

## SENATE BILL No. 107

By Committee on Public Health and Welfare

1-31

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1 AN ACT concerning public health and social services; relating to powers,  
2 duties and functions transferred to Kansas department for aging and  
3 disability services from Kansas department for children and families  
4 and the department of health and environment; updating references and  
5 corresponding changes due to Executive Reorganization Order No. 41,  
6 published in chapter 1895 of the 2012 Session Laws of Kansas;  
7 amending K.S.A. 12-736, 12-4808, 16-304, 16-311, 17-2264, 17-5829,  
8 20-319, 22-3723, 22a-243, 22a-244, 38-134, 38-320, 38-1808, 38-  
9 1817, 38-1819, 38-1820, 38-1821, 38-1822, 38-1901, 38-2002, 39-110,  
10 39-111, 39-702, 39-708c, 39-708d, 39-711a, 39-718b, 39-719e, 39-740,  
11 39-744, 39-751, 39-753, 39-755, 39-758, 39-782, 39-783, 39-786, 39-  
12 787, 39-788, 39-7,100, 39-7,100a, 39-7,102, 39-7,103, 39-7,104, 39-  
13 7,105, 39-7,109, 39-7,122, 39-7,123, 39-7,125, 39-7,127, 39-7,128, 39-  
14 7,130, 39-7,131, 39-7,139, 39-960, 39-1208, 39-1209, 39-1302, 39-  
15 1410, 39-1434, 39-1435, 39-1501, 39-1602, 39-1603, 39-1604, 39-  
16 1612, 39-1613, 39-1703, 39-1704, 39-1804, 40-2d02, 40-2256, 40-  
17 22a05, 40-3227, 41-1126, 59-2006, 59-2006b, 59-2006c, 59-2130, 59-  
18 2135, 59-2801, 59-2803, 59-2963, 59-2968, 59-2981, 59-29b57, 59-  
19 29b60, 59-29b63, 59-29b78, 59-29b81, 59-3065, 59-3067, 59-3070,  
20 59-3080, 59-3094, 60-2204, 60-2310, 60-2401, 65-116i, 65-116j, 65-  
21 116k, 65-116l, 65-116m, 65-1,108, 65-1,120, 65-1,159, 65-1,162, 65-  
22 1,165, 65-507, 65-513, 65-2422b, 65-3507, 65-4432, 65-5101, 65-5115,  
23 65-5902, 72-1046, 72-3608, 72-4311, 72-4314a, 72-4316, 72-8239, 72-  
24 8243, 72-89a02, 72-89b03, 74-5502, 74-5505, 74-6901, 74-6904, 74-  
25 7801, 75-2935c, 75-3303, 75-3303a, 75-3304, 75-3304a, 75-3307, 75-  
26 3315, 75-3323, 75-3328, 75-3337, 75-3338, 75-3339a, 75-3340, 75-  
27 3343a, 75-3347, 75-3354, 75-3728a, 75-5308e, 75-5309a, 75-5310, 75-  
28 5310a, 75-5313, 75-5316a, 75-5319, 75-5320, 75-5321, 75-5326, 75-  
29 5328a, 75-5343, 75-5344, 75-5345, 75-5365, 75-5371, 75-5375, 75-  
30 5376, 75-5381, 75-5382, 75-5383, 75-5386, 75-5391, 75-5393, 75-  
31 53,100, 75-5902, 75-5923, 75-5925, 75-5940, 75-5946, 75-5947, 75-  
32 5949, 75-5952, 75-5956, 76-170, 76-175, 76-317, 76-1237, 76-12a16,  
33 76-12a17, 76-12a22, 76-12a30, 76-1528, 76-17a10, 76-17c07, 76-  
34 1936, 76-1958 and 78-101 and K.S.A. 2012 Supp. 8-255, 8-1008, 8-  
35 1567, 9-1216, 12-4509, 12-4516, 12-4516a, 16-312, 17-1762, 19-4001,  
36 19-4007, 20-378, 20-380, 21-5413, 21-5512, 21-5914, 21-5926, 21-

1 5927, 21-6602, 21-6614, 21-6702, 21-6708, 22-2410, 22-3302, 22-  
2 3303, 22-3305, 22-3428, 22-3727a, 22-4612, 23-2202, 23-2203, 23-  
3 2204, 23-2209, 23-2212, 23-2213, 23-2219, 23-3102, 23-3109, 23-  
4 3113, 23-3114, 23-3121, 23-3210, 23-36,201, 23-36,310, 32-906, 32-  
5 918, 32-930, 38-143, 38-144, 38-1604, 38-1608, 38-1664, 38-2202, 38-  
6 2212, 38-2222, 38-2223, 38-2226, 38-2247, 38-2261, 38-2282, 38-  
7 2304, 38-2310, 38-2312, 38-2319, 38-2326, 38-2335, 38-2350, 38-  
8 2356, 38-2361, 39-709, 39-717, 39-754, 39-756, 39-757, 39-760, 39-  
9 784, 39-785, 39-7,108, 39-7,129, 39-7,132, 39-7,134, 39-7,135, 39-  
10 7,138, 39-7,151, 39-7,155, 39-7,156, 39-7,157, 39-7,158, 39-7,159, 39-  
11 7,160, 39-7,162, 39-923, 39-924, 39-926, 39-930, 39-935, 39-936, 39-  
12 938, 39-940, 39-944, 39-945, 39-946, 39-947, 39-947a, 39-948, 39-  
13 950, 39-951, 39-952, 39-953a, 39-954, 39-958, 39-961, 39-963, 39-  
14 965, 39-968, 39-969, 39-970, 39-971, 39-1002, 39-1202, 39-1402, 39-  
15 1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1411, 39-  
16 1430, 39-1431, 39-1432, 39-1433, 39-1436, 39-1443, 39-1605, 39-  
17 1803, 40-2,111, 40-2134, 40-3401, 40-4704, 41-2622, 44-508, 44-575,  
18 44-577, 46-922, 46-1208e, 46-2801, 59-2122, 59-2123, 59-2132, 59-  
19 2946, 59-2972, 59-2978, 59-29a02, 59-29a07, 59-29a11, 59-29a22, 59-  
20 29b46, 59-29b66, 59-3069, 60-2308, 65-1,246, 65-445, 65-503, 65-  
21 504, 65-506, 65-508, 65-516, 65-1456, 65-1673, 65-1674, 65-2409a,  
22 65-2422d, 65-2895, 65-3503, 65-3504, 65-3506, 65-4024a, 65-4024b,  
23 65-4412, 65-6205, 65-6207, 65-6210, 65-6214, 65-6217, 65-6218, 65-  
24 6220, 65-6501, 65-6502, 65-6503, 65-6610, 72-962, 72-973, 72-997,  
25 72-1113, 72-53,106, 72-6407, 72-8187, 72-8223, 73-1209, 74-32,151,  
26 74-32,160, 74-32,161, 74-4902, 74-4911f, 74-4927, 74-5602, 74-6703,  
27 74-8917, 74-9501, 75-723, 75-725, 75-2935, 75-3306, 75-3307b, 75-  
28 3329, 75-3339, 75-37,121, 75-4265, 75-4266, 75-4375, 75-4376, 75-  
29 4378, 75-5268, 75-5301, 75-5366, 75-5367, 75-5397a, 75-5399, 75-  
30 53,105, 75-53,112, 75-5674, 75-5675, 75-5741, 75-5742, 75-5743, 75-  
31 5903, 75-5908, 75-5910, 75-5914, 75-5928, 75-5933, 75-5945, 75-  
32 5951, 75-5958, 75-5961, 75-6202, 75-6506, 75-6508, 75-7023, 75-  
33 7302, 75-7306, 75-7310, 75-7311, 75-7405, 75-7435, 76-375, 76-381,  
34 76-6b05, 76-12a01, 76-12a08, 76-12a10, 76-12b01, 76-1305, 76-1306,  
35 76-1307, 76-17c08, 79-3221g, 79-3234, 79-32,200 and 79-4805 and  
36 repealing the existing sections; and also repealing K.S.A. 2012 Supp.  
37 39-7,161, 39-923a, 75-37,121a and 79-3234c.

38

39 *Be it enacted by the Legislature of the State of Kansas:*40 Section 1. K.S.A. 2012 Supp. 8-255 is hereby amended to read as  
41 follows: 8-255. (a) The division is authorized to restrict, suspend or revoke  
42 a person's driving privileges upon a showing by its records or other  
43 sufficient evidence the person:

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

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

7 (3) is incompetent to drive a motor vehicle;

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

11 (5) is a member of the armed forces of the United States stationed at a  
12 military installation located in the state of Kansas, and the authorities of  
13 the military establishment certify that such person's on-base driving  
14 privileges have been suspended, by action of the proper military  
15 authorities, for violating the rules and regulations of the military  
16 installation governing the movement of vehicular traffic or for any other  
17 reason relating to the person's inability to exercise ordinary and reasonable  
18 control in the operation of a motor vehicle.

19 (b) (1) The division shall:

20 (A) Suspend a person's driving privileges:

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

23 (ii) upon a person's second conviction of theft, as defined in  
24 subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and amendments thereto,  
25 for six months; and

26 (iii) upon a person's third or subsequent conviction of theft, as  
27 defined in subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and  
28 amendments thereto, for one year;

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

31 (C) restrict a person's driving privileges when required by K.S.A.  
32 2012 Supp. 39-7,155, and amendments thereto.

33 (2) As used in this subsection, "conviction" means a final conviction  
34 without regard to whether the sentence was suspended or probation  
35 granted after such conviction. Forfeiture of bail, bond or collateral  
36 deposited to secure a defendant's appearance in court, which forfeiture has  
37 not been vacated, shall be equivalent to a conviction. "Conviction"  
38 includes being convicted of a violation of K.S.A. 21-3765, prior to its  
39 repeal, or subsection (a)(5) of K.S.A. 2012 Supp. 21-5801, and  
40 amendments thereto.

41 (c) When the action by the division restricting, suspending, revoking  
42 or disqualifying a person's driving privileges is based upon a report of a  
43 conviction or convictions from a convicting court, the person may not

1 request a hearing but, within 30 days after notice of restriction, suspension,  
2 revocation or disqualification is mailed, may submit a written request for  
3 administrative review and provide evidence to the division to show the  
4 person whose driving privileges have been restricted, suspended, revoked  
5 or disqualified by the division was not convicted of the offense upon  
6 which the restriction, suspension, revocation or disqualification is based.  
7 Within 30 days of its receipt of the request for administrative review, the  
8 division shall notify the person whether the restriction, suspension,  
9 revocation or disqualification has been affirmed or set aside. The request  
10 for administrative review shall not stay any action taken by the division.

11 (d) Upon restricting, suspending, revoking or disqualifying the  
12 driving privileges of any person as authorized by this act, the division shall  
13 immediately notify the person in writing. Except as provided by K.S.A. 8-  
14 1002 and 8-2,145, and amendments thereto, and subsections (c) and (g), if  
15 the person makes a written request for hearing within 30 days after such  
16 notice of restriction, suspension or revocation is mailed, the division shall  
17 afford the person an opportunity for a hearing as early as practical not  
18 sooner than five days nor more than 30 days after such request is mailed. If  
19 the division has not revoked or suspended the person's driving privileges  
20 or vehicle registration prior to the hearing, the hearing may be held within  
21 not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145,  
22 and amendments thereto, the hearing shall be held in the person's county of  
23 residence or a county adjacent thereto, unless the division and the person  
24 agree that the hearing may be held in some other county. Upon the hearing,  
25 the director or the director's duly authorized agent may administer oaths  
26 and may issue subpoenas for the attendance of witnesses and the  
27 production of relevant books and papers and may require an examination  
28 or reexamination of the person. When the action proposed or taken by the  
29 division is authorized but not required, the division, upon the hearing, shall  
30 either rescind or affirm its order of restriction, suspension or revocation or,  
31 good cause appearing therefor, extend the restriction or suspension of the  
32 person's driving privileges, modify the terms of the restriction or  
33 suspension or revoke the person's driving privileges. When the action  
34 proposed or taken by the division is required, the division, upon the  
35 hearing, shall either affirm its order of restriction, suspension, revocation  
36 or disqualification, or, good cause appearing therefor, dismiss the  
37 administrative action. If the person fails to request a hearing within the  
38 time prescribed or if, after a hearing, the order of restriction, suspension,  
39 revocation or disqualification is upheld, the person shall surrender to the  
40 division, upon proper demand, any driver's license in the person's  
41 possession.

42 (e) In case of failure on the part of any person to comply with any  
43 subpoena issued on behalf of the division or the refusal of any witness to

1 testify to any matters regarding which the witness may be lawfully  
2 interrogated, the district court of any county, on application of the division,  
3 may compel obedience by proceedings for contempt, as in the case of  
4 disobedience of the requirements of a subpoena issued from the court or a  
5 refusal to testify in the court. Each witness who appears before the director  
6 or the director's duly authorized agent by order or subpoena, other than an  
7 officer or employee of the state or of a political subdivision of the state,  
8 shall receive for the witness' attendance the fees and mileage provided for  
9 witnesses in civil cases in courts of record, which shall be audited and paid  
10 upon the presentation of proper vouchers sworn to by the witness.

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

31 (g) When the action by the division restricting a person's driving  
32 privileges is based upon certification by the secretary ~~of social and~~  
33 ~~rehabilitation services for children and families~~ pursuant to K.S.A. 2012  
34 Supp. 39-7,155, and amendments thereto, the person may not request a  
35 hearing but, within 30 days after notice of restriction is mailed, may  
36 submit a written request for administrative review and provide evidence to  
37 the division to show the person whose driving privileges have been  
38 restricted by the division is not the person certified by the secretary ~~of social and~~  
39 ~~social and rehabilitation services for children and families~~, did not receive  
40 timely notice of the proposed restriction from the secretary ~~of social and~~  
41 ~~rehabilitation services for children and families~~ or has been decertified by  
42 the secretary ~~of social and rehabilitation services for children and families~~.  
43 Within 30 days of its receipt of the request for administrative review, the

1 division shall notify the person whether the restriction has been affirmed  
2 or set aside. The request for administrative review shall not stay any action  
3 taken by the division.

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

11 Sec. 2. K.S.A. 2012 Supp. 8-1008 is hereby amended to read as  
12 follows: 8-1008. (a) As used in this section, "provider" means: (1) A  
13 professional licensed by the behavioral sciences regulatory board to  
14 diagnose and treat mental or substance use disorders at the independent  
15 level who is compliant with the requirements set forth by the secretary of  
16 ~~social and rehabilitation for aging and disability~~ services as described in  
17 subsection (f); or (2) a professional licensed by the behavioral sciences  
18 regulatory board who is working in an alcohol and drug treatment facility  
19 licensed by the secretary of ~~social and rehabilitation for aging and~~  
20 ~~disability~~ services as meeting the requirements described in subsection (f).

21 (b) A provider shall provide:

22 (1) Alcohol and drug evaluations, prior to sentencing, of any person  
23 who is convicted of a violation of K.S.A. 8-2,144 or 8-1567 or K.S.A.  
24 2012 Supp. 8-1025, and amendments thereto, or the ordinance of a city or  
25 resolution of a county in this state which prohibits the acts prohibited by  
26 those statutes; and

27 (2) alcohol and drug evaluations of persons whom the prosecutor  
28 considers for eligibility or finds eligible to enter a diversion agreement in  
29 lieu of further criminal proceedings on a complaint alleging a violation of  
30 K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments thereto, or  
31 the ordinance of a city or resolution of a county in this state which  
32 prohibits the acts prohibited by that statute.

33 (c) A provider shall be capable of providing, within the judicial  
34 district: (1) The evaluations required under subsection (b); (2) the alcohol  
35 and drug evaluation report required under subsection (d) or (e); (3) the  
36 follow-up duties specified under subsection (d) or (e) for persons who  
37 prepare the alcohol and drug evaluation report; and (4) any other functions  
38 and duties specified by law. The secretary of ~~social and rehabilitation for~~  
39 ~~aging and disability~~ services shall provide each judicial district with an  
40 electronic list of providers, and, except as provided further, such list shall  
41 be used when selecting a provider to be used as described in subsections  
42 (d) and (e). The secretary of ~~social and rehabilitation for aging and~~  
43 ~~disability~~ services shall also make all such lists publicly available on the

1 official website of the ~~department of social and rehabilitation~~ *Kansas*  
2 *department for aging and disability* services. Any provider performing  
3 services in any judicial district under this section prior to July 1, 2011,  
4 may continue to perform those services until July 1, 2013.

5 (d) (1) Except as provided further, prior to sentencing, an alcohol and  
6 drug evaluation shall be conducted on any person who is convicted of a  
7 violation of K.S.A. 8-2,144 or 8-1567 or K.S.A. 2012 Supp. 8-1025, and  
8 amendments thereto, or the ordinance of a city or resolution of a county in  
9 this state which prohibits the acts prohibited by those statutes. The alcohol  
10 and drug evaluation report shall be made available to and shall be  
11 considered by the court prior to sentencing. Except as provided further, the  
12 court shall order that the cost of any alcohol and drug evaluation for any  
13 person shall be paid by such person to the provider at the time of service.  
14 If the court finds that such person is indigent, the provider shall agree to  
15 accept payment as ordered by the court and the court shall order that the  
16 cost of any alcohol and drug evaluation be paid to the provider by such  
17 person as part of the judgment. The cost of any such evaluation shall be  
18 not less than \$150.

19 (2) The provisions of this subsection shall not apply to any person  
20 convicted pursuant to subsection (b)(1)(C) of K.S.A. 8-2,144, subsection  
21 (b)(1)(C), (b)(1)(D) or (b)(1)(E) of K.S.A. 8-1567 or subsection (b)(1)(B),  
22 (b)(1)(C) or (b)(1)(D) of K.S.A. 2012 Supp. 8-1025, and amendments  
23 thereto.

24 (e) An alcohol and drug evaluation shall be conducted on any person  
25 whom the prosecutor considers for eligibility or finds eligible to enter a  
26 diversion agreement in lieu of further criminal proceedings on a complaint  
27 alleging a violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and  
28 amendments thereto, or the ordinance of a city or resolution of a county in  
29 this state which prohibits the acts prohibited by that statute. The alcohol  
30 and drug evaluation report shall be made available to the prosecuting  
31 attorney and shall be considered by the prosecuting attorney. The cost of  
32 any alcohol and drug evaluation for any person shall be paid by such  
33 person to the provider at the time of service, and shall be not less than  
34 \$150.

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

43 Sec. 3. K.S.A. 2012 Supp. 8-1567 is hereby amended to read as

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

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

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

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

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

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

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

18 (A) On a first conviction a class B, nonperson misdemeanor. The  
19 person convicted shall be sentenced to not less than 48 consecutive hours  
20 nor more than six months' imprisonment, or in the court's discretion 100  
21 hours of public service, and fined not less than \$750 nor more than \$1,000.  
22 The person convicted shall serve at least 48 consecutive hours'  
23 imprisonment or 100 hours of public service either before or as a condition  
24 of any grant of probation or suspension, reduction of sentence or parole.  
25 The court may place the person convicted under a house arrest program  
26 pursuant to K.S.A. 2012 Supp. 21-6609, and amendments thereto, to serve  
27 the remainder of the sentence only after such person has served 48  
28 consecutive hours' imprisonment;

29 (B) on a second conviction a class A, nonperson misdemeanor. The  
30 person convicted shall be sentenced to not less than 90 days nor more than  
31 one year's imprisonment and fined not less than \$1,250 nor more than  
32 \$1,750. The person convicted shall serve at least five consecutive days'  
33 imprisonment before the person is granted probation, suspension or  
34 reduction of sentence or parole or is otherwise released. The five days'  
35 imprisonment mandated by this subsection may be served in a work  
36 release program only after such person has served 48 consecutive hours'  
37 imprisonment, provided such work release program requires such person  
38 to return to confinement at the end of each day in the work release  
39 program. The person convicted, if placed into a work release program,  
40 shall serve a minimum of 120 hours of confinement. Such 120 hours of  
41 confinement shall be a period of at least 48 consecutive hours of  
42 imprisonment followed by confinement hours at the end of and continuing  
43 to the beginning of the offender's work day. The court may place the



1 person convicted under a house arrest program pursuant to K.S.A. 2012  
2 Supp. 21-6609, and amendments thereto, to serve the five days'  
3 imprisonment mandated by this subsection only after such person has  
4 served 48 consecutive hours' imprisonment. The person convicted, if  
5 placed under house arrest, shall be monitored by an electronic monitoring  
6 device, which verifies the offender's location. The offender shall serve a  
7 minimum of 120 hours of confinement within the boundaries of the  
8 offender's residence. Any exceptions to remaining within the boundaries of  
9 the offender's residence provided for in the house arrest agreement shall  
10 not be counted as part of the 120 hours;

11 (C) on a third conviction a class A, nonperson misdemeanor, except  
12 as provided in subsection (b)(1)(D). The person convicted shall be  
13 sentenced to not less than 90 days nor more than one year's imprisonment  
14 and fined not less than \$1,750 nor more than \$2,500. The person convicted  
15 shall not be eligible for release on probation, suspension or reduction of  
16 sentence or parole until the person has served at least 90 days'  
17 imprisonment. The 90 days' imprisonment mandated by this subsection  
18 may be served in a work release program only after such person has served  
19 48 consecutive hours' imprisonment, provided such work release program  
20 requires such person to return to confinement at the end of each day in the  
21 work release program. The person convicted, if placed into a work release  
22 program, shall serve a minimum of 2,160 hours of confinement. Such  
23 2,160 hours of confinement shall be a period of at least 48 consecutive  
24 hours of imprisonment followed by confinement hours at the end of and  
25 continuing to the beginning of the offender's work day. The court may  
26 place the person convicted under a house arrest program pursuant to  
27 K.S.A. 2012 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
28 imprisonment mandated by this subsection only after such person has  
29 served 48 consecutive hours' imprisonment. The person convicted, if  
30 placed under house arrest, shall be monitored by an electronic monitoring  
31 device, which verifies the offender's location. The offender shall serve a  
32 minimum of 2,160 hours of confinement within the boundaries of the  
33 offender's residence. Any exceptions to remaining within the boundaries of  
34 the offender's residence provided for in the house arrest agreement shall  
35 not be counted as part of the 2,160 hours;

36 (D) on a third conviction a nonperson felony if the person has a prior  
37 conviction which occurred within the preceding 10 years, not including  
38 any period of incarceration. The person convicted shall be sentenced to not  
39 less than 90 days nor more than one year's imprisonment and fined not less  
40 than \$1,750 nor more than \$2,500. The person convicted shall not be  
41 eligible for release on probation, suspension or reduction of sentence or  
42 parole until the person has served at least 90 days' imprisonment. The 90  
43 days' imprisonment mandated by this subsection may be served in a work

1 release program only after such person has served 48 consecutive hours'  
2 imprisonment, provided such work release program requires such person  
3 to return to confinement at the end of each day in the work release  
4 program. The person convicted, if placed into a work release program,  
5 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
6 confinement shall be a period of at least 48 consecutive hours of  
7 imprisonment followed by confinement hours at the end of and continuing  
8 to the beginning of the offender's work day. The court may place the  
9 person convicted under a house arrest program pursuant to K.S.A. 2012  
10 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
11 imprisonment mandated by this subsection only after such person has  
12 served 48 consecutive hours' imprisonment. The person convicted, if  
13 placed under house arrest, shall be monitored by an electronic monitoring  
14 device, which verifies the offender's location. The offender shall serve a  
15 minimum of 2,160 hours of confinement within the boundaries of the  
16 offender's residence. Any exceptions to remaining within the boundaries of  
17 the offender's residence provided for in the house arrest agreement shall  
18 not be counted as part of the 2,160 hours; and

19 (E) on a fourth or subsequent conviction a nonperson felony. The  
20 person convicted shall be sentenced to not less than 90 days nor more than  
21 one year's imprisonment and fined \$2,500. The person convicted shall not  
22 be eligible for release on probation, suspension or reduction of sentence or  
23 parole until the person has served at least 90 days' imprisonment. The 90  
24 days' imprisonment mandated by this subsection may be served in a work  
25 release program only after such person has served 72 consecutive hours'  
26 imprisonment, provided such work release program requires such person  
27 to return to confinement at the end of each day in the work release  
28 program. The person convicted, if placed into a work release program,  
29 shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of  
30 confinement shall be a period of at least 72 consecutive hours of  
31 imprisonment followed by confinement hours at the end of and continuing  
32 to the beginning of the offender's work day. The court may place the  
33 person convicted under a house arrest program pursuant to K.S.A. 2012  
34 Supp. 21-6609, and amendments thereto, to serve the 90 days'  
35 imprisonment mandated by this subsection only after such person has  
36 served 72 consecutive hours' imprisonment. The person convicted, if  
37 placed under house arrest, shall be monitored by an electronic monitoring  
38 device, which verifies the offender's location. The offender shall serve a  
39 minimum of 2,160 hours of confinement within the boundaries of the  
40 offender's residence. Any exceptions to remaining within the boundaries of  
41 the offender's residence provided for in the house arrest agreement shall  
42 not be counted as part of the 2,160 hours.

43 (2) The court may order that the term of imprisonment imposed

1 pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in  
2 the custody of the secretary of corrections in a facility designated by the  
3 secretary for the provision of substance abuse treatment pursuant to the  
4 provisions of K.S.A. 2012 Supp. 21-6804, and amendments thereto. The  
5 person shall remain imprisoned at the state facility only while participating  
6 in the substance abuse treatment program designated by the secretary and  
7 shall be returned to the custody of the sheriff for execution of the balance  
8 of the term of imprisonment upon completion of or the person's discharge  
9 from the substance abuse treatment program. Custody of the person shall  
10 be returned to the sheriff for execution of the sentence imposed in the  
11 event the secretary of corrections determines: (A) That substance abuse  
12 treatment resources or the capacity of the facility designated by the  
13 secretary for the incarceration and treatment of the person is not available;  
14 (B) the person fails to meaningfully participate in the treatment program of  
15 the designated facility; (C) the person is disruptive to the security or  
16 operation of the designated facility; or (D) the medical or mental health  
17 condition of the person renders the person unsuitable for confinement at  
18 the designated facility. The determination by the secretary that the person  
19 either is not to be admitted into the designated facility or is to be  
20 transferred from the designated facility is not subject to review. The sheriff  
21 shall be responsible for all transportation expenses to and from the state  
22 correctional facility.

