclusive, and amendments thereto, and shall not be disclosed or released by an ombudsman or a volunteer ombudsman, either by name of the resident or other complainant or of facts which allow the identity of the resident or other complainant to be inferred, except upon the order of a court or unless the resident or the resident's legal representative or other complainant consents in writing to such disclosure or release by an ombudsman or a volunteer ombudsman, except the state long-term care ombudsman shall forward to the secretary of ~~aging~~ *aging for aging and disability services* copies of reports received by the state long-term care ombudsman relating to the health and safety of residents. A summary report and findings shall be forwarded to the facility, exclusive of information or material that identifies residents or any other individuals.

Sec. 407. K.S.A. 2013 Supp. 75-7311 is hereby amended to read as follows: 75-7311. An ombudsman shall have access to all records and documents kept by the department of health and environment, the ~~department of social and rehabilitation services~~ *Kansas department for children and families* and the ~~department on aging~~ *Kansas department for aging and disability services* which relate to facilities and concern the following matters: (a) Licensure of facilities; (b) certification of facilities; (c) public funding reimbursement for care of residents of facilities; (d) utilization and medical review records; and (e) complaints regarding care of residents of facilities. The provisions of this sections shall not apply to a volunteer ombudsman.

Sec. 408. K.S.A. 2013 Supp. 75-7405 is hereby amended to read as follows: 75-7405. (a) The department of health and environment is responsible for the development of a statewide health policy agenda including health care and health promotion components. The department of health and environment shall report to the legislature at the beginning of the regular session of the legislature in 2007 and at the beginning of each regular legislative session thereafter. The report of the department of health and environment to the legislature shall include recommendations for implementation of the health policy agenda recommended by the department. The department of health and environment shall develop or adopt health indicators and shall include baseline and trend data on the health costs and indicators in each annual report to the legislature. In accordance with the provisions of this act and the provisions of appropriation acts, the department of health and environment shall assume powers, duties and functions in accordance with the provisions of this act.



(b) The department of health and environment shall assume the functions of the health care data governing board and the functions of the ~~department of social and rehabilitation services~~ *Kansas department for children and families* under the Kansas business health partnership act, as provided by this act.

(c) The department of health and environment shall assume operational and purchasing responsibility for: (1) The regular medical portion of the state medicaid program;; (2) the MediKan program;; (3) the state children's health insurance program as provided in K.S.A. 38-2001 et seq., and amendments thereto;; (4) the working healthy portion of the ticket to work program under the federal work incentive improvement act and the medicaid infrastructure grants received for the working healthy portion of the ticket to work program;; (5) the medicaid management information system (MMIS);; (6) the restrictive drug formulary, the drug utilization review program, including oversight of the medicaid drug utilization review board, and the electronic claims management system as provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2013 Supp. 39-7,121a through 39-7,121e, and amendments thereto;; (7) the state health care benefits program as provided in K.S.A. 75-6501 through 75-6523, and amendments thereto;; and (8) the state workers compensation self-insurance fund and program as provided in K.S.A. 44-575 through 44-580, and amendments thereto.

(d) The department of health and environment shall submit to the legislature recommendations and an implementation plan for the transfer of additional medicaid-funded programs to the department of health and environment which may include: (1) Mental health services;; (2) home and community-based services (HCBS) waiver programs;; (3) nursing facilities;; (4) substance abuse prevention and treatment programs;; and (5) the institutions, as defined in K.S.A. 76-12a01, and amendments thereto.

(e) The department of health and environment shall submit to the legislature recommendations and an implementation plan for the department of health and environment to assume responsibility for health care purchasing functions within additional state agencies, which may include: (1) ~~The department on aging;~~ *Kansas department for aging and disability services*; (2) the department of education for local education agencies;; (3) the juvenile justice authority and the juvenile correctional institutions and facilities thereunder;; and (4) the department of corrections and the correctional institutions and facilities thereunder.

Sec. 409. K.S.A. 76-170 is hereby amended to read as follows: 76-170. All persons receiving service or treatment from the state hospitals, state hospitals and training centers and the Kansas neurological institute, but which persons are not admitted thereto as regular inpatients but who receive outpatient evaluation, care and treatment shall pay such charge for ~~said~~ outpatient evaluation, care or treatment at such rates and in such amounts as the secretary ~~of social and rehabilitation~~ *for aging and disability services* shall determine. The secretary ~~of social and rehabilitation~~ *for aging and disability services* is hereby authorized and empowered to fix any reasonable rate, not to exceed the actual cost, for which a charge may be made for the evaluation, care and treatment of persons or patients on an outpatient basis at ~~said~~ *such* institutions. The secretary ~~of social and rehabilitation~~ *for aging and disability services* is hereby authorized to recover from the patient or from ~~his or her~~ *the patient's* estate or from the spouses of outpatients, or from parents whose minor children are outpatients or from any person bound by law to support such outpatient, the charges for the services provided by this act. Demand, where necessary, and payment for the evaluation, care and treatment of any outpatient shall be made at the rates to be fixed under this act, and shall be collected and recovered from the outpatient or from ~~his or her~~ *the outpatient's* estate or from any person bound by law to support such outpatient in like manner as provided by K.S.A. 59-2006, and ~~any~~ amendments thereto.