23 (3) In addition, for any conviction pursuant to subsection (b)(1)(C),  
24 (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or  
25 journal entry as required by K.S.A. 22-3426 or K.S.A. 2012 Supp. 21-  
26 6711, and amendments thereto, the court shall cause a certified copy to be  
27 sent to the officer having the offender in charge. The court shall determine  
28 whether the offender, upon release from imprisonment, shall be supervised  
29 by community correctional services or court services based upon the risk  
30 and needs of the offender. The risk and needs of the offender shall be  
31 determined by use of a risk assessment tool specified by the Kansas  
32 sentencing commission. The law enforcement agency maintaining custody  
33 and control of a defendant for imprisonment shall cause a certified copy of  
34 the judgment form or journal entry to be sent to the supervision office  
35 designated by the court and upon expiration of the term of imprisonment  
36 shall deliver the defendant to a location designated by the supervision  
37 office designated by the court. After the term of imprisonment imposed by  
38 the court, the person shall be placed on supervision to community  
39 correctional services or court services, as determined by the court, for a  
40 mandatory one-year period of supervision, which such period of  
41 supervision shall not be reduced. During such supervision, the person shall  
42 be required to participate in a multidisciplinary model of services for  
43 substance use disorders facilitated by a ~~department of social and~~

1 ~~rehabilitation~~ *Kansas department for aging and disability* services  
2 designated care coordination agency to include assessment and, if  
3 appropriate, referral to a community based substance use disorder  
4 treatment including recovery management and mental health counseling as  
5 needed. The multidisciplinary team shall include the designated care  
6 coordination agency, the supervision officer, the ~~social and rehabilitation~~  
7 ~~services department~~ *Kansas department for aging and disability services*  
8 designated treatment provider and the offender. Any violation of the  
9 conditions of such supervision may subject such person to revocation of  
10 supervision and imprisonment in jail for the remainder of the period of  
11 imprisonment, the remainder of the supervision period, or any combination  
12 or portion thereof.

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

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

30 (d) If a person is charged with a violation of this section involving  
31 drugs, the fact that the person is or has been entitled to use the drug under  
32 the laws of this state shall not constitute a defense against the charge.

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

38 (f) In lieu of payment of a fine imposed pursuant to this section, the  
39 court may order that the person perform community service specified by  
40 the court. The person shall receive a credit on the fine imposed in an  
41 amount equal to \$5 for each full hour spent by the person in the specified  
42 community service. The community service ordered by the court shall be  
43 required to be performed not later than one year after the fine is imposed

1 or by an earlier date specified by the court. If by the required date the  
2 person performs an insufficient amount of community service to reduce to  
3 zero the portion of the fine required to be paid by the person, the  
4 remaining balance of the fine shall become due on that date.

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

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

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

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

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

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

31 (2) any convictions for a violation of the following sections occurring  
32 during a person's lifetime shall be taken into account: (A) Refusing to  
33 submit to a test to determine the presence of alcohol or drugs, K.S.A. 2012  
34 Supp. 8-1025, and amendments thereto; (B) driving a commercial motor  
35 vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (C)  
36 operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131,  
37 and amendments thereto; (D) involuntary manslaughter while driving  
38 under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal,  
39 or subsection (a)(3) of K.S.A. 21-5405, and amendments  
40 thereto; and (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to  
41 its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the  
42 crime was committed while committing a violation of K.S.A. 8-1567, and  
43 amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (m) No plea bargaining agreement shall be entered into nor shall any  
14 judge approve a plea bargaining agreement entered into for the purpose of  
15 permitting a person charged with a violation of this section, or a violation  
16 of any ordinance of a city or resolution of any county in this state which  
17 prohibits the acts prohibited by this section, to avoid the mandatory  
18 penalties established by this section or by the ordinance. For the purpose  
19 of this subsection, entering into a diversion agreement pursuant to K.S.A.  
20 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not  
21 constitute plea bargaining.

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

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

29 (2) "imprisonment" shall include any restrained environment in which  
30 the court and law enforcement agency intend to retain custody and control  
31 of a defendant and such environment has been approved by the board of  
32 county commissioners or the governing body of a city; and

33 (3) "drug" includes toxic vapors as such term is defined in K.S.A.  
34 2012 Supp. 21-5712, and amendments thereto.

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

1 (2) On and after July 1, 2011, the amount of \$250 from each fine  
2 imposed pursuant to this section shall be remitted by the clerk of the  
3 district court to the state treasurer in accordance with the provisions of  
4 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
5 remittance, the state treasurer shall credit the entire amount to the  
6 community corrections supervision fund established by K.S.A. 2012 Supp.  
7 75-52,113, and amendments thereto.

8 Sec. 4. K.S.A. 2012 Supp. 9-1216 is hereby amended to read as  
9 follows: 9-1216. When the owner and the bank have entered into a  
10 contract authorized in K.S.A. 9-1215, and amendments thereto, the  
11 owner's deposit account subject to the contract or any part of or interest on  
12 the account shall be paid by the bank to the owner or pursuant to the  
13 owner's order during the owner's lifetime. On the owner's death, the  
14 deposit account or any part of or interest on the account shall be paid by  
15 the bank to the secretary of social and rehabilitation services *for children*  
16 *and families* for a claim pursuant to subsection (g) of K.S.A. 39-709, and  
17 amendments thereto, or, if there is no such claim or if any portion of the  
18 account remains after such claim is satisfied, to the designated beneficiary  
19 or beneficiaries. If any designated beneficiary is a minor at the time the  
20 account, or any portion of the account, becomes payable to the beneficiary  
21 and the balance, or portion of the balance, exceeds the amount specified by  
22 K.S.A. 59-3053, and amendments thereto, the bank shall pay the moneys  
23 or any interest on them only to a conservator of the minor beneficiary. The  
24 receipt of the conservator shall release and discharge the bank for the  
25 payment.

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

31 (b) For the purpose of this act:

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

38 (2) "municipality" means any township, city or county located in  
39 Kansas;

40 (3) "disability" means, with respect to a person:

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

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



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

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

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

9 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-  
10 5346 et seq. or 74-5301 et seq., and amendments thereto; or

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

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

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

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

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

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

43 Sec. 6. K.S.A. 2012 Supp. 12-4509 is hereby amended to read as

1 follows: 12-4509. (a) Whenever a person is found guilty of the violation of  
2 an ordinance, the municipal judge may:

3 (1) Release the person without imposition of sentence;

4 (2) release the person on probation after the imposition of sentence,  
5 without imprisonment or the payment of a fine or a portion thereof, subject  
6 to conditions imposed by the court as provided in subsection (e);

7 (3) impose such sentence of fine or imprisonment, or both, as  
8 authorized for the ordinance violation; or

9 (4) impose a sentence of house arrest as provided in K.S.A. 2012  
10 Supp. 21-6609, and amendments thereto.

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

20 (c) Except as provided in subsection (d), in addition to or in lieu of  
21 any other sentence authorized by law, whenever a person is convicted of  
22 having violated, while under 21 years of age, an ordinance prohibiting an  
23 act prohibited by K.S.A. 2012 Supp. 21-5701 through 21-5717, and  
24 amendments thereto, or K.S.A. 8-1599, 41-719 or 41-727, and  
25 amendments thereto, the municipal judge shall order such person to submit  
26 to and complete an alcohol and drug evaluation by a community-based  
27 alcohol and drug safety action program certified pursuant to K.S.A. 8-  
28 1008, and amendments thereto, and to pay a fee not to exceed the fee  
29 established by that statute for such evaluation. If the judge finds that the  
30 person is indigent, the fee may be waived.

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

35 (e) In addition to any other sentence authorized by law, whenever a  
36 person is convicted of any criminal offense, the municipal judge shall  
37 determine whether the defendant committed a domestic violence offense  
38 as defined in K.S.A. 2012 Supp. ~~21-3110~~ and 21-5111, and amendments  
39 thereto, and shall sentence the defendant pursuant to K.S.A. 2012 Supp.  
40 22-4616, and amendments thereto.

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

- 1 (1) Avoid such injurious or vicious habits, as directed by the court or  
2 the probation officer;
- 3 (2) avoid such persons or places of disreputable or harmful character,  
4 as directed by the court or the probation officer;
- 5 (3) report to the probation officer as directed;
- 6 (4) permit the probation officer to visit the defendant at home or  
7 elsewhere;
- 8 (5) work faithfully at suitable employment insofar as possible;
- 9 (6) remain within the state unless the court grants permission to  
10 leave;
- 11 (7) pay a fine or costs, applicable to the ordinance violation, in one or  
12 several sums and in the manner as directed by the court;
- 13 (8) support the defendant's dependents;
- 14 (9) reside in a residential facility located in the community and  
15 participate in educational counseling, work and other correctional or  
16 rehabilitative programs;
- 17 (10) perform community or public service work for local  
18 governmental agencies, private corporations organized not-for-profit, or  
19 charitable or social service organizations performing services for the  
20 community;
- 21 (11) perform services under a system of day fines whereby the  
22 defendant is required to satisfy fines, costs or reparation or restitution  
23 obligations by performing services for a period of days determined by the  
24 court on the basis of ability to pay, standard of living, support obligations  
25 and other factors;
- 26 (12) make reparation or restitution to the aggrieved party for the  
27 damage or loss caused by the defendant's crime, in an amount and manner  
28 determined by the court and to the person specified by the court; or
- 29 (13) reimburse the city, in accordance with any order made under  
30 subsection (g), for all or a part of the reasonable expenditures by the city to  
31 provide counsel and other defense services to the defendant.
- 32 (g) In addition to or in lieu of any other sentence authorized by law,  
33 whenever a person is found guilty of the violation of an ordinance the  
34 judge may order such person to reimburse the city for all or a part of the  
35 reasonable expenditures by the city to provide counsel and other defense  
36 services to the defendant. In determining the amount and method of  
37 payment of such sum, the court shall take account of the financial  
38 resources of the defendant and the nature of the burden that payment of  
39 such sum will impose. A defendant who has been required to pay such sum  
40 and who is not willfully in default in the payment thereof may at any time  
41 petition the court which sentenced the defendant to waive payment of such  
42 sum or of any unpaid portion thereof. If it appears to the satisfaction of the  
43 court that payment of the amount due will impose manifest hardship on the

1 defendant or the defendant's immediate family, the court may waive  
2 payment of all or part of the amount due or modify the method of  
3 payment.

4 Sec. 7. K.S.A. 2012 Supp. 12-4516 is hereby amended to read as  
5 follows: 12-4516. (a) (1) Except as provided in subsection (b), (c) and (d),  
6 any person who has been convicted of a violation of a city ordinance of  
7 this state may petition the convicting court for the expungement of such  
8 conviction and related arrest records if three or more years have elapsed  
9 since the person:

10 (A) Satisfied the sentence imposed; or

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

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

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

22 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its  
23 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto;

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

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

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

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

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

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

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

39 (c) No person may petition for expungement until 10 or more years  
40 have elapsed since the person satisfied the sentence imposed or the terms  
41 of a diversion agreement or was discharged from probation, parole,  
42 conditional release or a suspended sentence, if such person was convicted  
43 of the violation of a city ordinance which would also constitute a violation

1 of K.S.A. 8-1567, and amendments thereto.

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

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

9 (1) The defendant's full name;

10 (2) the full name of the defendant at the time of arrest, conviction or  
11 diversion, if different than the defendant's current name;

12 (3) the defendant's sex, race and date of birth;

13 (4) the crime for which the defendant was arrested, convicted or  
14 diverted;

15 (5) the date of the defendant's arrest, conviction or diversion; and

16 (6) the identity of the convicting court, arresting law enforcement  
17 agency or diverting authority. A municipal court may prescribe a fee to be  
18 charged as costs for a person petitioning for an order of expungement  
19 pursuant to this section. Any person who may have relevant information  
20 about the petitioner may testify at the hearing. The court may inquire into  
21 the background of the petitioner and shall have access to any reports or  
22 records relating to the petitioner that are on file with the secretary of  
23 corrections or the prisoner review board.

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

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

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

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

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

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

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

3 (A) In any application for employment as a detective with a private  
4 detective agency, as defined by K.S.A. 75-7b01, and amendments thereto;  
5 as security personnel with a private patrol operator, as defined by K.S.A.  
6 75-7b01, and amendments thereto; or with an institution, as defined in  
7 K.S.A. 76-12a01, and amendments thereto, of the ~~department of social and~~  
8 ~~rehabilitation~~ *Kansas department for aging and disability services*;

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

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

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

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

26 (F) upon application for a commercial driver's license under K.S.A.  
27 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

38 (K) for applications received on and after July 1, 2006, to aid in  
39 determining the petitioner's qualifications for a license to carry a concealed  
40 weapon pursuant to the personal and family protection act, K.S.A. 2012  
41 Supp. 75-7c01 et seq., and amendments thereto;

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

1 disclosed; and

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

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

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

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

21 (1) The person whose record was expunged;

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

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

28 (4) the ~~secretary of social and rehabilitation~~ *for aging and disability*  
29 *services*, or a designee of the secretary, for the purpose of obtaining  
30 information relating to employment in an institution, as defined in K.S.A.  
31 76-12a01, and amendments thereto, of the ~~department of social and~~  
32 ~~rehabilitation~~ *Kansas department for aging and disability* services of any  
33 person whose record has been expunged;

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

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

40 (7) the supreme court, the clerk or disciplinary administrator thereof,  
41 the state board for admission of attorneys or the state board for discipline  
42 of attorneys, and the request is accompanied by a statement that the  
43 request is being made in conjunction with an application for admission, or

1 for an order of reinstatement, to the practice of law in this state by the  
2 person whose record has been expunged;

3 (8) the Kansas lottery, and the request is accompanied by a statement  
4 that the request is being made to aid in determining qualifications for  
5 employment with the Kansas lottery or for work in sensitive areas within  
6 the Kansas lottery as deemed appropriate by the executive director of the  
7 Kansas lottery;

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

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

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

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

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

37 (14) the Kansas sentencing commission;

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

42 (16) a law enforcement agency and the request is accompanied by a  
43 statement that the request is being made to aid in determining eligibility



1 for employment as a law enforcement officer as defined by K.S.A. 22-  
2 2202, and amendments thereto.

3 Sec. 8. K.S.A. 2012 Supp. 12-4516a is hereby amended to read as  
4 follows: 12-4516a.(a) Any person who has been arrested on a violation of  
5 a city ordinance of this state may petition the court for the expungement of  
6 such arrest record.

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

17 (1) The petitioner's full name;

18 (2) the full name of the petitioner at the time of arrest, if different  
19 than the petitioner's current name;

20 (3) the petitioner's sex, race and date of birth;

21 (4) the crime for which the petitioner was arrested;

22 (5) the date of the petitioner's arrest; and

23 (6) the identity of the arresting law enforcement agency.

24 A municipal court may prescribe a fee to be charged as costs for a  
25 person petitioning for an order of expungement pursuant to this section,  
26 except that no fee shall be charged to a person who was arrested as a result  
27 of being a victim of identity theft under K.S.A. 21-4018, prior to its repeal,  
28 or K.S.A. 2012 Supp. 21-6107, and amendments thereto. Any person who  
29 may have relevant information about the petitioner may testify at the  
30 hearing. The court may inquire into the background of the petitioner.

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

34 (1) The arrest occurred because of mistaken identity;

35 (2) a court has found that there was no probable cause for the arrest;

36 (3) the petitioner was found not guilty in court proceedings; or

37 (4) the expungement would be in the best interests of justice and (A)  
38 charges have been dismissed; or (B) no charges have been or are likely to  
39 be filed.

40 (d) When the court has ordered expungement of an arrest record and  
41 subsequent court proceedings, if any, the order shall state the information  
42 required to be stated in the petition and shall state the grounds for  
43 expungement under subsection (c). The clerk of the court shall send a

1 certified copy of the order to the Kansas bureau of investigation which  
2 shall notify the federal bureau of investigation, the secretary of corrections  
3 and any other criminal justice agency which may have a record of the  
4 arrest. If an order of expungement is entered, the petitioner shall be treated  
5 as not having been arrested.

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

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

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

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

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

27 (5) in any application for a commercial driver's license under K.S.A.  
28 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

12 Sec. 9. K.S.A. 12-4808 is hereby amended to read as follows: 12-  
13 4808. For the purpose of avoiding any duplication of services or  
14 competition between services, before any expenditure may be made under  
15 the provisions of this act on any new facility, all organizations within such  
16 taxing subdivision which are already providing such services as would  
17 make them eligible to receive funds under the provisions of this act, and  
18 all programs or services provided by youth services of the ~~department of~~  
19 ~~social and rehabilitation services~~ *Kansas department for children and*  
20 *families*, must be reviewed by the governing body and found to be  
21 insufficient to meet the child care needs of such taxing subdivision.

22 Sec. 10. K.S.A. 16-304 is hereby amended to read as follows: 16-304.

23 (a) If any balance remains in the account upon the death of the person for  
24 whose services the funds were paid, the same shall not be paid by such  
25 bank, credit union or savings and loan association to the person,  
26 association, partnership, firm or corporation until a certified copy of the  
27 death certificate of such person, a verification of death form or other  
28 acceptable proof of death shall have been furnished to the bank, credit  
29 union or savings and loan association, together with a verified statement  
30 setting forth that all of the terms and conditions of such agreement have  
31 been fully performed by the person, association, partnership, firm or  
32 corporation.

33 (b) If any balance remains in the fund after disposition of the fund in  
34 accordance with the terms of the agreement, contract or plan such balance  
35 shall inure to the benefit of the estate of the purchaser of the agreement,  
36 contract or plan unless the purchaser was a person who received medical  
37 assistance from the ~~department of social and rehabilitation services~~  
38 *Kansas department for children and families* or a deceased surviving  
39 spouse of a recipient of medical assistance and the bank, credit union or  
40 savings and loan association has received written notice from the  
41 ~~department of social and rehabilitation services~~ *Kansas department for*  
42 *children and families*, the funeral home or the recipient, stating that  
43 medical assistance has been expended on the recipient for which the

1 ~~department of social and rehabilitation services~~ *Kansas department for*  
2 *children and families* may have a claim. If such notice has been received,  
3 the balance shall be paid to the secretary ~~of social and rehabilitation~~  
4 ~~services for children and families~~ or the secretary's designee to the extent  
5 of medical assistance expended on the deceased recipient.

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

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

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

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

42 (c) Payments to the secretary ~~of social and rehabilitation services for~~  
43 *children and families* under subsection (b) and K.S.A. 16-304, and

1 amendments thereto, shall be governed by subsection (g)(2) of K.S.A. 39-  
2 709, and amendments thereto.

3 Sec. 12. K.S.A. 2012 Supp. 16-312 is hereby amended to read as  
4 follows: 16-312. Any prearranged funeral agreement that involves the  
5 payment of money or the purchase or assignment of an insurance policy or  
6 annuity shall be in writing and shall include the following information:

7 (a) The name, address and phone number of the seller and the name  
8 and address of the purchaser of the contract and if the contract involves the  
9 payment of money but not the purchase or assignment of an insurance  
10 policy or annuity, the social security number of the purchaser of the  
11 contract;

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

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

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

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

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

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

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

4 Sec. 13. K.S.A. 2012 Supp. 17-1762 is hereby amended to read as  
5 follows: 17-1762. The following persons shall not be required to register  
6 with the secretary of state:

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

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

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

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

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

42 (f) a bona fide organization of volunteer firemen, or a bona fide  
43 auxiliary or affiliate of such organization, if all fund-raising activities are

1 carried on by members of such organization or an affiliate thereof and such  
2 members receive no compensation, directly or indirectly, therefor;

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

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

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

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

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

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

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

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

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

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

43 (q) any charitable organization of employees of a corporation whose

1 principal gifts are made to an incorporated community chest, united fund  
2 or united way, and whose solicitation is limited to such employees;

3 (r) any community foundation or community trust to which  
4 deductible contributions can be made by individuals, corporations, public  
5 charities and private foundations, as well as other charitable organizations  
6 and governmental agencies for the overall purposes of the foundation or to  
7 particular charitable and endowment funds established under agreement  
8 with the foundation or trust for the charitable benefit of the people of a  
9 specific geographic area and which is a nonprofit organization exempt  
10 from federal income taxation pursuant to section 501(a) of the internal  
11 revenue code of 1986, as in effect on the effective date of this act, by  
12 reason of qualification under section 501(c)(3) of the internal revenue code  
13 of 1986, as in effect on the effective date of this act, and which is deemed  
14 a publicly supported organization and not a private foundation within the  
15 meaning of section 509(a)(1) of the internal revenue code of 1986, as in  
16 effect on the effective date of this act;

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

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

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

23 Sec. 14. K.S.A. 17-2264 is hereby amended to read as follows: 17-  
24 2264. When the shareholder and the credit union have entered into a  
25 contract authorized in K.S.A. 17-2263, and amendments thereto, the  
26 shareholder's account subject to the contract or any part of or interest on  
27 the account shall be paid by the credit union to the shareholder or pursuant  
28 to the shareholder's order during the shareholder's lifetime. On the  
29 shareholder's death, the deposit account or any part of or interest on the  
30 account shall be paid by the credit union to the secretary ~~of social and~~  
31 ~~rehabilitation services for children and families~~ for a claim pursuant to  
32 subsection (g) of K.S.A. 39-709, and amendments thereto or, if there is no  
33 such claim or if any portion of the account remains after such claim is  
34 satisfied, to the designated beneficiary or beneficiaries. If any designated  
35 beneficiary is a minor at the time the account, or any portion of the  
36 account, becomes payable to the beneficiary and the balance, or portion of  
37 the balance, exceeds the amount specified by K.S.A. 59-3053, and  
38 amendments thereto, the credit union shall pay the moneys or any interest  
39 on them only to a conservator of the minor beneficiary. The receipt of the  
40 conservator shall release and discharge the credit union for the payment.

41 Sec. 15. K.S.A. 17-5829 is hereby amended to read as follows: 17-  
42 5829. When the owner and the savings and loan association have entered  
43 into a contract authorized in K.S.A. 17-5828, and amendments thereto, the



1 owner's deposit account subject to the contract or any part of or interest on  
2 the account shall be paid by the savings and loan association to the owner  
3 or pursuant to the owner's order during the owner's lifetime. On the  
4 owner's death, the deposit account or any part of or interest on the account  
5 may be paid by the savings and loan association to the secretary of social  
6 ~~and rehabilitation services~~ *for children and families* for a claim pursuant to  
7 subsection (g) of K.S.A. 39-709, and amendments thereto or, if there is no  
8 such claim or if any portion of the account remains after such claim is  
9 satisfied, to the designated beneficiary or beneficiaries. If any designated  
10 beneficiary is a minor at the time the account, or any portion of the  
11 account, becomes payable to the beneficiary and the balance, or portion of  
12 the balance, exceeds the amount specified by K.S.A. 59-3053, and  
13 amendments thereto, the savings and loan association shall pay the moneys  
14 or any interest on them only to a conservator of the minor beneficiary. The  
15 receipt of the conservator shall release and discharge the savings and loan  
16 association for the payment.

17 Sec. 16. K.S.A. 2012 Supp. 19-4001 is hereby amended to read as  
18 follows: 19-4001. The board of county commissioners of any county or the  
19 boards of county commissioners of two or more counties jointly may  
20 establish a community mental health center, or community facility for  
21 people with intellectual disability, or both, which shall be organized,  
22 operated, and financed according to the provisions of this act. The mental  
23 health center may render the following mental health services: Out-patient  
24 and inpatient diagnostic and treatment services; rehabilitation services to  
25 individuals returning to the community from an inpatient facility;  
26 consultative services to schools, courts, health and welfare agencies, both  
27 public and private, and conducting, in collaboration with other agencies  
28 when practical, in-service training for students entering the mental health  
29 professions, educational programs, information and research. The  
30 community facilities for people with intellectual disability may render, and  
31 an intellectual disability governing board which contracts with nonprofit  
32 corporations to provide services for people with intellectual disability may  
33 provide, the following services: Pre-school, day care, work activity,  
34 sheltered workshops, sheltered domiciles, parent and community education  
35 and, in collaboration with other agencies when practical, clinical services,  
36 rehabilitation services, in-service training for students entering professions  
37 dealing with the above aspects of intellectual disability, information and  
38 research. It may establish consulting or referral services, or both, in  
39 conjunction with related community health, education, and welfare  
40 services.

41 No community mental health center, or facility for people with  
42 intellectual disability, or both, shall be established in such community after  
43 the effective date of this act unless and until the establishment of the same

1 has been approved by the secretary of ~~social and rehabilitation~~ *for aging*  
2 *and disability* services.