Sec. 410. K.S.A. 76-175 is hereby amended to read as follows: 76-175. (a) The person designated under K.S.A. 76-173, and amendments thereto, may invest the moneys of each trust fund in one or more certificates of deposit at a bank, savings and loan association or federally chartered savings bank, which bank, association or savings bank is insured by the federal government or an agency thereof, or invest in shares in a credit

union which is insured with an insurer or guarantee corporation as required under K.S.A. 17-2246, and amendments thereto, and is designated by the pooled money investment board, except such money shall be subject to withdrawal within six months of date of placing on interest. The moneys so deposited shall continue to be a part of the trust fund from which the money originates.

(b) Interest earned on moneys invested under this section shall be regularly prorated according to procedures approved by the director of accounts and reports and credited to the individual patient, inmate or other account on the basis of the amount of money each patient, inmate or other person has in the trust fund.

(c) Notwithstanding the provision in this section for proration of interest to individual accounts, such interest may instead be allocated to the benefit fund of the institution under procedures specified by the director of accounts and reports if such an allocation is authorized under a letter of agreement to the secretary of ~~social and rehabilitation services~~ *for children and families or the secretary for aging and disability services, as applicable*, from the federal social security administrator and filed with the director of accounts and reports.

Sec. 411. K.S.A. 76-317 is hereby amended to read as follows: 76-317. The bureau shall have its administrative offices at the university of Kansas, but it may receive the aid and cooperation of the staff, equipment and research students of any school, hospital or institution in the state, to the extent that such aid and cooperation may be offered by these various schools, hospitals and institutions and insofar as such aid and cooperation may be useful to the bureau. Upon the request of the secretary of ~~social and rehabilitation~~ *for aging and disability* services, the bureau may assist in the administration or operation of any institution within the ~~Kansas department of social and rehabilitation for aging and disability~~ services.

Sec. 412. K.S.A. 2013 Supp. 76-375 is hereby amended to read as follows: 76-375. On or before December 31 in each year, the secretary of health and environment, shall prepare a list of the areas of this state which the secretary determines to be medically underserved areas. In preparing such a list, the portion of time of persons engaged in the practice of medicine and surgery at any institution under the jurisdiction and control of the secretary of ~~social and rehabilitation~~ *for aging and disability* services shall not be included in determining whether an area is medically underserved. Every such list shall note that all state medical care facilities or institutions qualify for such service commitments, in addition to listing those areas determined to be medically underserved. Medically underserved areas established prior to the effective date of this act by the chancellor of the university of Kansas, or the designee of the chancellor, shall continue in effect until changed by the secretary of health and environment.

Sec. 413. K.S.A. 2013 Supp. 76-381 is hereby amended to read as follows: 76-381. As used in K.S.A. 76-380 through 76-386, and amendments thereto:

- (a) “Act” means the medical student loan act;
- (b) “approved postgraduate residency training program” means a residency training program in general pediatrics, general internal medicine, family medicine, family practice, emergency medicine or fellowship training in geriatric medicine;
- (c) “service commitment area” means: (1) Any community within any county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county; (2) any state medical care facility or institution; (3) any medical center operated by the veterans administration of the United States; ~~or~~; (4) the full-time faculty of the university of Kansas school of medicine in family medicine or family practice; or (5) any community within Wyandotte county for purposes of any practice obligation under an agreement entered into by a person who is enrolled for the first time after July 1, 2004, in a course of study leading to the medical degree; and
- (d) “state medical care facility or institution” includes, but is not limited to, the Kansas state school for the visually handicapped, the Kansas state school for the deaf, any institution under the secretary of ~~social and rehabilitation~~ *for aging and disability* services, as defined by subsection (b) of K.S.A. 76-12a01, and amendments thereto, any institution under

the commissioner of juvenile justice as defined by K.S.A. 2013 Supp. 38-2302, and amendments thereto, the Kansas soldiers' home, the Kansas veterans' home and any correctional institution under the secretary of corrections, as defined by subsection (d) of K.S.A. 75-5202, and amendments thereto, but shall not include any state educational institution under the state board of regents, as defined by subsection (a) of K.S.A. 76-711, and amendments thereto, except as specifically provided by statute.

Sec. 414. K.S.A. 76-1237 is hereby amended to read as follows: 76-1237. ~~The department of social and rehabilitation~~ *Kansas department for aging and disability* services, subject to the approval of the governor, is hereby authorized to enter into a contract with the ~~said~~ city of Osawatomie for supplying water for domestic purposes, at a reasonable rate, for use at the state hospital at Osawatomie.

Sec. 415. K.S.A. 2013 Supp. 76-12a01 is hereby amended to read as follows: 76-12a01. As used in this act, unless the context otherwise requires:

(a) "Secretary" means the secretary ~~of social and rehabilitation~~ *for aging and disability* services.

(b) "Institution" means the following institutions: Osawatomie state hospital, Rainbow mental health facility, Larned state hospital, Parsons state hospital and training center, and Kansas neurological institute.

(c) "Director" or "commissioner" means the commissioner ~~of mental health and developmental disabilities~~ *community services and programs*.