3 Sec. 17. K.S.A. 2012 Supp. 19-4007 is hereby amended to read as  
4 follows: 19-4007. (a) If the board or boards of county commissioners  
5 desire to provide either mental health services or services for people with  
6 intellectual disability, or both such services, and to levy the taxes  
7 authorized in K.S.A. 19-4004, and amendments thereto, but determine that  
8 it is more practicable to contract for such services with a nonprofit  
9 corporation, such board or boards may contract with the nonprofit  
10 corporation to provide either mental health services or services for people  
11 with intellectual disability, or both such services, for the residents of the  
12 county or counties. In lieu of contracting with a nonprofit corporation to  
13 provide services for people with intellectual disability, a board of county  
14 commissioners may establish an intellectual disability governing board for  
15 the purpose of allowing this board to contract for and on behalf of the  
16 board of county commissioners with a nonprofit corporation to provide  
17 services for people with intellectual disability. The board or boards  
18 entering into such a contract with a nonprofit corporation, or the  
19 intellectual disability governing board authorized to contract with a  
20 nonprofit corporation under this section, are hereby authorized to pay the  
21 amount agreed upon in such contract from the proceeds of the tax or taxes  
22 levied pursuant to K.S.A. 19-4004, and amendments thereto, for mental  
23 health services or intellectual disability services, or for both such services.  
24 The nonprofit corporation may not deny service to anyone because of  
25 inability to pay for the same, but the nonprofit corporation may establish a  
26 schedule of charges for services to those who are financially able to pay  
27 for such services. The nonprofit corporation shall annually provide the  
28 board or boards of county commissioners with a complete financial report  
29 showing the amount of fees collected, the amount of tax money received  
30 under the contract, and any other income. The financial report shall also  
31 show the nonprofit corporation's disbursements, including salaries paid to  
32 each person employed by the nonprofit corporation. No such nonprofit  
33 corporation shall be organized to receive public funds raised through  
34 taxation or public solicitation, or both, unless and until the establishment  
35 of the same has been approved by the secretary of ~~social and rehabilitation~~  
36 *for aging and disability* services. The governing board of all such  
37 nonprofit corporations shall report annually to the secretary of ~~social and~~  
38 ~~rehabilitation~~ *for aging and disability* services, in such form as may be  
39 required on the activities of the mental health center, or community facility  
40 for people with intellectual disability.

41 (b) If the board or boards of county commissioners desire to provide  
42 services for people with intellectual disability and to levy the tax  
43 authorized in K.S.A. 19-4004, and amendments thereto, for intellectual

1 disability services, but determine that it is more practicable to transfer the  
2 proceeds from such tax levy or a portion thereof to a state agency  
3 operating a program established under the federal social security act  
4 whereby the funds will be eligible for federal financial participation in the  
5 purchase of services for eligible persons in facilities for people with  
6 intellectual disability, the board or boards are hereby authorized to transfer  
7 such proceeds, or a portion thereof, to any such state agency to purchase  
8 services in facilities for people with intellectual disability.

9 Sec. 18. K.S.A. 20-319 is hereby amended to read as follows: 20-319.

10 (a) A justice assigned to each department shall:

11 (1) With the help and assistance of the judicial administrator, make a  
12 survey of the conditions of the dockets and business of the district courts  
13 in the justice's department and make a report and recommendations on the  
14 conditions and business to the chief justice.

15 (2) Assemble the judges of the district courts within the justice's  
16 department, at least annually, to discuss such recommendations and other  
17 business as will benefit the judiciary of the state. When so summoned, the  
18 judges of the district courts in the various departments shall attend such  
19 conferences at the expense of the state. Such judges shall be entitled to  
20 their actual and necessary expenses while attending such conferences and  
21 shall be required to attend the conferences unless excused by the  
22 departmental justice for good cause.

23 (b) Departmental justices shall have authority within their  
24 departments to assign any district judge or district magistrate judge to hear  
25 any proceeding or try any cause, within the judge's jurisdiction, in other  
26 district courts. Any departmental justice may request the assistance of any  
27 district judge or district magistrate judge from another department.

28 (c) The departmental justices shall supervise all administrative  
29 matters relating to the district courts within their departments and require  
30 reports periodically, covering such matters and in such form as the  
31 supreme court may determine, on any such matter which will aid in  
32 promoting the efficiency or the speedy determination of causes now  
33 pending. Departmental justices shall have the power to examine the  
34 dockets, records and proceedings of any courts under their supervision. All  
35 judges and clerks of the several courts of the state shall promptly make  
36 such reports and furnish the information requested by any departmental  
37 justice or the judicial administrator, in the manner and form prescribed by  
38 the supreme court.

39 In order to properly advise the three branches of government on the  
40 operation of the juvenile justice system, each district court shall furnish the  
41 judicial administrator such information regarding juveniles coming to the  
42 attention of the court pursuant to the revised Kansas code for care of  
43 children as is determined necessary by the secretary ~~of social and~~

1 ~~rehabilitation services for children and families~~ and the director of the  
2 statistical analysis center of the Kansas bureau of investigation, on forms  
3 approved by the judicial administrator. Such information shall be  
4 confidential and shall not be disseminated or publicly disclosed in a  
5 manner which enables identification of any individual who is a subject of  
6 the information.

7 The departmental justice shall assign to each chief judge in the justice's  
8 department such duties as are necessary to carry out the intent of just,  
9 speedy and inexpensive litigation for the litigants of the state.

10 Sec. 19. K.S.A. 2012 Supp. 20-378 is hereby amended to read as  
11 follows: 20-378. The court trustee shall have the responsibility:

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

14 (b) to compile a list of individuals who owe arrearages under a  
15 support order or have failed, after appropriate notice, to comply with a  
16 subpoena issued pursuant to a duty of support. The court trustee shall  
17 deliver such list to the secretary ~~of social and rehabilitation services for~~  
18 *children and families* on a quarterly basis or more frequently as requested  
19 by the secretary.

20 Sec. 20. K.S.A. 2012 Supp. 20-380 is hereby amended to read as  
21 follows: 20-380. (a) Except as provided further, to defray the expenses of  
22 operation of the court trustee's office, the court trustee is authorized to  
23 charge an amount: (1) Whether fixed or sliding scale, based upon the  
24 scope of services provided or upon economic criteria, not to exceed 5% of  
25 the support collected from obligors through such office, as determined  
26 necessary by the chief judge as provided by this section; (2) based upon  
27 the hourly cost of office operations for the provision of services on an  
28 hourly or per service basis, with the written agreement of the obligee; or  
29 (3) from restitution collected, not to exceed the fee authorized by the  
30 attorney general under any contract entered into pursuant to K.S.A. 75-  
31 719, and amendments thereto.

32 (b) All such amounts shall be paid to the court trustee operations fund  
33 of the county where collected. There shall be created a court trustee  
34 operations fund in the county treasury of each county or district court of  
35 each county, in each judicial district that establishes the office of court  
36 trustee for the judicial district. The moneys budgeted to fund the operation  
37 of existing court trustee offices and to fund the start-up costs of new court  
38 trustee offices established on or after January 1, 1992, whether as a result  
39 of a rule adopted pursuant to K.S.A. 2012 Supp. 20-377, and amendments  
40 thereto, or because this act has created a court trustee operations fund,  
41 shall be transferred from the county general fund to the court trustee  
42 operations fund. The county commissioners of the county or group of  
43 counties, if the judicial district consists of more than one county, by a

1 majority vote, shall decide whether the county or counties will have a  
2 court trustee operations fund in the county treasury or the district court of  
3 each county. All expenditures from the court trustee operations fund shall  
4 be made in accordance with the provisions of K.S.A. 2012 Supp. 20-375 et  
5 seq., and amendments thereto, to enforce duties of support. Authorized  
6 expenditures from the court trustee operations fund may include  
7 repayment of start-up costs, expansions and operations of the court  
8 trustee's office to the county general fund. The court trustee shall be paid  
9 compensation as determined by the chief judge. The board of county  
10 commissioners of each county to which this act may apply shall provide  
11 suitable quarters for the office of court trustee, furnish stationery and  
12 supplies, and such furniture and equipment as shall, in the discretion of the  
13 chief judge, be necessary for the use of the court trustee. The chief judge  
14 shall fix and determine the annual budget of the office of the court trustee  
15 and shall review and determine on an annual basis the amount necessary to  
16 be charged to defray the expense of start-up costs, expansions and  
17 operations of the office of court trustee. All payments made by the  
18 ~~secretary of social and rehabilitation services~~ *for children and families*  
19 pursuant to K.S.A. 2012 Supp. 23-3113, and amendments thereto, or any  
20 grants or other monies received which are intended to further child support  
21 enforcement goals or restitution goals shall be deposited in the court  
22 trustee operations fund.

23 (c) The court trustee shall not charge or collect a fee for any support  
24 payment that is not paid through the central unit for collection and  
25 disbursements of support payments pursuant to K.S.A. 2012 Supp. 39-  
26 7,135, and amendments thereto.

27 Sec. 21. K.S.A. 2012 Supp. 21-5413 is hereby amended to read as  
28 follows: 21-5413. (a) Battery is:

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

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

33 (b) Aggravated battery is:

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

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

39 (C) knowingly causing physical contact with another person when  
40 done in a rude, insulting or angry manner with a deadly weapon, or in any  
41 manner whereby great bodily harm, disfigurement or death can be  
42 inflicted;

43 (2) (A) recklessly causing great bodily harm to another person or

1 disfigurement of another person; or

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

5 (c) Battery against a law enforcement officer is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (2) Aggravated battery as defined in:

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

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

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

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

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

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

- 1 (B) subsection (c)(2) is a severity level 7, person felony; and  
2 (C) subsection (c)(3) is a severity level 5, person felony.  
3 (4) Aggravated battery against a law enforcement officer as defined  
4 in:  
5 (A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony;  
6 and  
7 (B) subsection (d)(2) is a severity level 4, person felony.  
8 (5) Battery against a school employee is a class A person  
9 misdemeanor.  
10 (6) Battery against a mental health employee is a severity level 7,  
11 person felony.  
12 (h) As used in this section:  
13 (1) "Correctional institution" means any institution or facility under  
14 the supervision and control of the secretary of corrections;  
15 (2) "state correctional officer or employee" means any officer or  
16 employee of the Kansas department of corrections or any independent  
17 contractor, or any employee of such contractor, working at a correctional  
18 institution;  
19 (3) "juvenile correctional facility officer or employee" means any  
20 officer or employee of the juvenile justice authority or any independent  
21 contractor, or any employee of such contractor, working at a juvenile  
22 correctional facility, as defined in K.S.A. 2012 Supp. 38-2302, and  
23 amendments thereto;  
24 (4) "juvenile detention facility officer or employee" means any officer  
25 or employee of a juvenile detention facility as defined in K.S.A. 2012  
26 Supp. 38-2302, and amendments thereto;  
27 (5) "city or county correctional officer or employee" means any  
28 correctional officer or employee of the city or county or any independent  
29 contractor, or any employee of such contractor, working at a city holding  
30 facility or county jail facility;  
31 (6) "school employee" means any employee of a unified school  
32 district or an accredited nonpublic school for student instruction or  
33 attendance or extracurricular activities of pupils enrolled in kindergarten or  
34 any of the grades one through 12; and  
35 (7) "mental health employee" means an employee of the *Kansas*  
36 ~~department of social and rehabilitation~~ *for aging and disability* services  
37 working at Larned state hospital, Osawatomie state hospital and Rainbow  
38 mental health facility, Kansas neurological institute and Parsons state  
39 hospital and training center and the treatment staff as defined in K.S.A. 59-  
40 29a02, and amendments thereto.

41 Sec. 22. K.S.A. 2012 Supp. 21-5512 is hereby amended to read as  
42 follows: 21-5512.(a) Unlawful sexual relations is engaging in consensual  
43 sexual intercourse, lewd fondling or touching, or sodomy with a person



1 who is not married to the offender if:

2 (1) The offender is an employee or volunteer of the department of  
3 corrections, or the employee or volunteer of a contractor who is under  
4 contract to provide services for a correctional institution, and the person  
5 with whom the offender is engaging in consensual sexual intercourse, lewd  
6 fondling or touching, or sodomy is a person 16 years of age or older who  
7 is an inmate;

8 (2) the offender is a parole officer, volunteer for the department of  
9 corrections or the employee or volunteer of a contractor who is under  
10 contract to provide supervision services for persons on parole, conditional  
11 release or postrelease supervision and the person with whom the offender  
12 is engaging in consensual sexual intercourse, lewd fondling or touching, or  
13 sodomy is a person 16 years of age or older who is an inmate who has  
14 been released on parole, conditional release or postrelease supervision and  
15 the offender has knowledge that the person with whom the offender is  
16 engaging in consensual sexual intercourse, lewd fondling or touching, or  
17 sodomy is an inmate who has been released and is currently on parole,  
18 conditional release or postrelease supervision;

19 (3) the offender is a law enforcement officer, an employee of a jail, or  
20 the employee of a contractor who is under contract to provide services in a  
21 jail and the person with whom the offender is engaging in consensual  
22 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
23 years of age or older who is confined to such jail;

24 (4) the offender is a law enforcement officer, an employee of a  
25 juvenile detention facility or sanctions house, or the employee of a  
26 contractor who is under contract to provide services in such facility or  
27 sanctions house and the person with whom the offender is engaging in  
28 consensual sexual intercourse, lewd fondling or touching, or sodomy is a  
29 person 16 years of age or older who is confined to such facility or  
30 sanctions house;

31 (5) the offender is an employee of the juvenile justice authority or the  
32 employee of a contractor who is under contract to provide services in a  
33 juvenile correctional facility and the person with whom the offender is  
34 engaging in consensual sexual intercourse, lewd fondling or touching, or  
35 sodomy is a person 16 years of age or older who is confined to such  
36 facility;

37 (6) the offender is an employee of the juvenile justice authority or the  
38 employee of a contractor who is under contract to provide direct  
39 supervision and offender control services to the juvenile justice authority  
40 and:

41 (A) The person with whom the offender is engaging in consensual  
42 sexual intercourse, lewd fondling or touching, or sodomy is a person 16  
43 years of age or older who has been:

1 (i) Released on conditional release from a juvenile correctional  
2 facility under the supervision and control of the juvenile justice authority  
3 or juvenile community supervision agency; or

4 (ii) placed in the custody of the juvenile justice authority under the  
5 supervision and control of the juvenile justice authority or juvenile  
6 community supervision agency; and

7 (B) the offender has knowledge that the person with whom the  
8 offender is engaging in consensual sexual intercourse, lewd fondling or  
9 touching, or sodomy is currently under supervision;

10 (7) the offender is an employee of the ~~department of social and~~  
11 ~~rehabilitation~~ *Kansas department for aging and disability* services or the  
12 employee of a contractor who is under contract to provide services in a  
13 ~~social and rehabilitation~~ *an aging and disability* services institution or to  
14 the ~~department of social and rehabilitation~~ *Kansas department for aging*  
15 *and disability* services and the person with whom the offender is engaging  
16 in consensual sexual intercourse, lewd fondling or touching, or sodomy is  
17 a person 16 years of age or older who is a patient in such institution or in  
18 the custody of the secretary ~~of social and rehabilitation~~ *for aging and*  
19 *disability* services;

20 (8) the offender is a worker, volunteer or other person in a position of  
21 authority in a family foster home licensed by the department of health and  
22 environment and the person with whom the offender is engaging in  
23 consensual sexual intercourse, lewd fondling or touching, or sodomy is a  
24 person 16 years of age or older who is a foster child placed in the care of  
25 such family foster home;

26 (9) the offender is a teacher or other person in a position of authority  
27 and the person with whom the offender is engaging in consensual sexual  
28 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
29 age or older who is a student enrolled at the school where the offender is  
30 employed. If the offender is the parent of the student, the provisions of  
31 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto,  
32 shall apply, not this subsection;

33 (10) the offender is a court services officer or the employee of a  
34 contractor who is under contract to provide supervision services for  
35 persons under court services supervision and the person with whom the  
36 offender is engaging in consensual sexual intercourse, lewd fondling or  
37 touching, or sodomy is a person 16 years of age or older who has been  
38 placed on probation under the supervision and control of court services  
39 and the offender has knowledge that the person with whom the offender is  
40 engaging in consensual sexual intercourse, lewd fondling or touching, or  
41 sodomy is currently under the supervision of court services; or

42 (11) the offender is a community correctional services officer or the  
43 employee of a contractor who is under contract to provide supervision

1 services for persons under community corrections supervision and the  
2 person with whom the offender is engaging in consensual sexual  
3 intercourse, lewd fondling or touching, or sodomy is a person 16 years of  
4 age or older who has been assigned to a community correctional services  
5 program under the supervision and control of community corrections and  
6 the offender has knowledge that the person with whom the offender is  
7 engaging in consensual sexual intercourse, lewd fondling or touching, or  
8 sodomy is currently under the supervision of community corrections.

9 (b) Unlawful sexual relations as defined in:

10 (1) Subsection (a)(5) is a severity level 4, person felony; and

11 (2) subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9),  
12 (a)(10) or (a)(11) is a severity level 5, person felony.

13 (c) (1) If an offender violates the provisions of this section by  
14 engaging in consensual sexual intercourse which would constitute a  
15 violation of K.S.A. 2012 Supp. 21-5503, and amendments thereto, the  
16 provisions of K.S.A. 2012 Supp. 21-5503, and amendments thereto, shall  
17 apply, not this section.

18 (2) If an offender violates the provisions of this section by engaging  
19 in consensual sexual intercourse which would constitute a violation of  
20 subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
21 the provisions of subsection (b)(1) of K.S.A. 2012 Supp. 21-5506, and  
22 amendments thereto, shall apply, not this section.

23 (3) If an offender violates the provisions of this section by engaging  
24 in sodomy which would constitute a violation of subsection (a)(3), (a)(4)  
25 or (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, the  
26 provisions of subsection (a)(3), (a)(4) or (b) of K.S.A. 2012 Supp. 21-  
27 5504, and amendments thereto, shall apply, not this section.

28 (4) If an offender violates the provisions of this section by engaging  
29 in lewd fondling or touching which would constitute a violation of  
30 subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
31 the provisions of subsection (b)(2) of K.S.A. 2012 Supp. 21-5506, and  
32 amendments thereto, shall apply, not this section.

33 (d) As used in this section:

34 (1) "Correctional institution" means the same as in K.S.A. 75-5202,  
35 and amendments thereto;

36 (2) "inmate" means the same as in K.S.A. 75-5202, and amendments  
37 thereto;

38 (3) "parole officer" means the same as in K.S.A. 75-5202, and  
39 amendments thereto;

40 (4) "postrelease supervision" means the same as in K.S.A. 2012 Supp.  
41 21-6803, and amendments thereto;

42 (5) "juvenile detention facility" means the same as in K.S.A. 2012  
43 Supp. 38-2302, and amendments thereto;

1 (6) "juvenile correctional facility" means the same as in K.S.A. 2012  
2 Supp. 38-2302, and amendments thereto;

3 (7) "sanctions house" means the same as in K.S.A. 2012 Supp. 38-  
4 2302, and amendments thereto;

5 (8) "institution" means the same as in K.S.A. 76-12a01, and  
6 amendments thereto;

7 (9) "teacher" means and includes teachers, coaches, supervisors,  
8 principals, superintendents and any other professional employee in any  
9 public or private school offering any of grades kindergarten through 12;

10 (10) "community corrections" means the entity responsible for  
11 supervising adults and juvenile offenders for confinement, detention, care  
12 or treatment, subject to conditions imposed by the court pursuant to the  
13 community corrections act, K.S.A. 75-5290, and amendments thereto, and  
14 the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 et  
15 seq., and amendments thereto;

16 (11) "court services" means the entity appointed by the district court  
17 that is responsible for supervising adults and juveniles placed on probation  
18 and misdemeanants placed on parole by district courts of this state; and

19 (12) "juvenile community supervision agency" means an entity that  
20 receives grants for the purpose of providing direct supervision to juveniles  
21 in the custody of the juvenile justice authority.

22 Sec. 23. K.S.A. 2012 Supp. 21-5914 is hereby amended to read as  
23 follows: 21-5914. (a) Traffic in contraband in a correctional institution or  
24 care and treatment facility is, without the consent of the administrator of  
25 the correctional institution or care and treatment facility:

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

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

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

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

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

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

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

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

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

43 (A) Firearms, ammunition, explosives or a controlled substance

1 which is defined in K.S.A. 2012 Supp. 21-5701, and amendments thereto,  
2 except as provided in subsection (b)(3);

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

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

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

15 (3) severity level 4, nonperson felony if:

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

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

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

31 (d) As used in this section:

32 (1) "Correctional institution" means any state correctional institution  
33 or facility, conservation camp, state security hospital, juvenile correctional  
34 facility, community correction center or facility for detention or  
35 confinement, juvenile detention facility or jail;

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

41 (3) "lawful custody" means the same as in K.S.A. 2012 Supp. 21-  
42 5912, and amendments thereto.

43 Sec. 24. K.S.A. 2012 Supp. 21-5926 is hereby amended to read as

1 follows: 21-5926. As used in K.S.A. 2012 Supp. 21-5925 through 21-  
2 5934 and K.S.A. 2012 Supp. 75-725 and 75-726, and amendments thereto:

3 (a) "Attorney general" means the attorney general, employees of the  
4 attorney general or authorized representatives of the attorney general;

5 (b) "benefit" means the receipt of money, goods, items, facilities,  
6 accommodations or anything of pecuniary value;

7 (c) "claim" means an electronic, electronic impulse, facsimile,  
8 magnetic, oral, telephonic or written communication that is utilized to  
9 identify any goods, service, item, facility or accommodation as  
10 reimbursable to the Kansas medicaid program, or its fiscal agents, or  
11 which states income or expense and is or may be used to determine a rate  
12 of payment by the Kansas medicaid program, or its fiscal agent;

13 (d) "fiscal agent" means any corporation, firm, individual,  
14 organization, partnership, professional association or other legal entity  
15 which, through a contractual relationship with the ~~department of social and~~  
16 ~~rehabilitation services~~ *Kansas department for aging and disability*  
17 *services, Kansas department of health and environment* and thereby, the  
18 state of Kansas, receives, processes and pays claims under the Kansas  
19 medicaid program;

20 (e) "family member" means spouse, child, grandchild of any degree,  
21 parent, mother-in-law, father-in-law, grandparent of any degree, brother,  
22 brother-in-law, sister, sister-in-law, half-brother, half-sister, uncle, aunt,  
23 nephew or niece, whether biological, step or adoptive;

24 (f) "medicaid program" means the Kansas program of medical  
25 assistance for which federal or state moneys, or any combination thereof,  
26 are expended as administered by the ~~department of social and~~  
27 ~~rehabilitation services~~ *Kansas department for aging and disability*  
28 *services, Kansas department of health and environment, or its any* fiscal  
29 agent, or any successor federal or state, or both, health insurance program  
30 or waiver granted thereunder;

31 (g) "medically necessary" means, for the purposes of K.S.A. 2012  
32 Supp. 21-5925 through 21-5934 and K.S.A. 2012 Supp. 75-725 and 75-  
33 726, and amendments thereto, only, any goods, service, item, facility, or  
34 accommodation; that a reasonable and prudent provider under similar  
35 circumstances would believe is appropriate for diagnosing or treating a  
36 recipient's condition, illness or injury;

37 (h) "person" means any agency, association, corporation, firm, limited  
38 liability company, limited liability partnership, natural person,  
39 organization, partnership or other legal entity, the agents, employees,  
40 independent contractors, and subcontractors, thereof, and the legal  
41 successors thereto, and any official, employee or agent of a state or federal  
42 agency having regulatory or administrative authority over the medicaid  
43 program;

1 (i) "provider" means a person who has applied to participate in, who  
2 currently participates in, who has previously participated in, who attempts  
3 or has attempted to participate in the medicaid program, by providing or  
4 claiming to have provided goods, services, items, facilities or  
5 accommodations;

6 (j) "recipient" means an individual, either real or fictitious, in whose  
7 behalf any person claimed or received any payment or payments from the  
8 medicaid program, or its fiscal agent, whether or not any such individual  
9 was eligible for benefits under the medicaid program;

10 (k) "records" mean all written documents and electronic or magnetic  
11 data, including, but not limited to, medical records, X-rays, professional,  
12 financial or business records relating to the treatment or care of any  
13 recipient; goods, services, items, facilities or accommodations provided to  
14 any such recipient; rates paid for such goods, services, items, facilities or  
15 accommodations; and goods, services, items, facilities; or accommodations  
16 provided to nonmedicaid recipients to verify rates or amounts of goods,  
17 services, items, facilities or accommodations provided to medicaid  
18 recipients, as well as any records that the medicaid program, or its fiscal  
19 agents require providers to maintain;

20 (l) "sign" means to affix a signature, directly or indirectly, by means  
21 of handwriting, typewriter, stamp, computer impulse or other means; and

22 (m) "statement or representation" means an electronic, electronic  
23 impulse, facsimile, magnetic, oral, telephonic, or written communication  
24 that is utilized to identify any goods, service, item, facility or  
25 accommodation as reimbursable to the medicaid program, or its fiscal  
26 agent, or that states income or expense and is or may be used to determine  
27 a rate of payment by the medicaid program, or its fiscal agent.

28 Sec. 25. K.S.A. 2012 Supp. 21-5927 is hereby amended to read as  
29 follows: 21-5927. (a) Making a false claim, statement or representation  
30 to the medicaid program is, with intent to defraud, making, presenting,  
31 submitting, offering or causing to be made, presented, submitted or  
32 offered:

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

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

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

1 allowable;

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

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

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

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

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

35 (9) any false or fraudulent statement or representation made, with the  
36 intent to influence any acts or decision of any official, employee or agent  
37 of a state or federal agency having regulatory or administrative authority  
38 over the Kansas medicaid program.

39 (b) Making a false claim, statement or representation to the medicaid  
40 programs defined in:

41 (1) Subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) or (a)(7),  
42 where the aggregate amount of payments illegally claimed is:

43 (A) \$25,000 or more is a severity level 7, nonperson felony;



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

3 (C) less than \$1,000 is a class A misdemeanor; and

4 (2) subsection (a)(8) or (a)(9) is a severity level 9, nonperson felony.

5 (c) In determining what is medically necessary pursuant to subsection  
6 (a)(6) the attorney general may contract with or consult with qualified  
7 health care providers and other qualified individuals to identify  
8 professionally recognized parameters for the diagnosis or treatment of the  
9 recipient's condition, illness or injury.

10 Sec. 26. K.S.A. 2012 Supp. 21-6602 is hereby amended to read as  
11 follows: 21-6602. (a) For the purpose of sentencing, the following classes  
12 of misdemeanors and the punishment and the terms of confinement  
13 authorized for each class are established:

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

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

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

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

28 (b) Upon conviction of a misdemeanor, a person may be punished by  
29 a fine, as provided in K.S.A. 2012 Supp. 21-6611, and amendments  
30 thereto, instead of or in addition to confinement, as provided in this  
31 section.