Sec. 416. K.S.A. 2013 Supp. 76-12a08 is hereby amended to read as follows: 76-12a08. (a) Whenever any money is granted or given by any person, firm, corporation or association, or by the United States or any department, instrumentality or agency thereof, to any institution, the state, the secretary or the division of mental health and developmental disabilities, which money is granted or given for a specific use or purpose, the secretary, the institution, the state or the division of mental health and developmental disabilities, may accept or reject any such grant or gift and may enter into contracts or agreements necessary or expedient to the acceptance or management of the grant or gift. Any grant or gift so accepted and the program therefor shall be known as a special project.

(b) The secretary and superintendent of each institution shall remit all moneys received by or for either of them, for any special project to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the other federal grants and assistance fund of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services.

(c) All persons having professional, technical or unusual qualifications employed for any special project, including the director of each special project, shall be appointed by the director ~~(or the superintendent of the institution when so designated by the director)~~ and shall be in the unclassified service of the Kansas civil service act and shall receive salaries fixed by the secretary and approved by the state finance council. Other special projects personnel shall be in the classified service of the Kansas civil service act.

Sec. 417. K.S.A. 2013 Supp. 76-12a10 is hereby amended to read as follows: 76-12a10. (a) Whenever medical information is requested relating to a patient or former patient of any institution under the secretary ~~of social and rehabilitation~~ *for aging and disability* services, and the disclosure of such information is authorized in accordance with K.S.A. 59-2969, and amendments thereto, or in accordance with K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, as applicable, the superintendent of the institution may authorize the release of a copy of a report of such information upon payment of any fees required under this section.

(b) The secretary ~~of social and rehabilitation~~ *for aging and disability* services shall specify the form or forms of release to be used for the purpose of this section and may specify public officers to which such information may be given without provision of a release or payment of fees, or both. The secretary ~~of social and rehabilitation~~ *for aging and disability* services shall adopt rules and regulations for the administration of this section and for establishment of fees to be charged for copies of reports of information under this section, and specifying when no fee shall be charged. The fees fixed for copies of reports of information shall

be fixed by the secretary ~~of social and rehabilitation~~ *for aging and disability* services in amounts approved by the director of accounts and reports under K.S.A. 45-204, and amendments thereto.

(c) The superintendent of each institution shall remit all moneys received by or for the superintendent from fees and charges under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the fee fund of the remitting institution.

Sec. 418. K.S.A. 76-12a16 is hereby amended to read as follows: 76-12a16. The secretary ~~of social and rehabilitation~~ *for aging and disability* services may authorize any superintendent to employ security police officers at the institution of which such person is superintendent. All such security police officers shall be in the classified service of the Kansas civil service act. Such security police officers are hereby vested with the power and authority of peace, police and law enforcement officers anywhere within the county in which the institution is located for which the security police officer is employed, when wearing and publicly displaying the badge of office prescribed hereunder. The secretary shall adopt rules and regulations prescribing the badge of office of security police officers at institutions and when and where any such badge may be displayed. Within the limitations of this act and any such rules and regulations, the superintendent of each institution, with the approval of the director, shall direct and supervise the activities of security police officers at the institution of which such person is superintendent. In accordance with this act, such rules and regulations and such direction and supervision, security police officers shall enforce state laws, rules and regulations of the secretary, policies applicable to the institution and city ordinances. The power of arrest of a security police officer shall extend to the state laws and city ordinances the security police officer is directed to enforce.

Sec. 419. K.S.A. 76-12a17 is hereby amended to read as follows: 76-12a17. No person employed by the secretary ~~of social and rehabilitation~~ *for aging and disability* services shall receive a permanent appointment as a security police officer as authorized by K.S.A. 76-12a16, and amendments thereto, unless such person has been awarded a certificate by the secretary of corrections attesting to such person's satisfactory completion of a basic course of instruction specified by the secretary ~~of social and rehabilitation~~ *for aging and disability* services and the secretary of corrections. Such certificate shall be awarded only following verification of completion of the training provided by both departments. Such certificate shall be effective during the term of a person's employment, except that any person who has terminated employment with the secretary ~~of social and rehabilitation~~ *for aging and disability* services for a period exceeding one year shall be required to be certified again.

Sec. 420. K.S.A. 76-12a22 is hereby amended to read as follows: 76-12a22. As used in this act: (a) "Substance abuse program" means a program for the treatment or care of substance abusers.

(b) "Substance abuser" means: (1) Any alcoholic, intoxicated person or person incapacitated by alcohol, as such terms are defined in K.S.A. 65-4003, and amendments thereto; ~~or~~ (2) any drug abuser as such term is defined in K.S.A. 65-4602, and amendments thereto; or (3) any combination of (1) and (2).

(c) "Care or treatment" means such necessary services as are determined by the secretary to be in the best interests of the physical and mental health of a substance abuser.

(d) "State institution" means any institution within the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services.

(e) "Secretary" means the secretary ~~of social and rehabilitation~~ *for aging and disability* services.