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

40 (d) Except as provided in subsection (e), in addition to or in lieu of  
41 any other sentence authorized by law, whenever a person is convicted of  
42 having committed, while under 21 years of age, a misdemeanor under  
43 K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. 2012 Supp. 21-5701 through

1 21-5717, and amendments thereto, the court shall order such person to  
2 submit to and complete an alcohol and drug evaluation by a community-  
3 based alcohol and drug safety action program certified pursuant to K.S.A.  
4 8-1008, and amendments thereto, and to pay a fee not to exceed the fee  
5 established by that statute for such evaluation. If the court finds that the  
6 person is indigent, the fee may be waived.

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

11 Sec. 27. K.S.A. 2012 Supp. 21-6614 is hereby amended to read as  
12 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d) and  
13 (e), any person convicted in this state of a traffic infraction, cigarette or  
14 tobacco infraction, misdemeanor or a class D or E felony, or for crimes  
15 committed on or after July 1, 1993, nondrug crimes ranked in severity  
16 levels 6 through 10, or for crimes committed on or after July 1, 1993, but  
17 prior to July 1, 2012, any felony ranked in severity level 4 of the drug grid,  
18 or for crimes committed on or after July 1, 2012, any felony ranked in  
19 severity level 5 of the drug grid may petition the convicting court for the  
20 expungement of such conviction or related arrest records if three or more  
21 years have elapsed since the person: (A) Satisfied the sentence imposed; or  
22 (B) was discharged from probation, a community correctional services  
23 program, parole, postrelease supervision, conditional release or a  
24 suspended sentence.

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

30 (b) Except as provided in subsections (c), (d) and (e), no person may  
31 petition for expungement until five or more years have elapsed since the  
32 person satisfied the sentence imposed, the terms of a diversion agreement  
33 or was discharged from probation, a community correctional services  
34 program, parole, postrelease supervision, conditional release or a  
35 suspended sentence, if such person was convicted of a class A, B or C  
36 felony, or for crimes committed on or after July 1, 1993, if convicted of an  
37 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,  
38 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,  
39 any felony ranked in severity levels 1 through 3 of the drug grid, or for  
40 crimes committed on or after July 1, 2012, any felony ranked in severity  
41 levels 1 through 4 of the drug grid, or:

42 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
43 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as

1 prohibited by any law of another state which is in substantial conformity  
2 with that statute;

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

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

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

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

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

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

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

24 (c) No person may petition for expungement until 10 or more years  
25 have elapsed since the person satisfied the sentence imposed, the terms of  
26 a diversion agreement or was discharged from probation, a community  
27 correctional services program, parole, postrelease supervision, conditional  
28 release or a suspended sentence, if such person was convicted of a  
29 violation of K.S.A. 8-1567, and amendments thereto, including any  
30 diversion for such violation.

31 (d) There shall be no expungement of convictions for the following  
32 offenses or of convictions for an attempt to commit any of the following  
33 offenses:

34 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
35 2012 Supp. 21-5503, and amendments thereto;

36 (2) indecent liberties with a child or aggravated indecent liberties  
37 with a child as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
38 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;

39 (3) criminal sodomy as defined in subsection (a)(2) or (a)(3) of  
40 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.  
41 2012 Supp. 21-5504, and amendments thereto;

42 (4) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior  
43 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;

- 1 (5) indecent solicitation of a child or aggravated indecent solicitation  
2 of a child as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal, or  
3 K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 4 (6) sexual exploitation of a child as defined in K.S.A. 21-3516, prior  
5 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 6 (7) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal,  
7 or K.S.A. 2012 Supp. 21-5604, and amendments thereto;
- 8 (8) endangering a child or aggravated endangering a child as defined  
9 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.  
10 21-5601, and amendments thereto;
- 11 (9) abuse of a child as defined in K.S.A. 21-3609, prior to its repeal,  
12 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;
- 13 (10) capital murder as defined in K.S.A. 21-3439, prior to its repeal,  
14 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
- 15 (11) murder in the first degree as defined in K.S.A. 21-3401, prior to  
16 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
- 17 (12) murder in the second degree as defined in K.S.A. 21-3402, prior  
18 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- 19 (13) voluntary manslaughter as defined in K.S.A. 21-3403, prior to its  
20 repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- 21 (14) involuntary manslaughter as defined in K.S.A. 21-3404, prior to  
22 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;
- 23 (15) sexual battery as defined in K.S.A. 21-3517, prior to its repeal,  
24 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim  
25 was less than 18 years of age at the time the crime was committed;
- 26 (16) aggravated sexual battery as defined in K.S.A. 21-3518, prior to  
27 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- 28 (17) a violation of K.S.A. 8-2,144, and amendments thereto,  
29 including any diversion for such violation; or
- 30 (18) any conviction for any offense in effect at any time prior to July  
31 1, 2011, that is comparable to any offense as provided in this subsection.
- 32 (e) Notwithstanding any other law to the contrary, for any offender  
33 who is required to register as provided in the Kansas offender registration  
34 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no  
35 expungement of any conviction or any part of the offender's criminal  
36 record while the offender is required to register as provided in the Kansas  
37 offender registration act.
- 38 (f) (1) When a petition for expungement is filed, the court shall set a  
39 date for a hearing of such petition and shall cause notice of such hearing to  
40 be given to the prosecutor and the arresting law enforcement agency. The  
41 petition shall state the:
  - 42 (A) Defendant's full name;
  - 43 (B) full name of the defendant at the time of arrest, conviction or

- 1 diversion, if different than the defendant's current name;  
2 (C) defendant's sex, race and date of birth;  
3 (D) crime for which the defendant was arrested, convicted or  
4 diverted;  
5 (E) date of the defendant's arrest, conviction or diversion; and  
6 (F) identity of the convicting court, arresting law enforcement  
7 authority or diverting authority.

8 (2) Except as otherwise provided by law, a petition for expungement  
9 shall be accompanied by a docket fee in the amount of \$100. On and after  
10 April 12, 2012, through June 30, 2013, the supreme court may impose a  
11 charge, not to exceed \$19 per case, to fund the costs of non-judicial  
12 personnel. The charge established in this section shall be the only fee  
13 collected or moneys in the nature of a fee collected for the case. Such  
14 charge shall only be established by an act of the legislature and no other  
15 authority is established by law or otherwise to collect a fee.

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

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

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

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

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

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

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

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

1 (A) In any application for licensure as a private detective, private  
2 detective agency, certification as a firearms trainer pursuant to K.S.A.  
3 2012 Supp. 75-7b21, and amendments thereto, or employment as a  
4 detective with a private detective agency, as defined by K.S.A. 75-7b01,  
5 and amendments thereto; as security personnel with a private patrol  
6 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with  
7 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of  
8 the ~~department of social and rehabilitation~~ *Kansas department for aging*  
9 *and disability* services;

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

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

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

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

27 (F) upon application for a commercial driver's license under K.S.A.  
28 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

39 (K) for applications received on and after July 1, 2006, to aid in  
40 determining the petitioner's qualifications for a license to carry a concealed  
41 weapon pursuant to the personal and family protection act, K.S.A. 2012  
42 Supp. 75-7c01 et seq., and amendments thereto;

43 (3) the court, in the order of expungement, may specify other

1 circumstances under which the conviction is to be disclosed;

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

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

9 (i) Whenever a person is convicted of a crime, pleads guilty and pays  
10 a fine for a crime, is placed on parole, postrelease supervision or  
11 probation, is assigned to a community correctional services program, is  
12 granted a suspended sentence or is released on conditional release, the  
13 person shall be informed of the ability to expunge the arrest records or  
14 conviction. Whenever a person enters into a diversion agreement, the  
15 person shall be informed of the ability to expunge the diversion.

16 (j) Subject to the disclosures required pursuant to subsection (h), in  
17 any application for employment, license or other civil right or privilege, or  
18 any appearance as a witness, a person whose arrest records, conviction or  
19 diversion of a crime has been expunged under this statute may state that  
20 such person has never been arrested, convicted or diverted of such crime,  
21 but the expungement of a felony conviction does not relieve an individual  
22 of complying with any state or federal law relating to the use or possession  
23 of firearms by persons convicted of a felony.

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

29 (1) The person whose record was expunged;

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

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

36 (4) ~~the secretary of social and rehabilitation~~ *for aging and disability*  
37 *services*, or a designee of the secretary, for the purpose of obtaining  
38 information relating to employment in an institution, as defined in K.S.A.  
39 76-12a01, and amendments thereto, of the ~~department of social and~~  
40 ~~rehabilitation~~ *Kansas department for aging and disability services* of any  
41 person whose record has been expunged;

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

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

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

10 (8) the Kansas lottery, and the request is accompanied by a statement  
11 that the request is being made to aid in determining qualifications for  
12 employment with the Kansas lottery or for work in sensitive areas within  
13 the Kansas lottery as deemed appropriate by the executive director of the  
14 Kansas lottery;

15 (9) the governor or the Kansas racing and gaming commission, or a  
16 designee of the commission, and the request is accompanied by a  
17 statement that the request is being made to aid in determining  
18 qualifications for executive director of the commission, for employment  
19 with the commission, for work in sensitive areas in parimutuel racing as  
20 deemed appropriate by the executive director of the commission or for  
21 licensure, renewal of licensure or continued licensure by the commission;

22 (10) the Kansas racing and gaming commission, or a designee of the  
23 commission, and the request is accompanied by a statement that the  
24 request is being made to aid in determining qualifications of the following  
25 under the Kansas expanded lottery act: (A) Lottery gaming facility  
26 managers and prospective managers, racetrack gaming facility managers  
27 and prospective managers, licensees and certificate holders; and (B) their  
28 officers, directors, employees, owners, agents and contractors;

29 (11) the Kansas sentencing commission;

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

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

41 (14) the Kansas commission on peace officers' standards and training  
42 and the request is accompanied by a statement that the request is being  
43 made to aid in determining certification eligibility as a law enforcement



1 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

2 (15) a law enforcement agency and the request is accompanied by a  
3 statement that the request is being made to aid in determining eligibility  
4 for employment as a law enforcement officer as defined by K.S.A. 22-  
5 2202, and amendments thereto;

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

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

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

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

17 (I) The provisions of subsection (k)(17) shall apply to records created  
18 prior to, on and after July 1, 2011.

19 Sec. 28. K.S.A. 2012 Supp. 21-6702 is hereby amended to read as  
20 follows: 21-6702. (a) Whenever any person has been found guilty of a  
21 crime and the court finds that an adequate presentence investigation cannot  
22 be conducted by resources available within the judicial district, including  
23 mental health centers and mental health clinics, the court may require that  
24 a presentence investigation be conducted by the Topeka correctional  
25 facility or by the state security hospital. If the offender is sent to the  
26 Topeka correctional facility or the state security hospital for a presentence  
27 investigation under this section, the correctional facility or hospital may  
28 keep the offender confined for a maximum of 60 days, except that an  
29 inmate may be held for a longer period of time on order of the secretary, or  
30 until the court calls for the return of the offender. While held at the Topeka  
31 correctional facility or the state security hospital the defendant may be  
32 treated the same as any person committed to the secretary of corrections or  
33 ~~secretary of social and rehabilitation~~ *secretary of aging and disability* services for  
34 purposes of maintaining security and control, discipline, and emergency  
35 medical or psychiatric treatment, and general population management  
36 except that no such person shall be transferred out of the state or to a  
37 federal institution or to any other location unless the transfer is between  
38 the correctional facility and the state security hospital. The correctional  
39 facility or the state security hospital shall compile a complete mental and  
40 physical evaluation of such offender and shall make its findings and  
41 recommendations known to the court in the presentence report.

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

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

4 (2) impose the fine applicable to the offense;

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

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

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

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

22 (7) assign the defendant to a house arrest program pursuant to K.S.A.  
23 2012 Supp. 21-6609, and amendments thereto;

24 (8) order the defendant to attend and satisfactorily complete an  
25 alcohol or drug education or training program as provided by subsection  
26 (c) of K.S.A. 2012 Supp. 21-6602, and amendments thereto;

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

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

31 In addition to or in lieu of any of the above, the court shall order the  
32 defendant to submit to and complete an alcohol and drug evaluation, and  
33 pay a fee therefor, when required by subsection (d) of K.S.A. 2012 Supp.  
34 21-6602, and amendments thereto.

35 In addition to any of the above, the court shall order the defendant to  
36 reimburse the state general fund for all or a part of the expenditures by the  
37 state board of indigents' defense services to provide counsel and other  
38 defense services to the defendant. In determining the amount and method  
39 of payment of such sum, the court shall take account of the financial  
40 resources of the defendant and the nature of the burden that payment of  
41 such sum will impose. A defendant who has been required to pay such sum  
42 and who is not willfully in default in the payment thereof may at any time  
43 petition the court which sentenced the defendant to waive payment of such

1 sum or any unpaid portion thereof. If it appears to the satisfaction of the  
2 court that payment of the amount due will impose manifest hardship on the  
3 defendant or the defendant's immediate family, the court may waive  
4 payment of all or part of the amount due or modify the method of  
5 payment. The amount of attorney fees to be included in the court order for  
6 reimbursement shall be the amount claimed by appointed counsel on the  
7 payment voucher for indigents' defense services or the amount prescribed  
8 by the board of indigents' defense services reimbursement tables as  
9 provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

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

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

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

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

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

1 (e) The court shall modify the sentence at any time before the  
2 expiration thereof when such modification is recommended by the  
3 secretary of corrections unless the court finds and sets forth with  
4 particularity the reasons for finding that the safety of members of the  
5 public will be jeopardized or that the welfare of the inmate will not be  
6 served by such modification. The court shall have the power to impose a  
7 less severe penalty upon the inmate, including the power to reduce the  
8 minimum below the statutory limit on the minimum term prescribed for  
9 the crime of which the inmate has been convicted. The recommendation of  
10 the secretary of corrections, the hearing on the recommendation and the  
11 order of modification shall be made in open court. Notice of the  
12 recommendation of modification of sentence and the time and place of the  
13 hearing thereon shall be given by the inmate, or by the inmate's legal  
14 counsel, at least 21 days prior to the hearing to the county or district  
15 attorney of the county where the inmate was convicted. After receipt of  
16 such notice and at least 14 days prior to the hearing, the county or district  
17 attorney shall give notice of the recommendation of modification of  
18 sentence and the time and place of the hearing thereon to any victim of the  
19 inmate's crime who is alive and whose address is known to the county or  
20 district attorney or, if the victim is deceased, to the victim's next of kin if  
21 the next of kin's address is known to the county or district attorney. Proof  
22 of service of each notice required to be given by this subsection shall be  
23 filed with the court.

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

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

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

42 (i) When it is provided by law that a person shall be sentenced  
43 pursuant to K.S.A. 21-4628, prior to its repeal, the provisions of this

1 section shall not apply.

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

4 Sec. 29. K.S.A. 2012 Supp. 21-6708 is hereby amended to read as  
5 follows: 21-6708. The presumptive sentence for a person who has never  
6 before been convicted of a felony, but has now been convicted of a class D  
7 or E felony or convicted of an attempt to commit a class D felony shall be  
8 probation, unless the conviction is of a crime or of an attempt to commit a  
9 crime specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes  
10 Annotated, prior to their repeal, or in the uniform controlled substances act  
11 or the person convicted is a juvenile offender in the custody of the  
12 ~~department of social and rehabilitation services~~ *Kansas department for*  
13 *children and families*. In determining whether to impose the presumptive  
14 sentence, the court shall consider any prior record of the person's having  
15 been convicted or having been adjudicated to have committed, while a  
16 juvenile, an offense which would constitute a felony if committed by an  
17 adult. If the presumptive sentence provided by this section is not imposed,  
18 the provisions of section 278, and amendments thereto, shall apply. The  
19 provisions of this section shall not apply to crimes committed on or after  
20 July 1, 1993.

21 Sec. 30. K.S.A. 2012 Supp. 22-2410 is hereby amended to read as  
22 follows: 22-2410. (a) Any person who has been arrested in this state may  
23 petition the district court for the expungement of such arrest record.

24 (b) When a petition for expungement is filed, the court shall set a date  
25 for hearing on such petition and shall cause notice of such hearing to be  
26 given to the prosecuting attorney and the arresting law enforcement  
27 agency. When a petition for expungement is filed, the official court file  
28 shall be separated from the other records of the court, and shall be  
29 disclosed only to a judge of the court and members of the staff of the court  
30 designated by a judge of the district court, the prosecuting attorney, the  
31 arresting law enforcement agency, or any other person when authorized by  
32 a court order, subject to any conditions imposed by the order. Except as  
33 otherwise provided by law, a petition for expungement shall be  
34 accompanied by a docket fee in the amount of \$100. Except as provided  
35 further, the docket fee established in this section shall be the only fee  
36 collected or moneys in the nature of a fee collected for the docket fee.  
37 Such fee shall only be established by an act of the legislature and no other  
38 authority is established by law or otherwise to collect a fee. On and after  
39 the effective date of this act through June 30, 2013, the supreme court may  
40 impose an additional charge, not to exceed \$19 per docket fee, to fund the  
41 costs of non-judicial personnel. The petition shall state:

42 (1) The petitioner's full name;

43 (2) the full name of the petitioner at the time of arrest, if different

1 than the petitioner's current name;

2 (3) the petitioner's sex, race and date of birth;

3 (4) the crime for which the petitioner was arrested;

4 (5) the date of the petitioner's arrest; and

5 (6) the identity of the arresting law enforcement agency.

6 No surcharge or fee shall be imposed to any person filing a petition  
7 pursuant to this section, who was arrested as a result of being a victim of  
8 identity theft under K.S.A. 21-4018, prior to its repeal, or subsection (a) of  
9 K.S.A. 2012 Supp. 21-6107, and amendments thereto, or who has had  
10 criminal charges dismissed because a court has found that there was no  
11 probable cause for the arrest, the petitioner was found not guilty in court  
12 proceedings or the charges have been dismissed. Any person who may  
13 have relevant information about the petitioner may testify at the hearing.  
14 The court may inquire into the background of the petitioner.

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

18 (2) a court has found that there was no probable cause for the arrest;

19 (3) the petitioner was found not guilty in court proceedings; or

20 (4) the expungement would be in the best interests of justice and: (A)  
21 Charges have been dismissed; or (B) no charges have been or are likely to  
22 be filed.

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

32 (e) If the ground for expungement is as provided in subsection (c)(4),  
33 the court shall determine whether, in the interests of public welfare, the  
34 records should be available for any of the following purposes: (1) In any  
35 application for employment as a detective with a private detective agency,  
36 as defined in K.S.A. 75-7b01, and amendments thereto; as security  
37 personnel with a private patrol operator, as defined by K.S.A. 75-7b01,  
38 and amendments thereto; or with an institution, as defined in K.S.A. 76-  
39 12a01, and amendments thereto, of the ~~department of social and~~  
40 ~~rehabilitation~~ *Kansas department for aging and disability* services;

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

43 (3) to aid in determining the petitioner's qualifications for

1 employment with the Kansas lottery or for work in sensitive areas within  
2 the Kansas lottery as deemed appropriate by the executive director of the  
3 Kansas lottery;

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

10 (5) in any application for a commercial driver's license under K.S.A.  
11 8-2,125 through 8-2,142, and amendments thereto;

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

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

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

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

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

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

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

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

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

41 Sec. 31. K.S.A. 2012 Supp. 22-3302 is hereby amended to read as  
42 follows: 22-3302. (1) At any time after the defendant has been charged  
43 with a crime and before pronouncement of sentence, the defendant, the

1 defendant's counsel or the prosecuting attorney may request a  
2 determination of the defendant's competency to stand trial. If, upon the  
3 request of either party or upon the judge's own knowledge and  
4 observation, the judge before whom the case is pending finds that there is  
5 reason to believe that the defendant is incompetent to stand trial the  
6 proceedings shall be suspended and a hearing conducted to determine the  
7 competency of the defendant.

8 (2) If the defendant is charged with a felony, the hearing to determine  
9 the competency of the defendant shall be conducted by a district judge.

10 (3) The court shall determine the issue of competency and may  
11 impanel a jury of six persons to assist in making the determination. The  
12 court may order a psychiatric or psychological examination of the  
13 defendant. To facilitate the examination, the court may: (a) If the  
14 defendant is charged with a felony, commit the defendant to the state  
15 security hospital or any county or private institution for examination and  
16 report to the court, or, if the defendant is charged with a misdemeanor,  
17 commit the defendant to any appropriate state, county or private institution  
18 for examination and report to the court, except that the court shall not  
19 commit the defendant to the state security hospital or any other state  
20 institution unless, prior to such commitment, the director of a local county  
21 or private institution recommends to the court and to the secretary of ~~social~~  
22 ~~and rehabilitation~~ *for aging and disability* services that examination of the  
23 defendant should be performed at a state institution; (b) designate any  
24 appropriate psychiatric or psychological clinic, mental health center or  
25 other psychiatric or psychological facility to conduct the examination  
26 while the defendant is in jail or on pretrial release; or (c) appoint two  
27 qualified licensed physicians or licensed psychologists, or one of each, to  
28 examine the defendant and report to the court. If the court commits the  
29 defendant to an institution for the examination, the commitment shall be  
30 for not more than 60 days or until the examination is completed,  
31 whichever is the shorter period of time. No statement made by the  
32 defendant in the course of any examination provided for by this section,  
33 whether or not the defendant consents to the examination, shall be  
34 admitted in evidence against the defendant in any criminal proceeding.  
35 Upon notification of the court that a defendant committed for psychiatric  
36 or psychological examination under this subsection has been found  
37 competent to stand trial, the court shall order that the defendant be  
38 returned not later than seven days after receipt of the notice for  
39 proceedings under this section. If the defendant is not returned within that  
40 time, the county in which the proceedings will be held shall pay the costs  
41 of maintaining the defendant at the institution or facility for the period of  
42 time the defendant remains at the institution or facility in excess of the  
43 seven-day period.



1 (4) If the defendant is found to be competent, the proceedings which  
2 have been suspended shall be resumed. If the proceedings were suspended  
3 before or during the preliminary examination, the judge who conducted the  
4 competency hearing may conduct a preliminary examination or, if a  
5 district magistrate judge was conducting the proceedings prior to the  
6 competency hearing, the judge who conducted the competency hearing  
7 may order the preliminary examination to be heard by a district magistrate  
8 judge.

9 (5) If the defendant is found to be incompetent to stand trial, the court  
10 shall proceed in accordance with K.S.A. 22-3303, and amendments  
11 thereto.

12 (6) If proceedings are suspended and a hearing to determine the  
13 defendant's competency is ordered after the defendant is in jeopardy, the  
14 court may either order a recess or declare a mistrial.

15 (7) The defendant shall be present personally at all proceedings under  
16 this section.

17 Sec. 32. K.S.A. 2012 Supp. 22-3303 is hereby amended to read as  
18 follows: 22-3303. (1) A defendant who is charged with a felony and is  
19 found to be incompetent to stand trial shall be committed for evaluation  
20 and treatment to the state security hospital or any appropriate county or  
21 private institution. A defendant who is charged with a misdemeanor and is  
22 found to be incompetent to stand trial shall be committed for evaluation  
23 and treatment to any appropriate state, county or private institution. At the  
24 time of such commitment the institution of commitment shall notify the  
25 secretary of corrections for the purpose of providing victim notification.  
26 Any such commitment shall be for a period of not to exceed 90 days.  
27 Within 90 days after the defendant's commitment to such institution, the  
28 chief medical officer of such institution shall certify to the court whether  
29 the defendant has a substantial probability of attaining competency to  
30 stand trial in the foreseeable future. If such probability does exist, the court  
31 shall order the defendant to remain in an appropriate state, county or  
32 private institution until the defendant attains competency to stand trial or  
33 for a period of six months from the date of the original commitment,  
34 whichever occurs first. If such probability does not exist, the court shall  
35 order the secretary of ~~social and rehabilitation~~ *for aging and disability*  
36 services to commence involuntary commitment proceedings pursuant to  
37 article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments  
38 thereto. When a defendant is charged with any off-grid felony, any  
39 nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-  
40 3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or  
41 subsection (b) of K.S.A. 2012 Supp. 21-5505, subsection (b) of 21-5506,  
42 subsection (b) of 21-5508, subsection (b) of 21-5604 or subsection (b) of  
43 21-5812, and amendments thereto, and commitment proceedings have

1 commenced, for such proceeding, "mentally ill person subject to  
2 involuntary commitment for care and treatment" means a mentally ill  
3 person, as defined in subsection (e) of K.S.A. 59-2946, and amendments  
4 thereto, who is likely to cause harm to self and others, as defined in  
5 subsection (f)(3) of K.S.A. 59-2946, and amendments thereto. The other  
6 provisions of subsection (f) of K.S.A. 59-2946, and amendments thereto,  
7 shall not apply.

8 (2) If a defendant who was found to have had a substantial  
9 probability of attaining competency to stand trial, as provided in  
10 subsection (1), has not attained competency to stand trial within six  
11 months from the date of the original commitment, the court shall order the  
12 ~~secretary of social and rehabilitation~~ *for the department of aging and*  
13 *disability* services to commence involuntary commitment proceedings  
14 pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and  
15 amendments thereto. When a defendant is charged with any off-grid  
16 felony, any nondrug severity level 1 through 3 felony, or a violation of  
17 K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their  
18 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, subsection (b) of  
19 21-5506, subsection (b) of 21-5508, subsection (b) of 21-5604 or  
20 subsection (b) of 21-5812, and amendments thereto, and commitment  
21 proceedings have commenced, for such proceeding, "mentally ill person  
22 subject to involuntary commitment for care and treatment" means a  
23 mentally ill person, as defined in subsection (e) of K.S.A. 59-2946, and  
24 amendments thereto, who is likely to cause harm to self and others, as  
25 defined in subsection (f)(3) of K.S.A. 59-2946, and amendments thereto.  
26 The other provisions of subsection (f) of K.S.A. 59-2946, and amendments  
27 thereto, shall not apply.

28 (3) When reasonable grounds exist to believe that a defendant who  
29 has been adjudged incompetent to stand trial is competent, the court in  
30 which the criminal case is pending shall conduct a hearing in accordance  
31 with K.S.A. 22-3302, and amendments thereto, to determine the person's  
32 present mental condition. Such court shall give reasonable notice of such  
33 hearings to the prosecuting attorney, the defendant, the defendant's  
34 attorney of record, if any, and the secretary of corrections for the purpose  
35 of providing victim notification. If the court, following such hearing, finds  
36 the defendant to be competent, the proceedings pending against the  
37 defendant shall be resumed.

38 (4) A defendant committed to a public institution under the provisions  
39 of this section who is thereafter sentenced for the crime charged at the time  
40 of commitment may be credited with all or any part of the time during  
41 which the defendant was committed and confined in such public  
42 institution.

43 Sec. 33. K.S.A. 2012 Supp. 22-3305 is hereby amended to read as

1 follows: 22-3305. (1) Whenever involuntary commitment proceedings  
2 have been commenced by the secretary ~~of social and rehabilitation for~~  
3 *aging and disability* services as required by K.S.A. 22-3303, and  
4 amendments thereto, and the defendant is not committed to a treatment  
5 facility as a patient, the defendant shall remain in the institution where  
6 committed pursuant to K.S.A. 22-3303, and amendments thereto. The  
7 secretary ~~of social and rehabilitation for~~ *aging and disability* services shall  
8 promptly notify the court, the county or district attorney of the county in  
9 which the criminal proceedings are pending and the secretary of  
10 corrections for the purpose of providing victim notification, of the result of  
11 the involuntary commitment proceeding.

12 (2) Whenever involuntary commitment proceedings have been  
13 commenced by the secretary ~~of social and rehabilitation for~~ *aging and*  
14 *disability* services as required by K.S.A. 22-3303, and amendments  
15 thereto, and the defendant is committed to a treatment facility as a patient  
16 but thereafter is to be discharged pursuant to the care and treatment act for  
17 mentally ill persons, the defendant shall remain in the institution where  
18 committed pursuant to K.S.A. 22-3303, and amendments thereto, and the  
19 head of the treatment facility shall promptly notify the court, the county or  
20 district attorney of the county in which the criminal proceedings are  
21 pending and the secretary of corrections for the purpose of providing  
22 victim notification, that the defendant is to be discharged.

23 When giving notification to the court, the county or district attorney  
24 and the secretary of corrections pursuant to subsection (1) or (2), the  
25 treatment facility shall include in such notification an opinion from the  
26 head of the treatment facility as to whether or not the defendant is now  
27 competent to stand trial. Upon request of the county or district attorney, the  
28 court may set a hearing on the issue of whether or not the defendant has  
29 been restored to competency. If such hearing request is granted, the court  
30 shall notify the secretary of corrections of the hearing date for the purpose  
31 of victim notification. If no such request is made within 14 days after  
32 receipt of notice pursuant to subsection (1) or (2), the court shall order the  
33 defendant to be discharged from commitment and shall dismiss without  
34 prejudice the charges against the defendant, and the period of limitation for  
35 the prosecution for the crime charged shall not continue to run until the  
36 defendant has been determined to have attained competency in accordance  
37 with K.S.A. 22-3302, and amendments thereto. The court shall notify the  
38 secretary of corrections of the discharge order for the purpose of providing  
39 victim notification.

40 Sec. 34. K.S.A. 2012 Supp. 22-3428 is hereby amended to read as  
41 follows: 22-3428. (1) (a) When a defendant is acquitted and the jury  
42 answers in the affirmative to the special question asked pursuant to K.S.A.  
43 22-3221, and amendments thereto, the defendant shall be committed to the

1 state security hospital for safekeeping and treatment and the court shall  
2 notify the secretary of corrections for the purpose of providing victim  
3 notification. A finding of not guilty and the jury answering in the  
4 affirmative to the special question asked pursuant to K.S.A. 22-3221, and  
5 amendments thereto, shall be prima facie evidence that the acquitted  
6 defendant is presently likely to cause harm to self or others.

7 (b) Within 90 days of the defendant's admission, the chief medical  
8 officer of the state security hospital shall send to the court a written  
9 evaluation report. Upon receipt of the report, the court shall set a hearing  
10 to determine whether or not the defendant is currently a mentally ill  
11 person. The hearing shall be held within 30 days after the receipt by the  
12 court of the chief medical officer's report.

13 (c) The court shall give notice of the hearing to the chief medical  
14 officer of the state security hospital, the district or county attorney, the  
15 defendant, the defendant's attorney and the secretary of corrections for the  
16 purpose of providing victim notification. The court shall inform the  
17 defendant that such defendant is entitled to counsel and that counsel will  
18 be appointed to represent the defendant if the defendant is not financially  
19 able to employ an attorney as provided in K.S.A. 22-4503 et seq., and  
20 amendments thereto. The defendant shall remain at the state security  
21 hospital pending the hearing.

22 (d) At the hearing, the defendant shall have the right to present  
23 evidence and cross-examine witnesses. At the conclusion of the hearing, if  
24 the court finds by clear and convincing evidence that the defendant is not  
25 currently a mentally ill person, the court shall dismiss the criminal  
26 proceeding and discharge the defendant, otherwise the court may commit  
27 the defendant to the state security hospital for treatment or may place the  
28 defendant on conditional release pursuant to subsection (4). The court shall  
29 notify the secretary of corrections of the outcome of the hearing for the  
30 purpose of providing victim notification.

31 (2) Subject to the provisions of subsection (3):

32 (a) Whenever it appears to the chief medical officer of the state  
33 security hospital that a person committed under subsection (1)(d) is not  
34 likely to cause harm to other persons in a less restrictive hospital  
35 environment, the officer may transfer the person to any state hospital,  
36 subject to the provisions of subsection (3). At any time subsequent thereto  
37 during which such person is still committed to a state hospital, if the chief  
38 medical officer of that hospital finds that the person may be likely to cause  
39 harm or has caused harm, to others, such officer may transfer the person  
40 back to the state security hospital.

41 (b) Any person committed under subsection (1)(d) may be granted  
42 conditional release or discharge as an involuntary patient.

43 (3) Before transfer of a person from the state security hospital

1 pursuant to subsection (2)(a) or conditional release or discharge of a  
2 person pursuant to subsection (2)(b), the chief medical officer of the state  
3 security hospital or the state hospital where the patient is under  
4 commitment shall give notice to the district court of the county from  
5 which the person was committed that transfer of the patient is proposed or  
6 that the patient is ready for proposed conditional release or discharge. Such  
7 notice shall include, but not be limited to: (a) Identification of the patient;  
8 (b) the course of treatment; (c) a current assessment of the defendant's  
9 mental illness; (d) recommendations for future treatment, if any; and (e)  
10 recommendations regarding conditional release or discharge, if any. Upon  
11 receiving notice, the district court shall order that a hearing be held on the  
12 proposed transfer, conditional release or discharge. The court shall give  
13 notice of the hearing to the state hospital or state security hospital where  
14 the patient is under commitment, to the district or county attorney of the  
15 county from which the person was originally ordered committed and the  
16 secretary of corrections for the purpose of providing victim notification.  
17 The court shall order the involuntary patient to undergo a mental  
18 evaluation by a person designated by the court. A copy of all orders of the  
19 court shall be sent to the involuntary patient and the patient's attorney. The  
20 report of the court ordered mental evaluation shall be given to the district  
21 or county attorney, the involuntary patient and the patient's attorney at  
22 least seven days prior to the hearing. The hearing shall be held within 30  
23 days after the receipt by the court of the chief medical officer's notice. The  
24 involuntary patient shall remain in the state hospital or state security  
25 hospital where the patient is under commitment until the hearing on the  
26 proposed transfer, conditional release or discharge is to be held. At the  
27 hearing, the court shall receive all relevant evidence, including the written  
28 findings and recommendations of the chief medical officer of the state  
29 security hospital or the state hospital where the patient is under  
30 commitment, and shall determine whether the patient shall be transferred  
31 to a less restrictive hospital environment or whether the patient shall be  
32 conditionally released or discharged. The patient shall have the right to  
33 present evidence at such hearing and to cross-examine any witnesses  
34 called by the district or county attorney. At the conclusion of the hearing,  
35 if the court finds by clear and convincing evidence that the patient will not  
36 be likely to cause harm to self or others if transferred to a less restrictive  
37 hospital environment, the court shall order the patient transferred. If the  
38 court finds by clear and convincing evidence that the patient is not  
39 currently a mentally ill person, the court shall order the patient discharged  
40 or conditionally released; otherwise, the court shall order the patient to  
41 remain in the state security hospital or state hospital where the patient is  
42 under commitment. If the court orders the conditional release of the patient  
43 in accordance with subsection (4), the court may order as an additional

1 condition to the release that the patient continue to take prescribed  
2 medication and report as directed to a person licensed to practice medicine  
3 and surgery to determine whether or not the patient is taking the  
4 medication or that the patient continue to receive periodic psychiatric or  
5 psychological treatment. The court shall notify the secretary of corrections  
6 of the outcome of the hearing for the purpose of providing victim  
7 notification.

8 (4) In order to ensure the safety and welfare of a patient who is to be  
9 conditionally released and the citizenry of the state, the court may allow  
10 the patient to remain in custody at a facility under the supervision of the  
11 ~~secretary of social and rehabilitation~~ *for aging and disability* services for a  
12 period of time not to exceed 45 days in order to permit sufficient time for  
13 the secretary to prepare recommendations to the court for a suitable reentry  
14 program for the patient and allow adequate time for the secretary of  
15 corrections to provide victim notification. The reentry program shall be  
16 specifically designed to facilitate the return of the patient to the  
17 community as a functioning, self-supporting citizen, and may include  
18 appropriate supportive provisions for assistance in establishing residency,  
19 securing gainful employment, undergoing needed vocational rehabilitation,  
20 receiving marital and family counseling, and such other outpatient services  
21 that appear beneficial. If a patient who is to be conditionally released will  
22 be residing in a county other than the county where the district court that  
23 ordered the conditional release is located, the court shall transfer venue of  
24 the case to the district court of the other county and send a copy of all of  
25 the court's records of the proceedings to the other court. In all cases of  
26 conditional release the court shall: (a) Order that the patient be placed  
27 under the temporary supervision of district court probation and parole  
28 services, community treatment facility or any appropriate private agency;  
29 and (b) require as a condition precedent to the release that the patient agree  
30 in writing to waive extradition in the event a warrant is issued pursuant to  
31 K.S.A. 22-3428b, and amendments thereto.

32 (5) At any time during the conditional release period, a conditionally  
33 released patient, through the patient's attorney, or the county or district  
34 attorney of the county in which the district court having venue is located  
35 may file a motion for modification of the conditions of release, and the  
36 court shall hold an evidentiary hearing on the motion within 14 days of its  
37 filing. The court shall give notice of the time for the hearing to the patient  
38 and the county or district attorney. If the court finds from the evidence at  
39 the hearing that the conditional provisions of release should be modified or  
40 vacated, it shall so order. If at any time during the transitional period the  
41 designated medical officer or supervisory personnel or the treatment  
42 facility informs the court that the patient is not satisfactorily complying  
43 with the provisions of the conditional release, the court, after a hearing for

1 which notice has been given to the county or district attorney and the  
2 patient, may make orders: (a) For additional conditions of release designed  
3 to effect the ends of the reentry program; (b) requiring the county or  
4 district attorney to file a petition to determine whether the patient is a  
5 mentally ill person as provided in K.S.A. 59-2957, and amendments  
6 thereto; or (c) requiring that the patient be committed to the state security  
7 hospital or any state hospital. In cases where a petition is ordered to be  
8 filed, the court shall proceed to hear and determine the petition pursuant to  
9 the care and treatment act for mentally ill persons and that act shall apply  
10 to all subsequent proceedings. If a patient is committed to any state  
11 hospital pursuant to this act the secretary ~~of social and rehabilitation for~~  
12 *aging and disability* services shall notify the secretary of corrections for  
13 the purpose of providing victim notification. The costs of all proceedings,  
14 the mental evaluation and the reentry program authorized by this section  
15 shall be paid by the county from which the person was committed.

16 (6) In any case in which the defense that the defendant lacked the  
17 required mental state pursuant to K.S.A. 22-3220, and amendments  
18 thereto, is relied on, the court shall instruct the jury on the substance of  
19 this section.

20 (7) As used in this section and K.S.A. 22-3428a, and amendments  
21 thereto:

22 (a) "Likely to cause harm to self or others" means that the person is  
23 likely, in the reasonably foreseeable future, to cause substantial physical  
24 injury or physical abuse to self or others or substantial damage to another's  
25 property, or evidenced by behavior causing, attempting or threatening such  
26 injury, abuse or neglect.

27 (b) "Mentally ill person" means any person who:

28 (A) Is suffering from a severe mental disorder to the extent that such  
29 person is in need of treatment; and

30 (B) is likely to cause harm to self or others.

31 (c) "Treatment facility" means any mental health center or clinic,  
32 psychiatric unit of a medical care facility, psychologist, physician or other  
33 institution or individual authorized or licensed by law to provide either  
34 inpatient or outpatient treatment to any patient.

35 Sec. 35. K.S.A. 22-3723 is hereby amended to read as follows: 22-  
36 3723. Whenever a treaty is in force between the United States and a  
37 foreign country providing for the transfer of offenders between the United  
38 States and such foreign country, the governor is authorized to give the  
39 approval of the state of Kansas to a transfer as provided in the treaty, upon  
40 the application of a person under the jurisdiction of the secretary of  
41 corrections or the secretary ~~of social and rehabilitation for~~  
42 *aging and disability* services.

43 Sec. 36. K.S.A. 2012 Supp. 22-3727a is hereby amended to read as

1 follows: 22-3727a. (a) The secretary of corrections shall, as soon as  
2 practicable, provide notification as provided in K.S.A. 22-3303, 22-3305,  
3 22-3428, 22-3428a, 22-3430, 22-3431 and 22-3727, and amendments  
4 thereto, and upon the escape or death of a committed defendant or inmate  
5 while in the custody of the secretary ~~of social and rehabilitation~~ *for aging*  
6 *and disability* services, to any victim of the defendant or inmate's crime  
7 whose address is known to the secretary of corrections, and the victim's  
8 family, if so requested and the family's addresses are known to the  
9 secretary of corrections. Such notice shall be required to be given only if  
10 the defendant was charged with, or the inmate was convicted of, any crime  
11 in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated,  
12 prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas  
13 Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or  
14 21-6418 through 21-6421, and amendments thereto.

15 (b) As used in this section, "victim's family" means a spouse,  
16 surviving spouse, children, parents, legal guardian, siblings, stepparent or  
17 grandparents.

18 Sec. 37. K.S.A. 2012 Supp. 22-4612 is hereby amended to read as  
19 follows: 22-4612. (a) Except as otherwise provided in this section, a  
20 county, a city, a county or city law enforcement agency, a county  
21 department of corrections or the Kansas highway patrol shall be liable to  
22 pay a health care provider for health care services rendered to persons in  
23 the custody of such agencies the lesser of the actual amount billed by such  
24 health care provider or the medicaid rate. The provisions of this section  
25 shall not apply if a person in the custody of a county or city law  
26 enforcement agency, a county department of corrections or the Kansas  
27 highway patrol is covered under a current individual or group accident and  
28 health insurance policy, medical service plan contract, hospital service  
29 corporation contract, hospital and medical service corporation contract,  
30 fraternal benefit society or health maintenance organization contract.

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

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

43 (d) Nothing in this section shall be construed to create a duty on the



1 part of a health care provider to render health care services to a person in  
2 the custody of a county or city law enforcement agency, a county  
3 department of corrections or the Kansas highway patrol.

4 (e) As used in this section:

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

10 (2) "Health care provider" means a person licensed to practice any  
11 branch of the healing arts by the state board of healing arts, a person who  
12 holds a temporary permit to practice any branch of the healing arts issued  
13 by the state board of healing arts, a person engaged in a postgraduate  
14 training program approved by the state board of healing arts, a licensed  
15 physician assistant, a person licensed by the behavioral sciences regulatory  
16 board, a medical care facility licensed by the department of health and  
17 environment, a podiatrist licensed by the state board of healing arts, an  
18 optometrist licensed by the board of examiners in optometry, a registered  
19 nurse, and advanced nurse practitioner, a licensed professional nurse who  
20 is authorized to practice as a registered nurse anesthetist, a licensed  
21 practical nurse, a licensed physical therapist, a professional corporation  
22 organized pursuant to the professional corporation law of Kansas by  
23 persons who are authorized by such law to form such a corporation and  
24 who are health care providers as defined by this subsection, a Kansas  
25 limited liability company organized for the purpose of rendering  
26 professional services by its members who are health care providers as  
27 defined by this subsection and who are legally authorized to render the  
28 professional services for which the limited liability company is organized,  
29 a partnership of persons who are health care providers under this  
30 subsection, a Kansas not-for-profit corporation organized for the purpose  
31 of rendering professional services by persons who are health care  
32 providers as defined by this subsection, a dentist certified by the state  
33 board of healing arts to administer anesthetics under K.S.A. 65-2899, and  
34 amendments thereto, a psychiatric hospital licensed under K.S.A. 75-  
35 3307b, and amendments thereto, a licensed social worker or a mental  
36 health center or mental health clinic licensed by the secretary of social and  
37 ~~rehabilitation~~ *for aging and disability* services and any health care  
38 provider licensed by the appropriate regulatory body in another state that  
39 has a current approved provider agreement with the secretary of health and  
40 environment.

41 (3) "Medicaid rate" means the terms, conditions and amounts a health  
42 care provider would be paid for health care services rendered pursuant to a  
43 contract or provider agreement with the secretary of health and

1 environment.

2 Sec. 38. K.S.A. 22a-243 is hereby amended to read as follows: 22a-  
3 243. (a) There is hereby established a state child death review board,  
4 which shall be composed of:

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

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

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

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

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

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

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

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

37 (f) Within the limits of appropriations therefor, the state review board  
38 may employ other persons who shall be in the classified service of the  
39 Kansas civil service act.

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

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

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

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

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

30 Sec. 39. K.S.A. 22a-244 is hereby amended to read as follows: 22a-  
31 244. (a) Within 72 hours after receipt of notification from a coroner  
32 pursuant to K.S.A. 22a-242, *and amendments thereto*, the chairperson of  
33 the state review board may activate the board to investigate and make a  
34 written report regarding the death.

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

42 (c) The state review board may apply to the district court for the  
43 issuance of, and the district court may issue, a subpoena to compel the

1 production of any books, records or papers relevant to the cause of any  
2 death being investigated by the board. Any books, records or papers  
3 received by the board pursuant to the subpoena shall be regarded as  
4 confidential and privileged information and not subject to disclosure.

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

14 (e) Within 15 days of its activation pursuant to this section, the state  
15 review board shall complete and transmit a copy of its written report to the  
16 county or district attorney of the county in which the child's death  
17 occurred. If the death of the child occurred in a different county than  
18 where the child resided, a copy of the report shall be sent to the county or  
19 district attorney of the county where the child resided or, if the child  
20 resided in another state, to the child protective services agency of that  
21 state.

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

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

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

34 Sec. 40. K.S.A. 2012 Supp. 23-2202 is hereby amended to read as  
35 follows: 23-2202. As used in K.S.A. 2012 Supp. 23-2202 through 23-  
36 2204, *and amendments thereto*, except where the context otherwise  
37 requires:

38 (a) "Birthing hospital" means a hospital or facility as defined by rules  
39 and regulations of the secretary of social and rehabilitation services for  
40 children and families.

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

1 (c) "Unwed mother" means a mother who was not married at the time  
2 of conception, at the time of birth or at any time between conception and  
3 birth.

4 Sec. 41. K.S.A. 2012 Supp. 23-2203 is hereby amended to read as  
5 follows: 23-2203. (a) There is hereby established in this state a hospital  
6 based program for voluntary acknowledgment of paternity pursuant to  
7 K.S.A. 65-2409a, and amendments thereto, for newborn children of unwed  
8 mothers. Birthing hospitals shall participate in the program. Other  
9 hospitals and persons may participate in the program by agreement with  
10 the secretary of social and rehabilitation services for children and families.

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

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

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

30 Sec. 42. K.S.A. 2012 Supp. 23-2204 is hereby amended to read as  
31 follows: 23-2204. (a) The state registrar of vital statistics, in conjunction  
32 with the secretary of social and rehabilitation services for children and  
33 families, shall review and, as needed, revise acknowledgment of paternity  
34 forms for use under K.S.A. 2012 Supp. 23-2223 and K.S.A. 65-2409a, and  
35 amendments thereto. The acknowledgment of paternity forms shall include  
36 or have attached a written description pursuant to subsection (b) of the  
37 rights and responsibilities of acknowledging paternity.

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

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

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

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

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

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

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

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

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

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

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

40 (d) An acknowledgment of paternity completed without the written  
41 disclosures of subsection (b) is not invalid solely for that reason and may  
42 create a presumption of paternity pursuant to K.S.A. 2012 Supp. 23-2208,  
43 and amendments thereto. Nothing in K.S.A. 2012 Supp. 23-2202 through

1 23-2204, and amendments thereto, shall decrease the validity, force or  
2 effect of an acknowledgment of paternity executed in this state prior to the  
3 effective date of this act.

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

7 Sec. 43. K.S.A. 2012 Supp. 23-2209 is hereby amended to read as  
8 follows: 23-2209. (a) A child or any person on behalf of such a child, may  
9 bring an action:

10 (1) At any time to determine the existence of a father and child  
11 relationship presumed under K.S.A. 2012 Supp. 23-2208, and amendments  
12 thereto; or

13 (2) at any time until three years after the child reaches the age of  
14 majority to determine the existence of a father and child relationship which  
15 is not presumed under K.S.A. 2012 Supp. 23-2208, and amendments  
16 thereto.

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

21 (c) This section does not extend the time within which a right of  
22 inheritance or a right to a succession may be asserted beyond the time  
23 provided by law relating to the probate of estates or determination of  
24 heirship.

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

27 (e) Except as otherwise provided in this subsection, if an  
28 acknowledgment of paternity pursuant to K.S.A. 2012 Supp. 23-2204, and  
29 amendments thereto, has been completed the man named as the father, the  
30 mother or the child may bring an action to revoke the acknowledgment of  
31 paternity at any time until one year after the child's date of birth. The legal  
32 responsibilities, including any child support obligation, of any signatory  
33 arising from the acknowledgment of paternity shall not be suspended  
34 during the action, except for good cause shown. If the person bringing the  
35 action was a minor at the time the acknowledgment of paternity was  
36 completed, the action to revoke the acknowledgment of paternity may be  
37 brought at any time until one year after that person attains age 18, unless  
38 the court finds that the child is more than one year of age and that  
39 revocation of the acknowledgment of paternity is not in the child's best  
40 interest.

41 The person requesting revocation must show, and shall have the burden  
42 of proving, that the acknowledgment of paternity was based upon fraud,  
43 duress or material mistake of fact unless the action to revoke the

1 acknowledgment of paternity is filed before the earlier of 60 days after  
2 completion of the acknowledgment of paternity or the date of a proceeding  
3 relating to the child in which the signatory is a party, including, but not  
4 limited to, a proceeding to establish a support order.

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

9 If an acknowledgment of paternity has been revoked under this  
10 subsection, it shall not give rise to a presumption of paternity pursuant to  
11 K.S.A. 2012 Supp. 23-2208, and amendments thereto. Nothing in this  
12 subsection shall prevent a court from admitting a revoked  
13 acknowledgment of paternity into evidence for any other purpose.

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

18 Sec. 44. K.S.A. 2012 Supp. 23-2212 is hereby amended to read as  
19 follows: 23-2212. (a) Whenever the paternity of a child is in issue in any  
20 action or judicial proceeding in which the child, mother and alleged father  
21 are parties, the court, upon its own motion or upon motion of any party to  
22 the action or proceeding, shall order the mother, child and alleged father to  
23 submit to genetic tests. If an action is filed by the ~~secretary of social and~~  
24 ~~rehabilitation services for children and families~~ under K.S.A. 39-755 or  
25 39-756, and amendments thereto, the court shall order genetic tests on the  
26 motion of the ~~secretary of social and rehabilitation services for children~~  
27 ~~and families~~ or any party to the action if paternity of the child is in issue. If  
28 any party refuses to submit to the tests, the court may resolve the question  
29 of paternity against the party or enforce its order if the rights of others and  
30 the interests of justice so require. The tests shall be made by experts  
31 qualified as genetic examiners who shall be appointed by the court.

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

37 (c) The verified written report of the experts shall be considered to be  
38 stipulated to by all parties unless written notice of intent to challenge the  
39 validity of the report is given to all parties not more than 20 days after  
40 receipt of a copy of the report but in no event less than 10 days before any  
41 hearing at which the genetic test results may be introduced into evidence.  
42 If such notice is given, the experts shall be called by the court as witnesses  
43 to testify as to their findings and shall be subject to cross-examination by



1 the parties. Any party may demand that other experts, qualified as genetic  
2 examiners, perform independent tests under order of the court, the results  
3 of which may be offered in evidence. The number and qualification of the  
4 other experts shall be determined by the court. If no challenge is made, the  
5 genetic test results shall be admissible as evidence of paternity without the  
6 need for foundation testimony or other proof of authenticity or accuracy.

7 Sec. 45. K.S.A. 2012 Supp. 23-2213 is hereby amended to read as  
8 follows: 23-2213. (a) Evidence relating to paternity may include any of the  
9 following:

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

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

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

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

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

25 (6) Any other evidence relevant to the issue of paternity of the child,  
26 including but not limited to voluntary acknowledgment of paternity made  
27 in accordance with K.S.A. 2012 Supp. 23-2204, and amendments thereto.

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

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

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

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

1 incurred for such goods and services.