Sec. 421. K.S.A. 76-12a30 is hereby amended to read as follows: 76-12a30. (a) As used in K.S.A. 76-12a30 to 76-12a34, inclusive, *and amendments thereto*:

(1) "Secretary" means the secretary ~~of social and rehabilitation~~ *for aging and disability* services;

(2) "department" means the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services; and

(3) “institution” means any institution within the department.

(b) Unless the context requires otherwise, terms defined in K.S.A. 65-4003, 65-4602 and 65-5201, and amendments thereto, shall have the same meaning when used in K.S.A. 76-12a30 to 76-12a34, inclusive, *and amendments thereto*, as is specified in such sections.

Sec. 422. K.S.A. 2013 Supp. 76-12b01 is hereby amended to read as follows: 76-12b01. When used in this act:

(a) “Adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of that person’s age, cultural group and community.

(b) “Care” means supportive services, including, but not limited to, provision of room and board, supervision, protection, assistance in bathing, dressing, grooming, eating and other activities of daily living.

(c) “Institution” means a state institution for people with intellectual disability including the following institutions: Kansas neurological institute; *and Parsons state hospital and training center and Winfield state hospital and training center.*

(d) “Intellectual disability” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the period from birth to age 18.

(e) “Respite care” means temporary, short-term care not exceeding 90 days per calendar year to provide relief from the daily pressures involved in caring for a person with intellectual disability.

(f) “Restraint” means the use of a totally enclosed crib or any material to restrict or inhibit the free movement of one or more limbs of a person except medical devices which limit movement for examination, treatment or to insure the healing process.

(g) “Seclusion” means being placed alone in a locked room where the individual’s freedom to leave is thereby restricted and where such placement is not under continuous observation.

(h) “Secretary” means the ~~secretary of social and rehabilitation for aging and disability~~ secretary or the designee of the secretary.

(i) “Significantly subaverage general intellectual functioning” means performance which is two or more standard deviations from the mean score on a standardized intelligence test specified by the secretary.

(j) “Superintendent” means the chief administrative officer of the institution or the designee of the chief administrative officer.

(k) “Training” means the provision of specific environmental, physical, mental, social and educational interventions and therapies for the purpose of halting, controlling or reversing processes that cause, aggravate or complicate malfunctions or dysfunctions of development.

Sec. 423. K.S.A. 2013 Supp. 76-1305 is hereby amended to read as follows: 76-1305. The ~~secretary of social and rehabilitation for aging and disability~~ secretary is authorized and directed to establish, equip and maintain, in connection with and as a part of the Larned state hospital, suitable buildings to be known as the “state security hospital” for the purpose of holding in custody, examining, treating and caring for such mentally ill persons as may be committed or ordered to the state security hospital by courts of criminal jurisdiction or inmates with mental illness who are transferred for care or treatment to the state security hospital from a correctional institution under the control of the secretary of corrections, or patients with a mental illness, other than minors, who are transferred for care or treatment to the state security hospital from any institution under the jurisdiction of the ~~secretary of social and rehabilitation for aging and disability~~ secretary. The ~~secretary of social and rehabilitation for aging and disability~~ secretary is hereby authorized and empowered to supervise and manage the state security hospital. The superintendent of the Larned state hospital shall act as the superintendent of the state security hospital.

Sec. 424. K.S.A. 2013 Supp. 76-1306 is hereby amended to read as follows: 76-1306. The ~~secretary of social and rehabilitation for aging and disability~~ secretary may transfer any patient, other than a minor, in any institution under the supervision of the secretary to the state security hospital whenever the secretary determines that such patient is suffering from a mental illness and when the secretary determines that: (1) Due to the behavior of the patient, the patient is a danger to the other patients in the institution; (2) that the patient is a security risk; or (3) that the

patient is charged or convicted of felony crimes and, therefore, is unable to receive proper care or treatment in a facility other than the state security hospital. Any patient transferred to the state security hospital under this section shall be assigned quarters separate from those individuals who have been transferred from penal institutions or committed thereto by courts under the Kansas code of criminal procedure.

Sec. 425. K.S.A. 2013 Supp. 76-1307 is hereby amended to read as follows: 76-1307. (a) Any patient transferred to the state security hospital by the secretary of ~~social and rehabilitation~~ *for aging and disability* services from an institution under the supervision of the secretary of ~~social and rehabilitation~~ *for aging and disability* services shall: (1) Be assigned quarters separate from those individuals who have been transferred from correctional institutions or committed to the state security hospital by courts pursuant to the Kansas code of criminal procedure; and (2) remain subject to the same statutory provisions applicable to the patient at the institution from which the patient was transferred and in addition shall abide by and be subject to all the rules and regulations of the state security hospital not inconsistent with such statutory provisions.

(b) The next of kin and guardian, if one has been appointed, of the patient transferred to the state security hospital by the secretary of ~~social and rehabilitation~~ *for aging and disability* services under K.S.A. 76-1306, and amendments thereto, shall be notified of the transfer. If the patient was committed to the sending institution by a court, notice of the transfer shall be sent to the committing court. The notice of transfer shall be given within a reasonable time after the date of the transfer.

Sec. 426. K.S.A. 76-1528 is hereby amended to read as follows: 76-1528. (a) From and after October 1, 1975, the southeast Kansas tuberculosis hospital shall cease to function as an institution of this state for the care and treatment of tuberculosis patients. All patients receiving care or treatment at such hospital on the effective date of this act shall be transferred to a medical care facility qualified to treat persons infected with tuberculosis as provided by K.S.A. 65-116j, *and amendments thereto*.

(b) All medical records of each patient receiving care or treatment at the southeast Kansas tuberculosis hospital immediately prior to the effective date of this act shall be transferred to the medical care facility to which such patient is transferred. All medical records of former patients of the southeast Kansas tuberculosis hospital shall be transferred to the secretary of health and environment.

(c) The secretary of ~~social and rehabilitation~~ *services for children and families* shall continue to be in charge of the premises, facilities, installations and equipment at the southeast Kansas tuberculosis hospital and shall provide for the preservation, maintenance, upkeep and use thereof, until otherwise provided by law.

Sec. 427. K.S.A. 76-17a10 is hereby amended to read as follows: 76-17a10. The Rainbow unit of the Osawatomie state hospital is hereby established as a separate state institution which shall be designated and known as the Rainbow mental health facility. The Rainbow mental health facility shall be operated and managed within the division of ~~mental health and developmental disabilities~~ *community services and programs* of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services and in accordance with the laws and rules and regulations governing the other state institutions under the jurisdiction of such division. In accordance with rules and regulations adopted by the secretary of ~~social and rehabilitation~~ *for aging and disability* services under K.S.A. 76-12a07, *and amendments thereto*, any person who is a resident of this state and who is in need of the services provided by the Rainbow mental health facility shall be eligible for admission to such facility.

Sec. 428. K.S.A. 76-17c07 is hereby amended to read as follows: 76-17c07. The secretary of ~~social and rehabilitation~~ *for aging and disability* services, with or without receiving direct monetary consideration therefor, may enter into a lease agreement with the city of Topeka, Kansas, for not to exceed ~~ten (10)~~ 10 years in duration and with five-year renewal terms thereafter to lease for park and recreational purposes, together with such other restrictions as to use that the secretary deems necessary, a part of the property known as the "Kansas neurological institute," described as follows: A part of section 11, township 12 south, range 15, east of the 6th P.M. in Shawnee county, Kansas, described more specifically

as follows: Beginning at a point on the west line of said section which is 1314 feet south of the northwest corner of the southwest quarter of section 11, township 12, range 15 east; thence north 89 degrees 09'47" east 2319.19 feet; thence north 165 feet; thence north 89 degrees 09' 47" east 1625.56 feet to the center line of Shunganunga creek; thence southerly and westerly along the center line of said creek following the meanderings thereof to a point on the west line of said section which is 1724 feet south of the northwest corner of the southwest quarter of said section; thence north along the west line of said section a distance of 410 feet to the place of beginning containing 72 acres more or less.

Sec. 429. K.S.A. 2013 Supp. 76-17c08 is hereby amended to read as follows: 76-17c08. (a) The secretary of ~~social and rehabilitation~~ *for aging and disability* services shall convey to the Topeka association for retarded citizens, inc. the following described state properties adjacent to the Kansas neurological institute, all in the city of Topeka, Shawnee County, Kansas, described as follows: A tract of land in the west half of the southeast quarter of section 11, township 12 south, range 15 east of the 6th P.M. beginning at the southeast corner of the west half of the northeast quarter; thence coincident with the east line of the west half of said northeast quarter on azimuth 00 degrees 04 minutes 23 seconds, a distance of 50.00 feet to the point of beginning; thence continuing coincident with said east line on azimuth 00 degrees 04 minutes 23 seconds, a distance of 68.65 feet; thence leaving said east line on azimuth 268 degrees 52 minutes 11 seconds, a distance of 828.70 feet; thence on azimuth 244 degrees 46 minutes 18 seconds, a distance of 290.52 feet to a point on the south line of said northeast quarter; thence on azimuth 180 degrees 02 minutes 40 seconds, a distance of 461.03 feet; thence on azimuth 88 degrees 52 minutes 11 seconds, a distance of 1091.41 feet to the east line of the west half of the southeast quarter of said section 11; thence coincident with said east line on azimuth 00 degrees 02 minutes 40 seconds, a distance of 161.03 feet; thence leaving said east line on azimuth 268 degrees 52 minutes 11 seconds, a distance of 600.00 feet; thence on azimuth 00 degrees 02 minutes 40 seconds, a distance of 300.00 feet to a point on the north line of said southeast quarter; thence on azimuth 00 degrees 04 minutes 23 seconds, a distance of 50.00 feet; thence on azimuth 88 degrees 52 minutes 11 seconds, a distance of 600.00 feet to the point of beginning. The above tract contains 9.34 acres, more or less, and is subject to any public roads, easements, reservations, restrictions, covenants or conditions if any now of record. Such land shall be used for the care, education, training and treatment of retarded persons or other charitable purposes relating to health, education and welfare.

(b) The deed conveying the above-described land shall be approved by the attorney general and shall be executed by the secretary of ~~social and rehabilitation~~ *for aging and disability* services. Such deed shall provide that in the event the above-described land shall cease to be used for the purposes described in subsection (a) by the Topeka association for retarded citizens, inc., or its successors, then all right, title and interest in such land shall revert to the state of Kansas.