2 Sec. 46. K.S.A. 2012 Supp. 23-2219 is hereby amended to read as  
3 follows: 23-2219. (a) If the petitioner is not represented by counsel, the  
4 petitioner in an action to determine paternity may apply for services from:  
5 (1) The court trustee of the judicial district in which the action is brought,  
6 if the office of court trustee has been established in the county; or (2) the  
7 ~~department of social and rehabilitation services~~ *Kansas department for*  
8 *children and families* or its contractor, if the action is brought pursuant to  
9 part D of title IV of the federal social security act (42 U.S.C. § 651 et  
10 seq.), as amended. At the request of a petitioner in an action to determine  
11 paternity, the county or district attorney of the county in which the action  
12 is brought shall proceed on the petitioner's behalf if the petitioner is not  
13 represented by counsel, the action is not brought pursuant to part D of title  
14 IV of the federal social security act (42 U.S.C. § 651 et seq.), as amended,  
15 and there is no court trustee in the county.

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

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

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

24 Sec. 47. K.S.A. 2012 Supp. 23-3102 is hereby amended to read as  
25 follows: 23-3102. As used in the income withholding act:

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

33 (b) "Business day" means a day on which state offices in Kansas are  
34 open for regular business.

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

40 (d) "Income" means any form of periodic payment to an individual,  
41 regardless of source, including, but not limited to, wages, salary, trust,  
42 royalty, commission, bonus, compensation as an independent contractor,  
43 annuity and retirement benefits, workers compensation and any other

1 periodic payments made by any person, private entity or federal, state or  
2 local government or any agency or instrumentality thereof. "Income" does  
3 not include: (1) Any amounts required by law to be withheld, other than  
4 creditor claims, including but not limited to federal and state taxes, social  
5 security tax and other retirement and disability contributions; (2) any  
6 amounts exempted by federal law; (3) public assistance payments; and (4)  
7 unemployment insurance benefits except to the extent otherwise provided  
8 by law. Any other state or local laws which limit or exempt income or the  
9 amount or percentage of income that can be withheld shall not apply.  
10 Workers compensation shall be considered income only for the purposes of  
11 child support and not for the purposes of maintenance.

12 (e) "Income withholding order" means an order issued under this act  
13 which requires a payor to withhold income to satisfy an order for support  
14 or to defray an arrearage.

15 (f) "Medical child support order" means an order requiring a parent to  
16 provide coverage for a child under a health benefit plan and, where the  
17 context requires, may include an order requiring a payor to enroll a child  
18 in a health benefit plan.

19 (g) "Medical withholding order" means an income withholding order  
20 which requires an employer, sponsor or other administrator of a health  
21 benefit plan to enroll a child under the health coverage of a parent.

22 (h) "Nonparticipating parent" means, if one parent is a participating  
23 parent as defined in this section, the other parent.

24 (i) "Obligee" means the person or entity to whom a duty of support is  
25 owed.

26 (j) "Obligor" means any person who owes a duty to make payments  
27 or provide health benefit coverage under an order for support.

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

38 (l) "Participating parent" means a parent who is eligible for single  
39 coverage under a health benefit plan as defined in this section, regardless  
40 of the type of coverage actually in effect, if any.

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

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

8 (o) "Title IV-D" means part D of title IV of the federal social security  
9 act (42 U.S.C. § 651 et seq.), and amendments thereto, as in effect on  
10 December 31, 1999. "Title IV-D cases" means those cases required by title  
11 IV-D to be processed by the ~~department of social and rehabilitation~~  
12 ~~services~~ *Kansas department for children and families* under the state's plan  
13 for providing title IV-D services.

14 Sec. 48. K.S.A. 2012 Supp. 23-3109 is hereby amended to read as  
15 follows: 23-3109. (a) If an obligee is receiving income withholding  
16 payments under this act, the obligee shall give written notice of any  
17 change of address, within seven days after the change to the public office,  
18 clerk of the district court or court trustee through which the obligee  
19 receives the payments.

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

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

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

42 Sec. 49. K.S.A. 2012 Supp. 23-3113 is hereby amended to read as  
43 follows: 23-3113. (a) The judicial administrator and the ~~secretary of social~~

1 ~~and rehabilitation services for children and families~~ shall cooperate to  
2 design suggested legal forms and informational materials which describe  
3 procedures and remedies under this act for distribution to all parties in  
4 support actions.

5 (b) The judicial administrator of the courts and the secretary ~~of social~~  
6 ~~and rehabilitation services for children and families~~ shall enter into a  
7 contract to develop and maintain an automated management information  
8 system which will monitor support payments, maintain accurate records of  
9 support payments and permit prompt notice of arrearages in support  
10 payments. District courts, including court trustees, shall be subcontractors  
11 in the management information system and payments for their services  
12 shall be disbursed as directed by the judicial administrator. Unless good  
13 cause is shown, the secretary ~~of social and rehabilitation services for~~  
14 ~~children and families~~ shall contract with court trustees for enforcement  
15 services. Subcontractor employees determined necessary to the  
16 performance of the contract by the judicial administrator shall be state  
17 employees paid by county general funds. The provisions of K.S.A. 20-358  
18 and 20-359, and amendments thereto, shall apply. County expenditures for  
19 compensation of subcontractor employees may be paid during any budget  
20 year even though the expenditures were not included in the budget for that  
21 year. County general funds shall be promptly reimbursed for subcontractor  
22 employee compensation cost from the subcontractor's payment plus a  
23 reasonable administrative fee for the county for acting as fiscal and  
24 reporting agent as determined necessary by the judicial administrator. The  
25 provisions of the Kansas court personnel rules, except for pay and  
26 classification plans, shall apply to subcontractor employees.

27 Sec. 50. K.S.A. 2012 Supp. 23-3114 is hereby amended to read as  
28 follows: 23-3114. (a) Whether or not a medical child support order has  
29 previously been entered, the court shall address the medical needs of the  
30 child, and if necessary, enter a medical child support order. Subject to any  
31 requirements in child support guidelines adopted by the supreme court  
32 pursuant to K.S.A. 20-165, and amendments thereto, the medical child  
33 support order may require either parent or both parents to furnish coverage  
34 under any health benefit plan as provided in this section, allocate between  
35 the parents responsibility for deductibles and copayments, allocate  
36 between the parents responsibility for medical costs not covered by any  
37 health benefit plan, include costs of coverage under a health benefit plan in  
38 the calculation of a current child support order, require cash medical  
39 support as an adjustment to a current support order, and make any other  
40 provision that justice may require. Before requiring either parent to  
41 provide coverage under any health benefit plan, the court shall consider  
42 whether the benefits of the plan are accessible to the child and the cost of  
43 coverage, including deductibles and copayments, in relation to the overall

1 financial circumstances. In no event shall the court consider as a factor the  
2 availability of medical assistance to any person. Nothing in this section  
3 shall prevent the court from prospectively ordering a parent to provide  
4 coverage under any health benefit plan which may become available to the  
5 parent.

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

14 (c) When a medical child support order has been entered, the obligor  
15 shall be deemed to have granted by operation of law a limited power of  
16 attorney to submit claims to a health benefit plan on the child's behalf and  
17 to endorse and negotiate any check or other negotiable instrument issued  
18 in full or partial payment of the child's claim. Except as otherwise  
19 provided in this subsection, the limited power of attorney shall be held by  
20 the obligee. If the child is receiving medical assistance from the secretary  
21 ~~of social and rehabilitation for aging and disability services or Kansas~~  
22 ~~department of health and environment, the secretary of social and~~  
23 ~~rehabilitation services for children and families~~ shall be deemed the sole  
24 holder of the limited power of attorney with respect to payments subject to  
25 the secretary's claim for reimbursement. Upon termination of medical  
26 assistance in this state for the child, the secretary ~~of social and~~  
27 ~~rehabilitation services for children and families~~ shall retain the limited  
28 power of attorney with respect to medical assistance already provided until  
29 the claim of the secretary for reimbursement is satisfied. If the child is  
30 receiving medical assistance under Title XIX of the federal social security  
31 act in another state or jurisdiction, the agency or official responsible for  
32 administering the Title XIX program in that state or jurisdiction shall be  
33 deemed the sole holder of the limited power of attorney with respect to  
34 payments subject to the claim of that agency or official for reimbursement.  
35 Upon termination of medical assistance in that state or jurisdiction for the  
36 child the agency or official administering the Title XIX program shall  
37 retain the limited power of attorney with respect to medical assistance  
38 already provided until the claim of that agency or official for  
39 reimbursement is satisfied.

40 (d) In any case in which a participating parent is required by a court  
41 or administrative order to provide health coverage for a child, the  
42 participating parent is eligible for family health coverage, and the child is  
43 otherwise eligible for family health coverage, without regard to any

1 enrollment season restrictions the employer, sponsor or other administrator  
2 of a health benefit plan: (1) Shall permit the participating parent to enroll  
3 the child for coverage; or (2) if the participating parent is enrolled but has  
4 not applied for coverage for the child, shall permit the holder of a limited  
5 power of attorney pursuant to subsection (c) to enroll the child. A child  
6 enrolled under this subsection shall be treated, with regard to any  
7 preexisting condition, as though enrollment occurred during the normal  
8 open enrollment period.

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

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

27 Sec. 51. K.S.A. 2012 Supp. 23-3121 is hereby amended to read as  
28 follows: 23-3121. (a) As used in this section, "consumer reporting agency"  
29 means any person which, for monetary fees or dues or on a cooperative  
30 nonprofit basis, regularly engages in whole or in part in the practice of  
31 assembling or evaluating consumer credit information or other information  
32 on consumers for the purpose of furnishing consumer reports to third  
33 parties and which uses any means or facility of interstate commerce for the  
34 purpose of preparing or furnishing consumer reports.

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

1 for the information to be available to such agencies if the amount of the  
2 support arrearage is less than \$1,000.

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

6 (d) Prior to providing any information concerning an obligor's  
7 arrearage to a consumer reporting agency, the secretary shall provide  
8 advance notice to the obligor who owes support by first-class mail to the  
9 obligor's last known address, concerning the proposed release of  
10 information to a consumer reporting agency and of the methods available  
11 for contesting the accuracy of the information as provided for in K.S.A.  
12 50-710, and amendments thereto.

13 Sec. 52. K.S.A. 2012 Supp. 23-3210 is hereby amended to read as  
14 follows: 23-3210. (a) *Investigation and report.* In any proceeding in which  
15 legal custody, residency, visitation rights or parenting time are contested,  
16 the court may order an investigation and report concerning the appropriate  
17 legal custody, residency, visitation rights and parenting time to be granted  
18 to the parties. The investigation and report may be made by court services  
19 officers or any consenting person or agency employed by the court for that  
20 purpose. The court may use the ~~department of social and rehabilitation~~  
21 ~~services~~ *Kansas department for children and families* to make the  
22 investigation and report if no other source is available for that purpose.  
23 The costs for making the investigation and report may be assessed as court  
24 costs in the case as provided in article 20 of chapter 60 of the Kansas  
25 Statutes Annotated, and amendments thereto.

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

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



1 Sec. 53. K.S.A. 2012 Supp. 23-36,201 is hereby amended to read as  
2 follows: 23-36,201. In a proceeding to establish, enforce or modify a  
3 support order or to determine parentage, a tribunal of this state may  
4 exercise personal jurisdiction over a nonresident individual or the  
5 individual's guardian or conservator if:

6 (a) The individual is personally served with notice within this state;

7 (b) the individual submits to the jurisdiction of this state by consent,  
8 by entering a general appearance, or by filing a responsive document  
9 having the effect of waiving any contest to personal jurisdiction;

10 (c) the individual resided with the child in this state;

11 (d) the individual resided in this state and provided prenatal expenses  
12 or support for the child;

13 (e) the child resides in this state as a result of the acts or directives of  
14 the individual;

15 (f) the individual engaged in sexual intercourse in this state and the  
16 child may have been conceived by that act of intercourse;

17 (g) the individual asserted parentage in the putative father registry  
18 maintained in this state by the secretary of the ~~department of social and~~  
19 ~~rehabilitation services~~ *Kansas department for children and families*; or

20 (h) there is any other basis consistent with the constitutions of this  
21 state and the United States for the exercise of personal jurisdiction.

22 Sec. 54. K.S.A. 2012 Supp. 23-36,310 is hereby amended to read as  
23 follows: 23-36,310. (a) The ~~department of social and rehabilitation~~  
24 ~~services~~ *Kansas department for children and families* is the state  
25 information agency under this act.

26 (b) The state information agency shall:

27 (1) Compile and maintain a current list, including addresses, of the  
28 tribunals in this state which have jurisdiction under this act and any  
29 support enforcement agencies in this state and transmit a copy to the state  
30 information agency of every other state;

31 (2) maintain a register of tribunals and support enforcement agencies  
32 received from other states;

33 (3) forward to the appropriate tribunal in the place in this state in  
34 which the individual obligee or the obligor resides, or in which the  
35 obligor's property is believed to be located, all documents concerning a  
36 proceeding under this act received from an initiating tribunal or the state  
37 information agency of the initiating state; and

38 (4) obtain information concerning the location of the obligor and the  
39 obligor's property within this state not exempt from execution, by such  
40 means as postal verification and federal or state locator services,  
41 examination of telephone directories, requests for the obligor's address  
42 from employers, and examination of governmental records, including, to  
43 the extent not prohibited by other law, those relating to real property, vital

1 statistics, law enforcement, taxation, motor vehicles, drivers' licenses and  
2 social security.

3 Sec. 55. K.S.A. 2012 Supp. 32-906 is hereby amended to read as  
4 follows: 32-906. (a) Except as otherwise provided by law or rules and  
5 regulations of the secretary, a valid Kansas fishing license is required to  
6 fish or to take any bullfrog in this state.

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

8 (1) A person, or a member of a person's immediate family domiciled  
9 with such person, on land owned by such person or on land leased or  
10 rented by such person for agricultural purposes;

11 (2) a person who is less than 16 years of age;

12 (3) a resident of this state who is 75 years of age or more;

13 (4) a person fishing in a private water fishing impoundment unless  
14 waived pursuant to K.S.A. 32-975, and amendments thereto;

15 (5) a resident of an adult care home, as defined by K.S.A. 39-923,  
16 and amendments thereto, licensed by the secretary of aging;

17 (6) a person on dates designated pursuant to subsection (f);

18 (7) a person fishing under a valid institutional group fishing license  
19 issued pursuant to subsection (g); or

20 (8) a participant in a fishing clinic sponsored or cosponsored by the  
21 department, during the period of time that the fishing clinic is being  
22 conducted.

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

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

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

31 (1) Permanent license pursuant to K.S.A. 32-929, and amendments  
32 thereto;

33 (2) lifetime license pursuant to K.S.A. 32-930, and amendments  
34 thereto;

35 (3) nonresident fishing license valid for a period of five days; and

36 (4) resident or nonresident fishing license valid for a period of 24  
37 hours.

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

41 (g) The secretary shall issue an annual institutional group fishing  
42 license to each facility operating under the jurisdiction of or licensed by  
43 the secretary of social and rehabilitation *for aging and disability services*

1 and to any veterans administration medical center in the state of Kansas  
2 upon application by such facility or center to the secretary of wildlife,  
3 parks and tourism for such license.

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

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

24 (h) The secretary may issue a special nonprofit group fishing license  
25 to any community, civic or charitable organization which is organized as a  
26 not-for-profit corporation, for use by such community, civic or charitable  
27 organization for the sole purpose of conducting group fishing activities for  
28 handicapped or developmentally disabled individuals. All applications for  
29 a special nonprofit group fishing license shall be made to the secretary or  
30 the secretary's designee and shall provide such information as required by  
31 the secretary.

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

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

1 activity.

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

3 Sec. 56. K.S.A. 2012 Supp. 32-918 is hereby amended to read as  
4 follows: 32-918. (a) Upon request of the secretary ~~of social and~~  
5 ~~rehabilitation services for children and families~~, the secretary of wildlife,  
6 parks and tourism shall not allow any license, permit, stamp, tag or other  
7 issue of the Kansas department of wildlife, parks and tourism to be  
8 purchased by any applicant except as provided in this section. The  
9 secretary ~~of social and rehabilitation services for children and families~~  
10 may make such a request by providing the secretary of wildlife, parks and  
11 tourism, on a quarterly basis, a listing of names and other information  
12 sufficient to allow the secretary of wildlife, parks and tourism to match  
13 applicants against the list with reasonable accuracy. The secretary ~~of social~~  
14 ~~and rehabilitation services for children and families~~ may include an  
15 individual on the listing if, at the time the listing is compiled, the  
16 individual owes arrearages under a support order in a title IV-D case or has  
17 failed, after appropriate notice, to comply with an outstanding warrant or  
18 subpoena directed to the individual in a title IV-D case. The secretary ~~of~~  
19 ~~social and rehabilitation services for children and families~~ shall include an  
20 individual on the listing if, at the time the listing is compiled, the  
21 individual owes arrearages under a support order, as reported to the  
22 secretary ~~of social and rehabilitation services for children and families~~  
23 by the court trustee or has failed, after appropriate notice, to comply with a  
24 subpoena directed to the individual by the court trustee and as reported to  
25 the secretary ~~of social and rehabilitation services for children and families~~  
26 by the court trustee.

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

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

1 the court trustee may limit the duration of the release.

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

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

6 (2) an income withholding order in the case has been served upon the  
7 applicant's current employer or payor;

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

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

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

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

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

38 (g) The term "title IV-D" has the meaning ascribed thereto in K.S.A.  
39 32-930, and amendments thereto.

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

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

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

9 Sec. 57. K.S.A. 2012 Supp. 32-930 is hereby amended to read as  
10 follows: 32-930. (a) Except as provided in subsection (c), the secretary or  
11 the secretary's designee is authorized to issue to any Kansas resident a  
12 lifetime fishing, hunting or furharvester or combination hunting and  
13 fishing license upon proper application made therefor to the secretary or  
14 the secretary's designee and payment of a license fee as follows: (1) A total  
15 payment made at the time of purchase in the amount prescribed pursuant  
16 to K.S.A. 32-988, and amendments thereto; or (2) payment may be made  
17 over a two-year period in eight quarter-annual installments in the amount  
18 prescribed pursuant to K.S.A. 32-988, and amendments thereto. If  
19 payment is in installments, the license shall not be issued until the final  
20 installment has been paid. A person making installment payments shall not  
21 be required to obtain the appropriate annual license, and each installment  
22 payment shall be deemed to be such an annual license for a period of one  
23 year following the date of the last installment payment made. If an  
24 installment payment is not received within 30 days after it is due and  
25 owing, the secretary may consider the payments in default and may retain  
26 any payments previously received. Any lifetime license issued to a Kansas  
27 resident shall not be made invalid by reason of the holder thereof  
28 subsequently residing outside the state of Kansas. Any nonresident holder  
29 of a Kansas lifetime hunting or combination hunting and fishing license  
30 shall be eligible under the same conditions as a Kansas resident for a big  
31 game or wild turkey permit upon proper application to the secretary. Any  
32 nonresident holder of a lifetime fishing license issued before July 1, 1989,  
33 shall be eligible under the same conditions as a Kansas resident for a big  
34 game or wild turkey permit upon proper application to the secretary.

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

41 (c) (1) Upon request of the secretary of ~~social and rehabilitation~~  
42 *services for children and families*, the secretary of wildlife, parks and  
43 tourism shall not issue a lifetime fishing, hunting or furharvester or

1 combination hunting and fishing license to an applicant except as provided  
2 in this subsection. The secretary ~~of social and rehabilitation services for~~  
3 *children and families* may make such a request if, at the time of the  
4 request, the applicant:

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

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

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

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

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

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

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

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

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

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

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

39 (d) (1) Upon request of the secretary ~~of social and rehabilitation~~  
40 ~~services for children and families~~, the secretary of wildlife, parks and  
41 tourism shall suspend a lifetime fishing, hunting or furharvester or  
42 combination hunting and fishing license to a licensee as provided in this  
43 subsection. The secretary ~~of social and rehabilitation services for children~~

1 *and families* may make such a request if, at the time of the request, the  
2 applicant owed arrearages under a support order or had outstanding a  
3 warrant or subpoena as stated in subsection (c)(1).

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

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

13 (e) Nothing in subsection (c) or (d) shall be construed to require or  
14 permit the secretary of wildlife, parks and tourism to determine any issue  
15 related to a child support order or related to the title IV-D case including to  
16 resolve questions of mistaken identity or determine the adequacy of any  
17 notice relating to subsection (c) or (d) that the secretary of wildlife, parks  
18 and tourism provides to the applicant.

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

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

25 Sec. 58. K.S.A. 38-134 is hereby amended to read as follows: 38-134.

26 (a) As used in this section:

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

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

33 (3) "Foster family" means all persons living in the foster home other  
34 than foster children.

35 (4) "Foster parent" means the licensee who is responsible for the care  
36 of foster children.

37 (5) "Secretary" means the secretary ~~of social and rehabilitation~~  
38 *services for children and families*.

39 (b) In order to assist the foster family to make an informed decision  
40 regarding their acceptance of a particular child, to help the foster family  
41 anticipate problems which may occur during the child's placement and to  
42 help the foster family meet the needs of the child in a constructive manner,  
43 the secretary shall seek to obtain and shall provide the following



1 information to the foster parent as the information becomes available to  
2 the secretary:

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

13 Sec. 59. K.S.A. 2012 Supp. 38-143 is hereby amended to read as  
14 follows: 38-143. As used in the grandparents as caregivers act:

- 15 (a) "Program" means the grandparents as caregivers program.
- 16 (b) "Secretary" means the secretary ~~of the department of social and~~  
17 ~~rehabilitation services for children and families.~~
- 18 (c) "Department" means the ~~department of social and rehabilitation~~  
19 ~~services~~ *Kansas department for children and families.*

20 Sec. 60. K.S.A. 2012 Supp. 38-144 is hereby amended to read as  
21 follows: 38-144. (a) In accordance with the provisions of the grandparents  
22 as caregivers act and subject to the provisions of appropriation acts, the  
23 secretary shall establish a grandparents as caregivers program within the  
24 ~~department of social and rehabilitation services~~ *Kansas department for*  
25 *children and families.* The program shall be administered in a manner  
26 which recognizes that:

- 27 (1) The relationship between a child and a parent differs from the  
28 relationship between a child and a grandparent;
- 29 (2) society and the demands and needs of the members of society  
30 change between the time a person raises a child and the time the same  
31 person raises a grandchild;
- 32 (3) caring for a grandchild often places additional financial, social  
33 and psychological strain on grandparents with fixed incomes;
- 34 (4) different parenting skills are necessary when raising a grandchild,  
35 and many grandparents do not possess such skills, are not aware of how to  
36 obtain such skills and cannot afford access to the services necessary to  
37 obtain such skills;
- 38 (5) grandparents acting as caregivers need a support structure,  
39 including counseling for both the grandparent and grandchild, respite care,  
40 transportation assistance and child care; and
- 41 (6) grandparents are often unaware of medical and other assistance,  
42 including cash assistance for which they may be eligible.

43 Sec. 61. K.S.A. 38-320 is hereby amended to read as follows: 38-320.

1 As used in this act, the following words and phrases shall have the  
2 meanings respectively ascribed to them herein:

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

6 (b) "~~Secretary~~" means the secretary ~~of the social and rehabilitation~~  
7 ~~services or his~~ *for children and families or the secretary's* designee.

8 Sec. 62. K.S.A. 2012 Supp. 38-1604 is hereby amended to read as  
9 follows: 38-1604. (a) Except as provided in K.S.A. 38-1636, and  
10 amendments thereto, proceedings concerning a juvenile who appears to be  
11 a juvenile offender shall be governed by the provisions of this code.

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

14 (c) When jurisdiction is acquired by the district court over an alleged  
15 juvenile offender it may continue until: (1) Sixty days after sentencing, if  
16 the juvenile is committed directly to a juvenile correctional facility; (2) the  
17 juvenile has attained the age of 23 years, if committed to the custody of the  
18 commissioner pursuant to subsection (c) of K.S.A. 38-1665, and  
19 amendments thereto, unless an adult sentence is imposed pursuant to an  
20 extended jurisdiction juvenile prosecution. If such adult sentence is  
21 imposed, jurisdiction shall continue until discharged by the court or other  
22 process for the adult sentence; (3) the juvenile has been discharged by the  
23 court; or (4) the juvenile has been discharged under the provisions of  
24 K.S.A. 38-1675, and amendments thereto.

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

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

1 this code.

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

11 (e) The revised Kansas code for care of children shall apply when  
12 necessary to carry out the provisions of subsection (d) of K.S.A. 38-1664,  
13 and amendments thereto.

14 (f) The provisions of this code shall govern with respect to offenses  
15 committed on or after July 1, 1997.

16 Sec. 63. K.S.A. 2012 Supp. 38-1608 is hereby amended to read as  
17 follows: 38-1608. (a) All records of law enforcement officers and agencies  
18 and municipal courts concerning a public offense committed or alleged to  
19 have been committed by a juvenile under 14 years of age shall be kept  
20 readily distinguishable from criminal and other records and shall not be  
21 disclosed to anyone except:

22 (1) The judge and members of the court staff designated by the judge  
23 of a court having the juvenile before it in any proceedings;

24 (2) parties to the proceedings and their attorneys;

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

27 (4) any individual, or any officer of a public or private agency or  
28 institution, having custody of the juvenile under court order or providing  
29 educational, medical or mental health services to the juvenile or a court-  
30 approved advocate for the juvenile;

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

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

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

38 (8) the central repository, as defined by K.S.A. 22-4701, and  
39 amendments thereto, for use only as a part of the juvenile offender  
40 information system established under K.S.A. 38-1618, and amendments  
41 thereto;

42 (9) juvenile intake and assessment workers;

43 (10) juvenile justice authority;

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

3 (12) as provided in subsection (c).

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

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

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

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

14 (c) All records of law enforcement officers and agencies and  
15 municipal courts concerning a public offense committed or alleged to have  
16 been committed by a juvenile 14 or more years of age shall be subject to  
17 the same disclosure restrictions as the records of adults. Information  
18 identifying victims and alleged victims of sex offenses, as defined in  
19 K.S.A. chapter 21, article 35, shall not be disclosed or open to public  
20 inspection under any circumstances. Nothing in this section shall prohibit  
21 the victim or any alleged victim of any sex offense from voluntarily  
22 disclosing such victim's identity.

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

27 (e) All records, reports and information obtained as a part of the  
28 juvenile intake and assessment process for juvenile offenders shall be  
29 confidential and shall not be disclosed except as provided in this section or  
30 by rules and regulations established by the commissioner of juvenile  
31 justice.

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

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

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

40 (B) a court-appointed special advocate for a child, which advocate  
41 reports to the court, or an agency having the legal responsibility or  
42 authorization to care for, treat or supervise a child;

43 (C) a parent or other person responsible for the welfare of a child, or

1 such person's legal representative, with protection for the identity of  
2 persons reporting and other appropriate persons;

3 (D) the child or the guardian ad litem for such child;

4 (E) the police or other law enforcement agency;

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

11 (G) a person who is a member of a multidisciplinary team;

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

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

23 (J) a citizen review board;

24 (K) an educational institution if related to a juvenile offender that  
25 attends such educational institution; and

26 (L) educators who have exposure to the juvenile offender or who are  
27 responsible for pupils who have exposure to the juvenile offender.

28 (3) To any juvenile intake and assessment worker of another certified  
29 juvenile intake and assessment program.

30 Sec. 64. K.S.A. 2012 Supp. 38-1664 is hereby amended to read as  
31 follows: 38-1664. (a) Prior to placing a juvenile offender in the custody of  
32 the commissioner and recommending out-of-home placement, the court  
33 shall consider and determine that, where consistent with the need for  
34 protection of the community:

35 (1) Reasonable efforts have been made to maintain the family unit  
36 and prevent unnecessary removal of a juvenile offender from the juvenile  
37 offender's home, as long as the juvenile offender's safety is assured, or an  
38 emergency exists which threatens the safety of the juvenile offender. If the  
39 juvenile offender is in the custody of the ~~secretary of social and~~  
40 ~~rehabilitation services~~ *for children and families* under the Kansas code for  
41 the care of children, the secretary shall prepare a report for the court  
42 documenting such reasonable efforts. If the juvenile offender is in the  
43 custody of the commissioner, the commissioner shall prepare a report for

1 the court documenting such reasonable efforts. Otherwise, the  
2 predisposition investigation writer shall prepare a report to the court  
3 documenting such reasonable efforts. Reasonable efforts are not required  
4 prior to removal if the court finds:

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

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

13 (C) the parental rights of the parent with respect to a sibling have  
14 been terminated involuntarily.

15 Such findings must be included in the court's order.

16 (2) The juvenile offender's removal from the home must be the result  
17 of a judicial determination to the effect that continuation of residence in  
18 the home would be contrary to the welfare, or that placement would be in  
19 the best interests, of the juvenile offender. The contrary to the welfare  
20 determination must be made in the first court ruling that sanctions the  
21 removal of a juvenile offender from the home.

22 (3) A permanency plan must be presented at disposition or within 30  
23 days thereafter. If a permanency plan is in place under a child in need of  
24 care proceeding, the court may adopt the plan under the present  
25 proceeding. If the juvenile offender is placed in the custody of the  
26 commissioner, the commissioner shall prepare the plan. The plan must  
27 comply with the requirements of K.S.A. 2012 Supp. 38-2263, and  
28 amendments thereto. The court shall have the authority to require any  
29 person or entity agreeing to participate in the plan to perform as set out in  
30 the plan.

31 (4) The court must determine that reasonable efforts have been made  
32 and what progress has been made to finalize the permanency plan that is in  
33 effect within 12 months of the date the juvenile offender is considered to  
34 have entered foster care and at least once every 12 months thereafter while  
35 the juvenile offender is in foster care.

36 (5) The court must reflect reasonable efforts and contrary to the  
37 welfare findings in orders awarding custody to the commissioner  
38 temporarily, at sentencing and at modification hearings. If the juvenile  
39 offender is placed in the custody of the commissioner, the court shall  
40 provide the commissioner with a written copy of any orders entered upon  
41 making the order for the purpose of documenting the orders.

42 (6) If the juvenile offender is placed in the commissioner's custody,  
43 the commissioner shall document in writing the reasonable efforts that

1 have been made and the progress made to finalize the permanency plan,  
2 before each hearing reviewing the plan.

3 (b) When a juvenile offender has been placed in the custody of the  
4 commissioner, the commissioner shall notify the court in writing of the  
5 initial placement of the juvenile offender as soon as the placement has  
6 been accomplished. The court shall have no power to direct a specific  
7 placement by the commissioner, but may make recommendations to the  
8 commissioner. The commissioner may place the juvenile offender in an  
9 institution operated by the commissioner, a youth residential facility or a  
10 community mental health center. If the court has recommended an out-of-  
11 home placement, the commissioner may not return the juvenile offender to  
12 the home from which removed without first notifying the court of the plan.

13 (c) During the time a juvenile offender remains in the custody of the  
14 commissioner, the commissioner shall report to the court at least each six  
15 months as to the current living arrangement and social and mental  
16 development of the juvenile offender and document in writing the  
17 reasonable efforts that have been made and the progress made to finalize  
18 the permanency plan.

19 (d) If the juvenile offender is placed outside the juvenile offender's  
20 home, a permanency hearing shall be held not more than 12 months after  
21 the juvenile offender is placed outside the juvenile offender's home and, if  
22 reintegration is a viable alternative, every 12 months thereafter. The court  
23 may appoint a guardian ad litem to represent the juvenile offender at the  
24 permanency hearing. Juvenile offenders who have been in extended out of  
25 home placement shall be provided a permanency hearing within 30 days of  
26 a request from the commissioner. If reintegration is not a viable alternative  
27 and either adoption or permanent guardianship might be in the best  
28 interests of the juvenile offender the county or district attorney shall file a  
29 petition alleging the juvenile is a child in need of care and requesting  
30 termination of parental rights or the appointment of a permanent custodian  
31 pursuant to the revised Kansas code for care of children. If the juvenile  
32 offender is placed in foster care, the foster parent or parents shall submit to  
33 the court, at least every six months, a report in regard to the juvenile  
34 offender's adjustment, progress and condition. The juvenile justice  
35 authority shall notify the foster parent or parents of the foster parents' or  
36 parent's duty to submit such report, on a form provided by the juvenile  
37 justice authority, at least two weeks prior to the date when the report is  
38 due, and the name of the judge and the address of the court to which the  
39 report is to be submitted. Such report shall be confidential and shall only  
40 be reviewed by the court and the child's attorney.

41 (e) The report made by foster parents and provided by the  
42 commissioner of juvenile justice, pursuant to this section, shall be in  
43 substantially the following form:

REPORT FROM FOSTER PARENTS

CONFIDENTIAL

<u>Child's Name</u>	<u>Current Address</u>
<u>Parent' Name</u>	<u>Foster Parents</u>
<u>Primary Social Worker</u>	

Please circle the word which best describes the child's progress

1. Child's adjustment in the home  
 excellent      good      satisfactory      needs improvement
2. Child's interaction with foster parents and family members  
 excellent      good      satisfactory      needs improvement
3. Child's interaction with others  
 excellent      good      satisfactory      needs improvement
4. Child's respect for property  
 excellent      good      satisfactory      needs improvement
5. Physical and emotional condition of the child  
 excellent      good      satisfactory      needs improvement
6. Social worker's interaction with the child and foster family  
 excellent      good      satisfactory      needs improvement
7. School status of child: \_\_\_\_\_  

<u>School</u>	<u>Grade</u>	Good _____	Fair _____	Poor _____
Grade		Good _____	Fair _____	Poor _____
Attendance		Good _____	Fair _____	Poor _____
Behavior		Good _____	Fair _____	Poor _____

8. If visitation with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Your opinion regarding the overall adjustment, progress and condition of the child: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Do you have any special concerns or comments with regard to the child not addressed by this form? Please specify. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sec. 65. 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.



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

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

8 (2) Moneys credited to the family and children trust account shall be  
9 used for the following purposes: (A) Matching federal moneys to purchase  
10 services relating to community-based programs for the broad range of  
11 child abuse and neglect prevention activities; (B) providing start-up or  
12 expansion grants for community-based prevention projects for the broad  
13 range of child abuse and neglect prevention activities; (C) studying and  
14 evaluating community-based prevention projects for the broad range of  
15 child abuse and neglect prevention activities; (D) preparing, publishing,  
16 purchasing and disseminating educational material dealing with the broad  
17 range of child abuse and neglect prevention activities; and (E) payment of  
18 the administrative costs of the family and children trust account and of that  
19 portion of the Kansas children's cabinet, established pursuant to K.S.A. 38-  
20 1901, and amendments thereto, which are attributable to the family and  
21 children trust account, and that portion of the administrative costs of the  
22 board of trustees, of the Kansas public employees retirement system  
23 established by K.S.A. 74-4905, and amendments thereto, which are  
24 attributable to the family and children endowment account of the family  
25 and children investment fund. No moneys in the family and children trust  
26 account shall be used for the purpose of providing services for the  
27 voluntary termination of pregnancy.

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

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

39 (2) Moneys credited to the permanent families account shall be used  
40 for the following purposes: (A) Not more than 12% of the amount credited  
41 to the permanent families account during the fiscal year may be used to  
42 provide technical assistance to district courts or local groups wanting to  
43 establish a local citizen review board or a court-appointed special advocate

1 program, including but not limited to such staff as necessary to provide  
2 such assistance, and to provide services necessary for the administration of  
3 such board or program, including but not limited to grants administration,  
4 accounting, data collection, report writing and training of local citizen  
5 review board staff; (B) grants to court-appointed special advocate  
6 programs, upon application approved by the chief judge of the judicial  
7 district where the program is located; and (C) grants to district courts,  
8 upon application of the chief judge of the judicial district, for expenses of  
9 establishment, operation and evaluation of local citizen review boards in  
10 the judicial district, including costs of: (i) Employing local citizen review  
11 board coordinators and clerical staff; (ii) telephone, photocopying and  
12 office equipment and supplies for which there are shown to be no local  
13 funds available; (iii) mileage of staff and board members; and (iv) training  
14 staff and board members.

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

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

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

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

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

37 (e) The family and children endowment account of the family and  
38 children investment fund shall constitute and shall be administered as an  
39 endowment for the purposes for which expenditures may be made from the  
40 family and children trust account of the family and children investment  
41 fund. The family and children endowment account of the family and  
42 children investment fund shall be invested by the board of trustees of the  
43 Kansas public employees retirement system established by K.S.A. 74-

1 4905, and amendments thereto. All interest or other income of the  
2 investments of the moneys in the family and children trust endowment  
3 account of the family and children investment fund, after payment of any  
4 management and administrative fees, shall be considered income of the  
5 family and children trust account of the family and children investment  
6 fund and shall be deposited in the state treasury to the credit of the family  
7 and children trust account of the family and children investment fund.

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

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

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

17 Sec. 66. K.S.A. 38-1817 is hereby amended to read as follows: 38-  
18 1817. On and after July 1, 1997:

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

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

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

40 (d) The ~~department of social and rehabilitation services~~ *Kansas*  
41 *department for children and families* shall succeed to whatever right, title  
42 or interest the corporation for change has acquired in any real property in  
43 this state with moneys from the family and children trust account of the

1 family and children investment fund, and the ~~department of social and~~  
2 ~~rehabilitation services~~ *Kansas department for children and families* shall  
3 hold the same for and in the name of the state of Kansas. On and after the  
4 effective date of this act, whenever any statute, contract, deed or other  
5 document concerns the power or authority of the corporation for change or  
6 of the executive director or the chairperson of the board of directors of the  
7 corporation for change to acquire, hold or dispose of real property or any  
8 interest therein and such power or authority relates to the children and  
9 family trust account of the family and children investment fund or to real  
10 property or any interest therein acquired with moneys from such account  
11 prior to the effective date of this act, the ~~department of social and~~  
12 ~~rehabilitation services~~ *Kansas department for children and families* shall  
13 succeed to such power or authority.

14 Sec. 67. K.S.A. 38-1819 is hereby amended to read as follows: 38-  
15 1819. On and after July 1, 1997:

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

36 (b) Except as otherwise provided in this act, officers and employees  
37 who, immediately prior to such date, were engaged in the performance of  
38 powers, duties or functions of the corporation for change, which relate to  
39 the permanent families account of the family and children investment fund  
40 prior to the effective date of this act and which are transferred by this act  
41 to the judicial administrator of the courts, and who, in the opinion of the  
42 judicial administrator of the courts, are necessary to perform the powers,  
43 duties and functions of the office of judicial administration under this act,

1 shall be transferred to, and shall become officers and employees of the  
2 office of judicial administration. Any such officer or employee shall retain  
3 all retirement benefits and all rights of civil service which had accrued to  
4 or vested in such officer or employee prior to the effective date of this  
5 section. The service of each such officer and employee so transferred shall  
6 be deemed to have been continuous. All transfers and any abolition of  
7 personnel positions in the classified service under the Kansas civil service  
8 act shall be in accordance with civil service laws and any rules and  
9 regulations adopted thereunder.

10 Sec. 68. K.S.A. 38-1820 is hereby amended to read as follows: 38-  
11 1820. On and after July 1, 1997:

12 (a) When any conflict arises as to the disposition of any power,  
13 function or duty or the unexpended balance of any appropriation as a result  
14 of any abolition, transfer, attachment or change made by or under authority  
15 of this act, such conflict shall be resolved by the governor, whose decision  
16 shall be final.

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

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

33 Sec. 69. K.S.A. 38-1821 is hereby amended to read as follows: 38-  
34 1821. On and after July 1, 1997:

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

43 (b) The judicial administrator of the courts shall have the legal

1 custody of all records, memoranda, writings, entries, prints,  
2 representations or combinations thereof of any act, transaction, occurrence  
3 or event of the corporation for change which relates to the permanent  
4 families account of the family and children investment fund transferred to  
5 the judicial administrator of the courts under this act.

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

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

16 Sec. 70. K.S.A. 38-1822 is hereby amended to read as follows: 38-  
17 1822. On and after July 1, 1997:

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

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

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

35 Sec. 71. K.S.A. 38-1901 is hereby amended to read as follows: 38-  
36 1901. On and after the effective date of this act:

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

40 (b) The Kansas children's cabinet shall consist of 15 members as  
41 follows: (1) The secretary of health and environment, or the secretary's  
42 designee; (2) the secretary of ~~social and rehabilitation services for children~~  
43 ~~and families~~, or the secretary's designee; (3) a member of the state board of

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

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

28 (2) Of the members first appointed by the governor, two shall be  
29 appointed for terms of two years, two shall be appointed for terms of three  
30 years and the member selected by the governor to be the chairperson shall  
31 be appointed for a term of four years. The member first appointed by the  
32 speaker of the house of representatives shall be appointed for a term of one  
33 year, the member first appointed by the minority leader of the house of  
34 representatives shall be appointed for a term of two years, the member first  
35 appointed by the president of the senate shall be appointed for a term of  
36 three years and the member first appointed by the minority leader of the  
37 senate shall be appointed for a term of four years. The governor shall  
38 designate the term for which each of the members first appointed by the  
39 governor shall serve.

40 (3) All members appointed to fill vacancies in the membership of the  
41 Kansas children's cabinet and all members appointed to succeed members  
42 appointed to membership on the Kansas children's cabinet shall be  
43 appointed in like manner as that provided for the original appointment of

1 the member succeeded. All members appointed to fill vacancies of a  
2 member of the Kansas children's cabinet appointed by the governor, the  
3 speaker of the house of representatives, the minority leader of the house of  
4 representatives, the president of the senate or the minority leader of the  
5 senate shall be appointed to fill the unexpired term of such member.

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

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

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

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

19 (B) If an individual or an individual's spouse, either individually or  
20 collectively, has received during the preceding calendar year compensation  
21 which is or will be required to be included as taxable income on federal  
22 income tax returns of the individual and spouse in an aggregate amount of  
23 \$2,000 from any business or combination of businesses, the individual has  
24 a substantial interest in that business or combination of businesses.

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

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

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

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



1 children investment fund, as provided in K.S.A. 38-1808, and amendments  
2 thereto.

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

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

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

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

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

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

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

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

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

25 (h) Members of the Kansas children's cabinet shall not be paid  
26 compensation, but shall receive subsistence allowances, mileage and other  
27 expenses as provided by K.S.A. 75-3223, and amendments thereto. The  
28 subsistence allowances, mileage and other expenses as provided in K.S.A.  
29 75-3223, and amendments thereto, shall be paid from available  
30 appropriations of the ~~department of social and rehabilitation services~~  
31 *Kansas department for children and families* except that expenses of  
32 members who are employed by a state agency shall be reimbursed by that  
33 state agency.

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

42 Sec. 72. K.S.A. 38-2002 is hereby amended to read as follows: 38-  
43 2002. The secretary ~~of social and rehabilitation services for children and~~

1 *families* shall adopt rules and regulations as necessary to implement and  
2 administer the provisions of this act.

3 Sec. 73. K.S.A. 2012 Supp. 38-2202 is hereby amended to read as  
4 follows: 38-2202. As used in the revised Kansas code for care of children,  
5 unless the context otherwise indicates:

6 (a) "Abandon" or "abandonment" means to forsake, desert or, without  
7 making appropriate provision for substitute care, cease providing care for  
8 the child.

9 (b) "Adult correction facility" means any public or private facility,  
10 secure or nonsecure, which is used for the lawful custody of accused or  
11 convicted adult criminal offenders.

12 (c) "Aggravated circumstances" means the abandonment, torture,  
13 chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

14 (d) "Child in need of care" means a person less than 18 years of age  
15 at the time of filing of the petition or issuance of an ex parte protective  
16 custody order pursuant to K.S.A. 2012 Supp. 38-2242, and amendments  
17 thereto, who:

18 (1) Is without adequate parental care, control or subsistence and the  
19 condition is not due solely to the lack of financial means of the child's  
20 parents or other custodian;

21 (2) is without the care or control necessary for the child's physical,  
22 mental or emotional health;

23 (3) has been physically, mentally or emotionally abused or neglected  
24 or sexually abused;

25 (4) has been placed for care or adoption in violation of law;

26 (5) has been abandoned or does not have a known living parent;

27 (6) is not attending school as required by K.S.A. 72-977 or 72-1111,  
28 and amendments thereto;

29 (7) except in the case of a violation of K.S.A. 41-727, subsection (j)  
30 of K.S.A. 74-8810, subsection (m) or (n) of K.S.A. 79-3321, or subsection  
31 (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments thereto, or, except  
32 as provided in paragraph (12), does an act which, when committed by a  
33 person under 18 years of age, is prohibited by state law, city ordinance or  
34 county resolution but which is not prohibited when done by an adult;

35 (8) while less than 10 years of age, commits any act which if done by  
36 an adult would constitute the commission of a felony or misdemeanor as  
37 defined by K.S.A. 2012 Supp. 21-5102, and amendments thereto;

38 (9) is willfully and voluntarily absent from the child's home without  
39 the consent of the child's parent or other custodian;

40 (10) is willfully and voluntarily absent at least a second time from a  
41 court ordered or designated placement, or a placement pursuant to court  
42 order, if the absence is without the consent of the person with whom the  
43 child is placed or, if the child is placed in a facility, without the consent of

- 1 the person in charge of such facility or such person's designee;
- 2 (11) has been residing in the same residence with a sibling or another  
3 person under 18 years of age, who has been physically, mentally or  
4 emotionally abused or neglected, or sexually abused;
- 5 (12) while less than 10 years of age commits the offense defined in  
6 subsection (a)(14) of K.S.A. 2012 Supp. 21-6301, and amendments  
7 thereto; or
- 8 (13) has had a permanent custodian appointed and the permanent  
9 custodian is no longer able or willing to serve.
- 10 (e) "Citizen review board" is a group of community volunteers  
11 appointed by the court and whose duties are prescribed by K.S.A. 2012  
12 Supp. 38-2207 and 38-2208, and amendments thereto.
- 13 (f) "Civil custody case" includes any case filed under chapter 23 of  
14 the Kansas Statutes Annotated, and amendments thereto, the Kansas  
15 family law code, article 11, of chapter 38 of the Kansas Statutes  
16 Annotated, and amendments thereto, determination of parentage, article 21  
17 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto,  
18 adoption and relinquishment act, or article 30 of chapter 59 of the Kansas  
19 Statutes Annotated, and amendments thereto, guardians and conservators.
- 20 (g) "Court-appointed special advocate" means a responsible adult  
21 other than an attorney guardian ad litem who is appointed by the court to  
22 represent the best interests of a child, as provided in K.S.A. 2012 Supp.  
23 38-2206, and amendments thereto, in a proceeding pursuant to this code.
- 24 (h) "Custody" whether temporary, protective or legal, means the  
25 status created by court order or statute which vests in a custodian, whether  
26 an individual or an agency, the right to physical possession of the child and  
27 the right to determine placement of the child, subject to restrictions placed  
28 by the court.
- 29 (i) "Extended out of home placement" means a child has been in the  
30 custody of the secretary and placed with neither parent for 15 of the most  
31 recent 22 months beginning 60 days after the date at which a child in the  
32 custody of the secretary was removed from the home.
- 33 (j) "Educational institution" means all schools at the elementary and  
34 secondary levels.
- 35 (k) "Educator" means any administrator, teacher or other professional  
36 or paraprofessional employee of an educational institution who has  
37 exposure to a pupil specified in subsection (a) of K.S.A. 72-89b03, and  
38 amendments thereto.
- 39 (l) "Harm" means physical or psychological injury or damage.
- 40 (m) "Interested party" means the grandparent of the child, a person  
41 with whom the child has been living for a significant period of time when  
42 the child in need of care petition is filed, and any person made an  
43 interested party by the court pursuant to K.S.A. 2012 Supp. 38-2241, and

1 amendments thereto, or Indian tribe seeking to intervene that is not a party.

2 (n) "Jail" means:

3 (1) An adult jail or lockup; or

4 (2) a facility in the same building or on the same grounds as an adult  
5 jail or lockup, unless the facility meets all applicable standards and  
6 licensure requirements under law and there is: (A) Total separation of the  
7 juvenile and adult facility spatial areas such that there could be no  
8 haphazard or accidental contact between juvenile and adult residents in the  
9 respective facilities; (B) total separation in all juvenile and adult program  
10 activities within the facilities, including recreation, education, counseling,  
11 health care, dining, sleeping and general living activities; and (C) separate  
12 juvenile and adult staff, including management, security staff and direct  
13 care staff such as recreational, educational and counseling.

14 (o) "Juvenile detention facility" means any secure public or private  
15 facility used for the lawful custody of accused or adjudicated juvenile  
16 offenders which must not be a jail.

17 (p) "Juvenile intake and assessment worker" means a responsible  
18 adult authorized to perform intake and assessment services as part of the  
19 intake and assessment system established pursuant to K.S.A. 75-7023, and  
20 amendments thereto.

21 (q) "Kinship care" means the placement of a child in the home of the  
22 child's relative or in the home of another adult with whom the child or the  
23 child's parent already has a close emotional attachment.

24 (r) "Law enforcement officer" means any person who by virtue of  
25 office or public employment is vested by law with a duty to maintain  
26 public order or to make arrests for crimes, whether that duty extends to all  
27 crimes or is limited to specific crimes.

28 (s) "Multidisciplinary team" means a group of persons, appointed by  
29 the court under K.S.A. 2012 Supp. 38-2228, and amendments thereto,  
30 which has knowledge of the circumstances of a child in need of care.

31 (t) "Neglect" means acts or omissions by a parent, guardian or person  
32 responsible for the care of a child resulting in harm to a child, or  
33 presenting a likelihood of harm, and the acts or omissions are not due  
34 solely to the lack of financial means of the child's parents or other  
35 custodian. Neglect may include, but shall not be limited to:

36 (1) Failure to provide the child with food, clothing or shelter  
37 necessary to sustain the life or health of the child;

38 (2) failure to provide adequate supervision of a child or to remove a  
39 child from a situation which requires judgment or actions beyond the  
40 child's level of maturity, physical condition or mental abilities and that  
41 results in bodily injury or a likelihood of harm to the child; or

42 (3) failure to use resources available to treat a diagnosed medical  
43 condition if such treatment will make a child substantially more

1 comfortable, reduce pain and suffering, or correct or substantially diminish  
2 a crippling condition from worsening. A parent legitimately practicing  
3 religious beliefs who does not provide specified medical treatment for a  
4 child because of religious beliefs shall not for that reason be considered a  
5 negligent parent; however, this exception shall not preclude a court from  
6 entering an order pursuant to subsection (a)(2) of K.S.A. 2012 Supp. 38-  
7 2217, and amendments thereto.

8 (u) "Parent" when used in relation to a child or children, includes a  
9 guardian and every person who is by law liable to maintain, care for or  
10 support the child.

11 (v) "Party" means the state, the petitioner, the child, any parent of the  
12 child and an Indian child's tribe intervening pursuant to the Indian child  
13 welfare act.

14 (w) "Permanency goal" means the outcome of the permanency  
15 planning process which may be reintegration, adoption, appointment of a  
16 permanent custodian or another planned permanent living arrangement.

17 (x) "Permanent custodian" means a judicially approved permanent  
18 guardian of a child pursuant to K.S.A. 2012 Supp. 38-2272, and  
19 amendments thereto.

20 (y) "Physical, mental or emotional abuse" means the infliction of  
21 physical, mental or emotional harm or the causing of a deterioration of a  
22 child and may include, but shall not be limited to, maltreatment or  
23 exploiting a child to the extent that the child's health or emotional well-  
24 being is endangered.

25 (z) "Placement" means the designation by the individual or agency  
26 having custody of where and with whom the child will live.

27 (aa) "Relative" means a person related by blood, marriage or adoption  
28 but, when referring to a relative of a child's parent, does not include the  
29 child's other parent.

30 (bb) "Secretary" means the ~~secretary of social and rehabilitation~~  
31 ~~services for children and families~~ or the secretary's designee.

32 (cc) "Secure facility" means a facility which is operated or structured  
33 so as to ensure that all entrances and exits from the facility are under the  
34 exclusive control of the staff of the facility, whether or not the person  
35 being detained has freedom of movement within the perimeters of the  
36 facility, or which relies on locked rooms and buildings, fences or physical  
37 restraint in order to control behavior of its residents. No secure facility  
38 shall be in a city or county jail.