Sec. 430. K.S.A. 76-1936 is hereby amended to read as follows: 76-1936. (a) The commissioner of ~~mental health and developmental disabilities~~ *community services and programs* of the ~~department of social and rehabilitation~~ *Kansas department for aging and disability* services, with the approval of the secretary of ~~social and rehabilitation~~ *for aging and disability* services and the Kansas veterans' commission, may transfer patients in the state hospitals at ~~Topeka, Osawatomie and Larned~~ and patients in the Rainbow mental health facility; ~~and the Parsons state hospital and training center and the Winfield state hospital and training center~~ who have served in the military or naval forces of the United States or whose husband, wife, father, son or daughter has served in the active military or naval service of the United States during any period of any war as defined in K.S.A. 76-1908, *and amendments thereto*, and was discharged or relieved therefrom under conditions other than dishonorable, to the Kansas soldiers' home. No patient who is such a mentally ill person, in the opinion of the commissioner of mental health and developmental disabilities, that because of such patient's illness such patient is likely to injure himself or others shall be so transferred to such Kansas soldiers' home, and no such patient shall be so transferred if such transfer will

deny admission to persons entitled to admission under K.S.A. 76-1908, *and amendments thereto*, and rules and regulations promulgated thereunder. Persons so transferred shall not be considered as members of the Kansas soldiers' home but shall be considered as patients therein.

(b) All of the laws, rules and regulations relating to patients in the above-specified state hospitals and mental health facility shall be applicable to such patients so transferred insofar as the same can be made applicable. Any patient so transferred who is found to be or shall become such a mentally ill person, in the opinion of the commissioner of mental health and developmental disabilities, that because of such patient's illness such patient is likely to injure himself or others or who is determined to need additional psychiatric treatment, shall be retransferred by the superintendent of the Kansas soldiers' home, with the approval of the commissioner of mental health and developmental disabilities, to the institution from whence the patient was originally transferred.

Sec. 431. K.S.A. 78-101 is hereby amended to read as follows: 78-101. (a) Except as provided by subsection (b), no state or county officers, or their deputies, shall be taken as surety on the bond of any administrator, executor or other officer from whom bond is or may be required by law. No practicing attorney shall be taken on any official bond, or bond in any legal proceedings as aforesaid, in the district in which the attorney resides.

(b) ~~The secretary of social and rehabilitation services for children and families~~, in the secretary's official capacity, shall act as surety on the bond of any conservator providing advocacy services to a conservatee under contract with the agency designated as the Kansas guardianship program established under K.S.A. ~~1997 Supp.~~ 74-9601 to 74-9606, inclusive, and amendments thereto.

Sec. 432. K.S.A. 2013 Supp. 79-3221g is hereby amended to read as follows: 79-3221g. (a) For all tax years commencing after December 31, 2001, each Kansas state individual income tax return form shall contain a designation as follows:

Senior Citizen Meals on Wheels Contribution Program. Check if you wish to donate, in addition to your tax liability, or designate from your refund, \_\_\_\$1, \_\_\_\$5, \_\_\_\$10, or \$\_\_\_\_\_.

(b) The director of taxation of the department of revenue shall determine annually the total amount designated for contribution to the senior citizen meals on wheels contribution program pursuant to subsection (a) and shall report such amount to the state treasurer who shall credit the entire amount thereof to the senior citizen nutrition check-off fund to be administered by the ~~department of aging~~ *Kansas department for aging and disability services* to provide financial assistance under the senior nutritional program. In the case where donations are made pursuant to subsection (a), the director shall remit the entire amount thereof to the state treasurer who shall credit the same to such fund. All expenditures from such fund shall be made in accordance with appropriation acts.

Sec. 433. K.S.A. 2013 Supp. 79-3234 is hereby amended to read as follows: 79-3234.(a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of ad-



vising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2013 Supp. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 2013 Supp. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2013 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, parks and tourism to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of ~~social and rehabilitation services~~ *for children and families* for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal

appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 et seq., and amendments thereto;

(13) (i) provide taxpayer information of persons suspected of violating K.S.A. 2013 Supp. 44-766, and amendments thereto, to the secretary of labor or such secretary's designee for the purpose of determining compliance by any person with the provisions of subsection (i)(3)(D) of K.S.A. 44-703 and K.S.A. 2013 Supp. 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of subsection (i)(3)(D) of K.S.A. 44-703 and K.S.A. 2013 Supp. 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the results or status of such audit or investigation;

(ii) any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality; and

(iii) each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the provisions of this paragraph;

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, "associated persons" includes spouses or dependents listed on income tax returns; and

(15) after receipt of information pursuant to subsection (f), forward such information and provide the following reported Kansas individual income tax information for each listed defendant, if available, to the state board of indigents' defense services in an electronic format and in the manner determined by the secretary: (A) The defendant's name; (B) social security number; (C) Kansas adjusted gross income; (D) number of exemptions claimed; and (E) the relevant tax year of such records. Any social security number provided to the secretary and the state board of indigents' defense services pursuant to this section shall remain confidential.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) For the purpose of determining whether a defendant is financially able to employ legal counsel under the provisions of K.S.A. 22-4504, and amendments thereto, in all felony cases with appointed counsel where the defendant's social security number is accessible from the records of the district court, the court shall electronically provide the defendant's name, social security number, district court case number and county to

the secretary of revenue in the manner and format agreed to by the office of judicial administration and the secretary.

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 434. K.S.A. 2013 Supp. 79-32,200 is hereby amended to read as follows: 79-32,200. (a) There shall be allowed as a credit against the tax liability imposed under the Kansas income tax act of a person who has entered into an agreement with the secretary of social and rehabilitation services for children and families under K.S.A. 39-7,132, and amendments thereto, an amount equal to 70% of the amount of financial assistance paid by such person under K.S.A. 39-7,132, and amendments thereto, as certified by the secretary of social and rehabilitation services for children and families, of not to exceed the amount of financial assistance which would have been paid under the aid to families with dependent children program from state matching contributions, as certified by the secretary of social and rehabilitation services for children and families, if such person had not agreed to assume some financial support.

(b) An individual may not claim a tax credit under this section if a credit for child care and dependent care expenses was claimed on either the state or federal tax return, or if the individual receives payment for care of the person provided financial assistance.

(c) The credit allowed by this section shall not exceed the amount of tax imposed under the Kansas income tax act reduced by the sum of any other credits allowable pursuant to law.

(d) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1993.

(e) For tax year ~~2013~~ 2014 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

Sec. 435. K.S.A. 2013 Supp. 79-4805 is hereby amended to read as follows: 79-4805. (a) There is hereby established in the state treasury the problem gambling and addictions grant fund. All moneys credited to such fund shall be used only for the awarding of grants under this section. Such fund shall be administered in accordance with this section and the provisions of appropriation acts.

(b) All expenditures from the problem gambling and addictions grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(c) (1) There is hereby established a state grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and to provide funding for research regarding the impact of gambling on residents of Kansas. Research grants awarded under this section may include, but need not be limited to, grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in Kansas. All grants shall be made after open solicitation of proposals and evaluation of proposals against criteria established in rules and regulations adopted by the secretary of the ~~department of social and rehabilitation~~ Kansas department for aging and disability services. Both public and private entities shall be eligible to apply for and receive grants under the provisions of this section.

(2) Moneys in the problem gambling and addictions grant fund may be used to treat alcoholism, drug abuse and other addictive behaviors.

(d) The secretary of the ~~department of social and rehabilitation~~ for aging and disability services is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of funding grants under this section and to expend such moneys for the purpose for which received.

(e) All grants made in accordance with this section shall be made from the problem gambling and addictions grant fund. The secretary shall administer the provisions of this section and shall adopt rules and regulations

establishing criteria for qualification to receive grants and such other matters deemed necessary by the secretary for the administration of this section. Such rules and regulations shall include, but need not be limited to, a requirement that each recipient of a grant to provide treatment for pathological gamblers report at least annually to the secretary the grantee's measurable achievement of specific outcome goals.

(f) For the purpose of this section “pathological gambling” means the disorder by that name described in the most recent edition of the diagnostic and statistical manual.

(g) On the effective date of this act the director of accounts and reports shall transfer all moneys in the problem gambling grant fund to the problem gambling and addictions grant fund. Thereupon the problem gambling grant fund shall be and is hereby abolished.

Sec. 436. K.S.A. 12-736, 12-4808, 16-304, 16-311, 17-2264, 17-5829, 22-3723, 22a-243, 22a-244, 38-134, 38-320, 38-1808, 38-1817, 38-1819, 38-1820, 38-1821, 38-1822, 38-1901, 39-110, 39-111, 39-708c, 39-708d, 39-711a, 39-718b, 39-740, 39-744, 39-751, 39-753, 39-755, 39-758, 39-782, 39-783, 39-786, 39-787, 39-788, 39-7,100, 39-7,100a, 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-7,109, 39-7,122, 39-7,123, 39-7,125, 39-7,127, 39-7,128, 39-7,130, 39-7,131, 39-7,139, 39-960, 39-1208, 39-1209, 39-1302, 39-1410, 39-1434, 39-1435, 39-1501, 39-1602, 39-1603, 39-1604, 39-1612, 39-1613, 39-1703, 39-1704, 39-1804, 40-2d02, 40-2256, 40-22a05, 40-3227, 59-2006, 59-2006b, 59-2006c, 59-2130, 59-2135, 59-2801, 59-2803, 59-2963, 59-2968, 59-2981, 59-29b57, 59-29b60, 59-29b63, 59-29b78, 59-29b81, 59-3065, 59-3067, 59-3070, 59-3080, 59-3094, 60-2204, 60-2310, 60-2401, 65-116i, 65-116j, 65-116k, 65-116l, 65-116m, 65-1,108, 65-1,120, 65-1,159, 65-1,162, 65-1,165, 65-507, 65-513, 65-2422b, 65-3507, 65-4432, 65-5101, 65-5902, 72-1046, 72-3608, 72-4311, 72-4314a, 72-4316, 72-8239, 72-8243, 72-89a02, 72-89b03, 74-5502, 74-5505, 74-6901, 74-6904, 74-7801, 75-2935c, 75-3303, 75-3303a, 75-3304, 75-3304a, 75-3307, 75-3315, 75-3323, 75-3328, 75-3337, 75-3338, 75-3339a, 75-3340, 75-3343a, 75-3347, 75-3354, 75-3728a, 75-5308e, 75-5309a, 75-5310, 75-5310a, 75-5313, 75-5316a, 75-5319, 75-5320, 75-5321, 75-5326, 75-5328a, 75-5343, 75-5344, 75-5345, 75-5365, 75-5371, 75-5375, 75-5376, 75-5381, 75-5382, 75-5383, 75-5386, 75-5391, 75-5393, 75-53,100, 75-5902, 75-5923, 75-5925, 75-5940, 75-5946, 75-5947, 75-5949, 75-5952, 75-5956, 76-170, 76-175, 76-317, 76-1237, 76-12a16, 76-12a17, 76-12a22, 76-12a30, 76-1528, 76-17a10, 76-17c07, 76-1936 and 78-101 and K.S.A. 2013 Supp. 8-255, 8-1008, 8-1567, 9-1216, 12-4509, 12-4516, 12-4516a, 16-312, 17-1762, 19-4001, 19-4007, 20-378, 20-380, 21-5413, 21-5914, 21-5927, as amended by section 2 of 2014 Senate Bill No. 271, 21-6602, 21-6614d, 21-6702, 21-6708, 22-2410, as amended by section 24 of 2014 Senate Substitute for House Bill No. 2338, 22-3302, 22-4612, 23-2202, 23-2203, 23-2204, 23-2209, 23-2212, 23-2213, 23-2219, 23-3102, 23-3109, 23-3113, 23-3114, 23-3121, 23-3210, 23-36,201, 23-36,310, 32-906, 32-918, 32-930, 38-143, 38-144, 38-2212, 38-2222, 38-2223, 38-2226, 38-2247, 38-2261, 38-2282, as amended by section 1 of 2014 House Bill No. 2577, 38-2286, 38-2304, 38-2310, 38-2312c, 38-2319, 38-2326, 38-2335, 38-2350, 38-2356, 38-2361, 39-717, 39-754, 39-756, 39-757, 39-760, 39-784, 39-785, 39-7,108, 39-7,129, 39-7,132, 39-7,134, 39-7,135, 39-7,138, 39-7,151, 39-7,155, 39-7,156, 39-7,157, 39-7,158, 39-7,159, 39-924, 39-926, 39-930, 39-935, 39-936, 39-938, 39-940, 39-944, 39-945, 39-946, 39-947, 39-947a, 39-948, 39-950, 39-951, 39-952, 39-953a, 39-954, 39-958, 39-961, 39-963, 39-965, 39-968, 39-969, 39-970, 39-971, 39-1002, 39-1202, 39-1402, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1411, 39-1430, 39-1431, 39-1432, 39-1433, 39-1436, 39-1443, 39-1803, 40-2,111, 40-2134, 40-4704, 41-2622, 44-508, 44-575, 44-577, 46-922, 46-2801, 59-2122, 59-2123, 59-2132, 59-2946, 59-2972, 59-2978, 59-29a02, 59-29a07, 59-29a11, 59-29a22, 59-29b46, 59-29b66, 59-3069, 60-1501, 60-2308, 65-1,246, 65-445, 65-503, 65-504, 65-506, 65-508, 65-516, 65-1456, 65-1673, 65-2409a, 65-2422d, 65-2895, 65-3503, 65-3504, 65-3506, 65-4024a, 65-4024b, 65-4412, 65-6205, 65-6207, 65-6210, 65-6214, 65-6217, 65-6218, 65-6220, 65-6501, 65-6502, 65-6503, 65-6610, 72-962, 72-973, 72-997, 72-1113, 72-53,106, 72-8187, 72-8223, 74-32,151, 74-32,160, 74-32,161, 74-4902, 74-4911f, 74-4927, 74-5602, 74-6703, 74-8917, 74-9501, 75-723, 75-725, 75-2935, 75-3306, 75-3307b, 75-3329, 75-3339, 75-37,121, 75-4265, 75-

4266, 75-4375, 75-4376, 75-4378, 75-5268, 75-5301, 75-5366, 75-5367, 75-5397a, 75-5399, 75-53,105, 75-53,112, 75-5674, 75-5675, 75-5741, 75-5742, 75-5743, 75-5903, 75-5908, 75-5910, 75-5914, 75-5928, 75-5933, 75-5945, 75-5951, 75-5958, 75-5961, 75-6202, 75-6506, 75-6508, 75-7023, 75-7302, 75-7306, 75-7310, 75-7311, 75-7405, 76-375, 76-381, 76-12a01, 76-12a08, 76-12a10, 76-12b01, 76-1305, 76-1306, 76-1307, 76-17c08, 79-3221g, 79-3234, 79-32,200 and 79-4805 are hereby repealed.

Sec. 437. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

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

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

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

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

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

APPROVED \_\_\_\_\_

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