39 (dd) "Sexual abuse" means any contact or interaction with a child in  
40 which the child is being used for the sexual stimulation of the perpetrator,  
41 the child or another person. Sexual abuse shall include allowing,  
42 permitting or encouraging a child to engage in prostitution or to be  
43 photographed, filmed or depicted in pornographic material.

1 (ee) "Shelter facility" means any public or private facility or home  
2 other than a juvenile detention facility that may be used in accordance with  
3 this code for the purpose of providing either temporary placement for  
4 children in need of care prior to the issuance of a dispositional order or  
5 longer term care under a dispositional order.

6 (ff) "Transition plan" means, when used in relation to a youth in the  
7 custody of the secretary, an individualized strategy for the provision of  
8 medical, mental health, education, employment and housing supports as  
9 needed for the adult and, if applicable, for any minor child of the adult, to  
10 live independently and specifically provides for the supports and any  
11 services for which an adult with a disability is eligible including, but not  
12 limited to, funding for home and community based services waivers.

13 (gg) "Youth residential facility" means any home, foster home or  
14 structure which provides 24-hour-a-day care for children and which is  
15 licensed pursuant to article 5 of chapter 65 of the Kansas Statutes  
16 Annotated, and amendments thereto.

17 Sec. 74. K.S.A. 2012 Supp. 38-2212 is hereby amended to read as  
18 follows: 38-2212. (a) *Principle of appropriate access.* Information  
19 contained in confidential agency records concerning a child alleged or  
20 adjudicated to be in need of care may be disclosed as provided in this  
21 section. Disclosure shall in all cases be guided by the principle of  
22 providing access only to persons or entities with a need for information  
23 that is directly related to achieving the purposes of this code.

24 (b) *Free exchange of information.* Pursuant to K.S.A. 2012 Supp. 38-  
25 2210, and amendments thereto, the secretary and juvenile intake and  
26 assessment agencies shall participate in the free exchange of information  
27 concerning a child who is alleged or adjudicated to be in need of care.

28 (c) *Necessary access.* The following persons or entities shall have  
29 access to information from agency records. Access shall be limited to  
30 information reasonably necessary to carry out their lawful responsibilities,  
31 to maintain their personal safety and the personal safety of individuals in  
32 their care, or to educate, diagnose, treat, care for or protect a child alleged  
33 to be in need of care. Information authorized to be disclosed pursuant to  
34 this subsection shall not contain information which identifies a reporter of  
35 a child who is alleged or adjudicated to be a child in need of care.

36 (1) A child named in the report or records, a guardian ad litem  
37 appointed for the child and the child's attorney.

38 (2) A parent or other person responsible for the welfare of a child, or  
39 such person's legal representative.

40 (3) A court-appointed special advocate for a child, a citizen review  
41 board or other advocate which reports to the court.

42 (4) A person licensed to practice the healing arts or mental health  
43 profession in order to diagnose, care for, treat or supervise: (A) A child

1 whom such service provider reasonably suspects may be in need of care;  
2 (B) a member of the child's family; or (C) a person who allegedly abused  
3 or neglected the child.

4 (5) A person or entity licensed or registered by the secretary of health  
5 and environment or approved by the secretary ~~of social and rehabilitation~~  
6 ~~services for children and families~~ to care for, treat or supervise a child in  
7 need of care.

8 (6) A coroner or medical examiner when such person is determining  
9 the cause of death of a child.

10 (7) The state child death review board established under K.S.A. 22a-  
11 243, and amendments thereto.

12 (8) An attorney for a private party who files a petition pursuant to  
13 subsection (b) of K.S.A. 2012 Supp. 38-2233, and amendments thereto.

14 (9) A foster parent, prospective foster parent, permanent custodian,  
15 prospective permanent custodian, adoptive parent or prospective adoptive  
16 parent. In order to assist such persons in making an informed decision  
17 regarding acceptance of a particular child, to help the family anticipate  
18 problems which may occur during the child's placement, and to help the  
19 family meet the needs of the child in a constructive manner, the secretary  
20 shall seek and shall provide the following information to such person's as  
21 the information becomes available to the secretary:

22 (A) Strengths, needs and general behavior of the child;

23 (B) circumstances which necessitated placement;

24 (C) information about the child's family and the child's relationship to  
25 the family which may affect the placement;

26 (D) important life experiences and relationships which may affect the  
27 child's feelings, behavior, attitudes or adjustment;

28 (E) medical history of the child, including third-party coverage which  
29 may be available to the child; and

30 (F) education history, to include present grade placement, special  
31 strengths and weaknesses.

32 (10) The state protection and advocacy agency as provided by  
33 subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of  
34 K.S.A. 74-5515, and amendments thereto.

35 (11) Any educational institution to the extent necessary to enable the  
36 educational institution to provide the safest possible environment for its  
37 pupils and employees.

38 (12) Any educator to the extent necessary to enable the educator to  
39 protect the personal safety of the educator and the educator's pupils.

40 (13) Any other federal, state or local government executive branch  
41 entity or any agent of such entity, having a need for such information in  
42 order to carry out such entity's responsibilities under the law to protect  
43 children from abuse and neglect.

1 (d) *Specified access.* The following persons or entities shall have  
2 access to information contained in agency records as specified.  
3 Information authorized to be disclosed pursuant to this subsection shall not  
4 contain information which identifies a reporter of a child who is alleged or  
5 adjudicated to be a child in need of care.

6 (1) Information from confidential agency records of the ~~department~~  
7 ~~of social and rehabilitation services~~ *Kansas department for children and*  
8 *families*, a law enforcement agency or any juvenile intake and assessment  
9 worker of a child alleged or adjudicated to be in need of care shall be  
10 available to members of the standing house or senate committee on  
11 judiciary, house committee on corrections and juvenile justice, house  
12 committee on appropriations, senate committee on ways and means,  
13 legislative post audit committee and any joint committee with authority to  
14 consider children's and families' issues, when carrying out such member's  
15 or committee's official functions in accordance with K.S.A. 75-4319, and  
16 amendments thereto, in a closed or executive meeting. Except in limited  
17 conditions established by  $\frac{2}{3}$  of the members of such committee, records  
18 and reports received by the committee shall not be further disclosed.  
19 Unauthorized disclosure may subject such member to discipline or censure  
20 from the house of representatives or senate. The secretary ~~of social and~~  
21 ~~rehabilitation services~~ *for children and families* shall not summarize the  
22 outcome of department actions regarding a child alleged to be a child in  
23 need of care in information available to members of such committees.

24 (2) The secretary ~~of social and rehabilitation services for children~~  
25 ~~and families~~ may summarize the outcome of department actions regarding  
26 a child alleged to be a child in need of care to a person having made such  
27 report.

28 (3) Information from confidential reports or records of a child alleged  
29 or adjudicated to be a child in need of care may be disclosed to the public  
30 when:

31 (A) The individuals involved or their representatives have given  
32 express written consent; or

33 (B) the investigation of the abuse or neglect of the child or the filing  
34 of a petition alleging a child to be in need of care has become public  
35 knowledge, provided, however, that the agency shall limit disclosure to  
36 confirmation of procedural details relating to the handling of the case by  
37 professionals.

38 (e) *Court order.* Notwithstanding the provisions of this section, a  
39 court of competent jurisdiction, after in camera inspection, may order  
40 disclosure of confidential agency records pursuant to a determination that  
41 the disclosure is in the best interests of the child who is the subject of the  
42 reports or that the records are necessary for the proceedings of the court  
43 and otherwise admissible as evidence. The court shall specify the terms of



1 disclosure and impose appropriate limitations.

2 (f) (1) Notwithstanding any other provision of law to the contrary,  
3 except as provided in paragraph (4), in the event that child abuse or  
4 neglect results in a child fatality or near fatality, reports or records of a  
5 child alleged or adjudicated to be in need of care received by the secretary,  
6 a law enforcement agency or any juvenile intake and assessment worker  
7 shall become a public record and subject to disclosure pursuant to K.S.A.  
8 45-215, and amendments thereto.

9 (2) Within seven days of receipt of a request in accordance with the  
10 procedures adopted under K.S.A. 45-220, and amendments thereto, the  
11 secretary shall notify any affected individual that an open records request  
12 has been made concerning such records. The secretary or any affected  
13 individual may file a motion requesting the court to prevent disclosure of  
14 such record or report, or any select portion thereof. If the affected  
15 individual does not file such motion within seven days of notification, and  
16 the secretary has not filed a motion, the secretary shall release the reports  
17 or records. If such motion is filed, the court shall consider the effect such  
18 disclosure may have upon an ongoing criminal investigation, a pending  
19 prosecution, or the privacy of the child, if living, or the child's siblings,  
20 parents or guardians. The court shall make written findings on the record  
21 justifying the closing of the records and shall provide a copy of the journal  
22 entry to the affected parties and the individual requesting disclosure  
23 pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and  
24 amendments thereto.

25 (3) For reports or records requested pursuant to this subsection, the  
26 time limitations specified in this subsection shall control to the extent of  
27 any inconsistency between this subsection and K.S.A. 45-218, and  
28 amendments thereto. As used in this section, "near fatality" means an act  
29 that, as certified by a person licensed to practice medicine and surgery,  
30 places the child in serious or critical condition.

31 (4) Nothing in this subsection shall allow the disclosure of reports,  
32 records or documents concerning the child and such child's biological  
33 parents which were created prior to such child's adoption. Nothing herein  
34 is intended to require that an otherwise privileged communication lose its  
35 privileged character.

36 Sec. 75. K.S.A. 2012 Supp. 38-2222 is hereby amended to read as  
37 follows: 38-2222. The secretary shall conduct a continuing public  
38 information and educational program concerning the reporting of  
39 suspected abuse or neglect for local staff of the ~~department of social and~~  
40 ~~rehabilitation services~~ *Kansas department for children and families*, for  
41 persons required to report under this code and for other appropriate  
42 persons.

43 Sec. 76. K.S.A. 2012 Supp. 38-2223 is hereby amended to read as

1 follows: 38-2223. (a) *Persons making reports.* (1) When any of the  
2 following persons has reason to suspect that a child has been harmed as a  
3 result of physical, mental or emotional abuse or neglect or sexual abuse,  
4 the person shall report the matter promptly as provided in subsections (b)  
5 and (c);

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

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

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

22 (D) firefighters, emergency medical services personnel, law  
23 enforcement officers, juvenile intake and assessment workers, court  
24 services officers, community corrections officers, case managers appointed  
25 under K.S.A. 2012 Supp. 23-3508, and amendments thereto, and mediators  
26 appointed under K.S.A. 2012 Supp. 23-3502, and amendments thereto;  
27 and

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

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

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

1 cause of the harm and the identity of the persons responsible for the harm.

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

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

8 (1) When the ~~department of social and rehabilitation services~~ *Kansas*  
9 *department for children and families* is not open for business, reports shall  
10 be made to the appropriate law enforcement agency. On the next day that  
11 the department is open for business, the law enforcement agency shall  
12 report to the department any report received and any investigation initiated  
13 pursuant to K.S.A. 2012 Supp. 38-2226, and amendments thereto. The  
14 reports may be made orally or, on request of the secretary, in writing.

15 (2) Reports of child abuse or neglect occurring in an institution  
16 operated by the ~~secretary of social and rehabilitation~~ *Kansas department*  
17 *for aging and disability* services or the commissioner of juvenile justice  
18 shall be made to the attorney general. All other reports of child abuse or  
19 neglect by persons employed by or of children of persons employed by the  
20 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
21 *disability services and the Kansas department for children and families*  
22 shall be made to the appropriate law enforcement agency.

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

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

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

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

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

42 Sec. 77. K.S.A. 2012 Supp. 38-2226 is hereby amended to read as  
43 follows: 38-2226. (a) *Investigation for child abuse or neglect.* The

1 secretary and law enforcement officers shall have the duty to receive and  
2 investigate reports of child abuse or neglect for the purpose of determining  
3 whether the report is valid and whether action is required to protect a  
4 child. Any person or agency which maintains records relating to the  
5 involved child which are relevant to any investigation conducted by the  
6 secretary or law enforcement agency under this code shall provide the  
7 secretary or law enforcement agency with the necessary records to assist in  
8 investigations. In order to provide such records, the person or agency  
9 maintaining the records shall receive from the secretary or law  
10 enforcement: (1) A written request for information; and (2) a written notice  
11 that the investigation is being conducted by the secretary or law  
12 enforcement. If the secretary and such officers determine that no action is  
13 necessary to protect the child but that a criminal prosecution should be  
14 considered, such law enforcement officers shall make a report of the case  
15 to the appropriate law enforcement agency.

16 (b) *Joint investigations.* When a report of child abuse or neglect  
17 indicates: (1) That there is serious physical harm to, serious deterioration  
18 of or sexual abuse of the child; and (2) that action may be required to  
19 protect the child, the investigation shall be conducted as a joint effort  
20 between the secretary and the appropriate law enforcement agency or  
21 agencies, with a free exchange of information between them pursuant to  
22 K.S.A. 2012 Supp. 38-2210, and amendments thereto. If a statement of a  
23 suspect is obtained by either agency, a copy of the statement shall be  
24 provided to the other.

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

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

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

39 (f) *Cooperation between agencies.* Law enforcement agencies and the  
40 secretary shall assist each other in taking action which is necessary to  
41 protect a child regardless of which agency conducted the initial  
42 investigation.

43 (g) *Cooperation between school personnel and investigative*

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

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

15 Sec. 78. K.S.A. 2012 Supp. 38-2247 is hereby amended to read as  
16 follows: 38-2247. (a) *Adjudication.* Proceedings prior to and including  
17 adjudication under this code shall be open to attendance by any person  
18 unless the court determines that closed proceedings or the exclusion of that  
19 person would be in the best interests of the child or is necessary to protect  
20 the privacy rights of the parents.

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

23 (2) Members of the news media shall comply with supreme court rule  
24 10.01.

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

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

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

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

40 (1) Such parent ally orientation program shall include, but not be  
41 limited to, information concerning the confidentiality of the proceedings;  
42 the child and parent's right to counsel; the definitions and jurisdiction  
43 pursuant to the Kansas code for care of children; the types and purposes of

1 the hearings; options for informal supervision and dispositions; placement  
2 options; the parents' obligation to financially support the child while the  
3 child is in the state's custody; obligations of the secretary ~~of social and~~  
4 ~~rehabilitation services for children and families~~; obligations of entities that  
5 contract with the ~~department of social and rehabilitation services~~ *Kansas*  
6 *department for children and families* for family preservation, foster care  
7 and adoption; the termination of parental rights; the procedures for  
8 appeals; and the basic rules regarding court procedure.

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

12 (d) *Preservation of confidentiality.* If information required to be kept  
13 confidential by K.S.A. 2012 Supp. 38-2209, and amendments thereto, is to  
14 be introduced into evidence and there are persons in attendance who are  
15 not authorized to receive the information, the court may exclude those  
16 persons during the presentation of the evidence or conduct an in camera  
17 inspection of the evidence.

18 Sec. 79. K.S.A. 2012 Supp. 38-2261 is hereby amended to read as  
19 follows: 38-2261. The secretary shall notify the foster parent or parents  
20 that the foster parent or parents have a right to submit a report. Copies of  
21 the report shall be available to the parties and interested parties. The report  
22 made by foster parents shall be on a form created and provided by the  
23 ~~department of social and rehabilitation services~~ *Kansas department for*  
24 *children and families*.

25 Sec. 80. K.S.A. 2012 Supp. 38-2282 is hereby amended to read as  
26 follows: 38-2282. (a) This section shall be known and may be cited as the  
27 newborn infant protection act.

28 (b) A parent or other person having lawful custody of an infant which  
29 is 45 days old or younger and which has not suffered bodily harm may  
30 surrender physical custody of the infant to any employee who is on duty at  
31 a fire station, city or county health department or medical care facility as  
32 defined by K.S.A. 65-425, and amendments thereto. Such employee shall  
33 take physical custody of an infant surrendered pursuant to this section.

34 (c) As soon as possible after a person takes physical custody of an  
35 infant under this section, such person shall notify a local law enforcement  
36 agency that the person has taken physical custody of an infant pursuant to  
37 this section. Upon receipt of such notice a law enforcement officer from  
38 such law enforcement agency shall take custody of the infant as an  
39 abandoned child. The law enforcement agency shall deliver the infant to a  
40 facility or person designated by the secretary pursuant to K.S.A. 2012  
41 Supp. 38-2232, and amendments thereto.

42 (d) Any person, city or county or agency thereof or medical care  
43 facility taking physical custody of an infant surrendered pursuant to this

1 section shall perform any act necessary to protect the physical health or  
2 safety of the infant, and shall be immune from liability for any injury to  
3 the infant that may result therefrom.

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

9 Sec. 81. K.S.A. 2012 Supp. 38-2304 is hereby amended to read as  
10 follows: 38-2304. (a) Except as provided in K.S.A. 2012 Supp. 38-2347,  
11 and amendments thereto, proceedings concerning a juvenile shall be  
12 governed by the provisions of this code.

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

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

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

20 (1) The complaint is dismissed;

21 (2) the juvenile is adjudicated not guilty at trial;

22 (3) the juvenile, after being adjudicated guilty and sentenced:

23 (i) Successfully completes the term of probation or order of  
24 assignment to community corrections;

25 (ii) is discharged by the commissioner pursuant to K.S.A. 2012 Supp.  
26 38-2376, and amendments thereto;

27 (iii) reaches the juvenile's 21<sup>st</sup> birthday and no exceptions apply that  
28 extend jurisdiction beyond age 21;

29 (4) the court terminates jurisdiction; or

30 (5) the offender is convicted of a new felony while the offender is  
31 incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671,  
32 prior to its repeal, or K.S.A. 2012 Supp. 38-2373, and amendments  
33 thereto, for an offense, which if committed by an adult would constitute  
34 the commission of a felony.

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

39 (1) The juvenile offender is sentenced pursuant to K.S.A. 2012 Supp.  
40 38-2369, and amendments thereto, and the term of the sentence including  
41 successful completion of aftercare extends beyond the juvenile offender's  
42 21<sup>st</sup> birthday; or

43 (2) the juvenile offender is sentenced pursuant to an extended

1 jurisdiction juvenile prosecution and continues to successfully serve the  
2 sentence imposed pursuant to the revised Kansas juvenile justice code.

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

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

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

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

36 (h) A court's order issued in a proceeding pursuant to this code, shall  
37 take precedence over such orders in a proceeding under chapter 23 of the  
38 Kansas Statutes Annotated, and amendments thereto, the Kansas family  
39 law code, a proceeding under article 31 of chapter 60 of the Kansas  
40 Statutes Annotated, and amendments thereto, protection from abuse act, a  
41 proceeding under article 21 of chapter 59 of the Kansas Statutes  
42 Annotated, and amendments thereto, adoption and relinquishment act, a  
43 proceeding under article 30 of chapter 59 of the Kansas Statutes



1 Annotated, and amendments thereto, guardians and conservators, or a  
2 comparable case in another jurisdiction, except as provided by K.S.A.  
3 2012 Supp. 23-37,101 et seq., and amendments thereto, uniform child  
4 custody jurisdiction and enforcement act.

5 Sec. 82. K.S.A. 2012 Supp. 38-2310 is hereby amended to read as  
6 follows: 38-2310. (a) All records of law enforcement officers and agencies  
7 and municipal courts concerning an offense committed or alleged to have  
8 been committed by a juvenile under 14 years of age shall be kept readily  
9 distinguishable from criminal and other records and shall not be disclosed  
10 to anyone except:

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

13 (2) parties to the proceedings and their attorneys;

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

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

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

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

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

27 (8) the central repository, as defined by K.S.A. 22-4701, and  
28 amendments thereto, for use only as a part of the juvenile offender  
29 information system established under K.S.A. 2012 Supp. 38-2326, and  
30 amendments thereto;

31 (9) juvenile intake and assessment workers;

32 (10) the juvenile justice authority;

33 (11) juvenile community corrections officers;

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

36 (13) as provided in subsection (c).

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

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

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

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

5 (c) All records of law enforcement officers and agencies and  
6 municipal courts concerning an offense committed or alleged to have been  
7 committed by a juvenile 14 or more years of age shall be subject to the  
8 same disclosure restrictions as the records of adults. Information  
9 identifying victims and alleged victims of sex offenses, as defined in  
10 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their  
11 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or  
12 K.S.A. 2012 Supp. 21-6419 through 21-6421, and amendments thereto,  
13 shall not be disclosed or open to public inspection under any  
14 circumstances. Nothing in this section shall prohibit the victim or any  
15 alleged victim of any sex offense from voluntarily disclosing such victim's  
16 identity.

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

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

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

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

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

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

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

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

41 (E) the police or other law enforcement agency;

42 (F) an agency charged with the responsibility of preventing or  
43 treating physical, mental or emotional abuse or neglect or sexual abuse of

1 children, if the agency requesting the information has standards of  
2 confidentiality as strict or stricter than the requirements of the Kansas code  
3 for care of children or the revised Kansas juvenile justice code, whichever  
4 is applicable;

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

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

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

17 (J) a citizen review board pursuant to K.S.A. 2012 Supp. 38-2207,  
18 and amendments thereto;

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

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

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

26 Sec. 83. K.S.A. 2012 Supp. 38-2312 is hereby amended to read as  
27 follows: 38-2312. (a) Except as provided in subsection (b) and (c), any  
28 records or files specified in this code concerning a juvenile may be  
29 expunged upon application to a judge of the court of the county in which  
30 the records or files are maintained. The application for expungement may  
31 be made by the juvenile, if 18 years of age or older or, if the juvenile is  
32 less than 18 years of age, by the juvenile's parent or next friend.

33 (b) There shall be no expungement of records or files concerning acts  
34 committed by a juvenile which, if committed by an adult, would constitute  
35 a violation of K.S.A. 21-3401, prior to its repeal, or K.S.A. 2012 Supp. 21-  
36 5402, and amendments thereto, murder in the first degree; K.S.A. 21-3402,  
37 prior to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments  
38 thereto, murder in the second degree; K.S.A. 21-3403, prior to its repeal,  
39 or K.S.A. 2012 Supp. 21-5404, and amendments thereto, voluntary  
40 manslaughter; K.S.A. 21-3404, prior to its repeal, or K.S.A. 2012 Supp.  
41 21-5405, and amendments thereto, involuntary manslaughter; K.S.A. 21-  
42 3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments  
43 thereto, capital murder; K.S.A. 21-3442, prior to its repeal, or subsection

1 (a)(3) of K.S.A. 2012 Supp. 21-5405, and amendments thereto,  
2 involuntary manslaughter while driving under the influence of alcohol or  
3 drugs; K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp. 21-5503,  
4 and amendments thereto, rape; K.S.A. 21-3503, prior to its repeal, or  
5 subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
6 indecent liberties with a child; K.S.A. 21-3504, prior to its repeal, or  
7 subsection (b) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
8 aggravated indecent liberties with a child; K.S.A. 21-3506, prior to its  
9 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments  
10 thereto, aggravated criminal sodomy; K.S.A. 21-3510, prior to its repeal,  
11 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,  
12 indecent solicitation of a child; K.S.A. 21-3511, prior to its repeal, or  
13 subsection (b) of K.S.A. 2012 Supp. 21-5508, and amendments thereto,  
14 aggravated indecent solicitation of a child; K.S.A. 21-3516, prior to its  
15 repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual  
16 exploitation; K.S.A. 21-3603, prior to its repeal, or subsection (b) of  
17 K.S.A. 2012 Supp. 21-5604, and amendments thereto, aggravated incest;  
18 K.S.A. 21-3608, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp.  
19 21-5601, and amendments thereto, endangering a child; K.S.A. 21-3609,  
20 prior to its repeal, or K.S.A. 2012 Supp. 21-5602, and amendments  
21 thereto, abuse of a child; or which would constitute an attempt to commit a  
22 violation of any of the offenses specified in this subsection.

23 (c) Notwithstanding any other law to the contrary, for any offender  
24 who is required to register as provided in the Kansas offender registration  
25 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no  
26 expungement of any conviction or any part of the offender's criminal  
27 record while the offender is required to register as provided in the Kansas  
28 offender registration act.

29 (d) When a petition for expungement is filed, the court shall set a date  
30 for a hearing on the petition and shall give notice thereof to the county or  
31 district attorney. The petition shall state: (1) The juvenile's full name; (2)  
32 the full name of the juvenile as reflected in the court record, if different  
33 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which  
34 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity  
35 of the trial court. Except as otherwise provided by law, a petition for  
36 expungement shall be accompanied by a docket fee in the amount of \$100.  
37 On and after the effective date of this act through June 30, 2013, the  
38 supreme court may impose a charge, not to exceed \$19 per case, to fund  
39 the costs of non-judicial personnel. All petitions for expungement shall be  
40 docketed in the original action. Any person who may have relevant  
41 information about the petitioner may testify at the hearing. The court may  
42 inquire into the background of the petitioner.

43 (e) (1) After hearing, the court shall order the expungement of the

1 records and files if the court finds that:

2 (A) The juvenile has reached 23 years of age or that two years have  
3 elapsed since the final discharge;

4 (B) since the final discharge of the juvenile, the juvenile has not been  
5 convicted of a felony or of a misdemeanor other than a traffic offense or  
6 adjudicated as a juvenile offender under the revised Kansas juvenile justice  
7 code and no proceedings are pending seeking such a conviction or  
8 adjudication; and

9 (C) the circumstances and behavior of the petitioner warrant  
10 expungement.

11 (2) The court may require that all court costs, fees and restitution  
12 shall be paid.

13 (f) Upon entry of an order expunging records or files, the offense  
14 which the records or files concern shall be treated as if it never occurred,  
15 except that upon conviction of a crime or adjudication in a subsequent  
16 action under this code the offense may be considered in determining the  
17 sentence to be imposed. The petitioner, the court and all law enforcement  
18 officers and other public offices and agencies shall properly reply on  
19 inquiry that no record or file exists with respect to the juvenile. Inspection  
20 of the expunged files or records thereafter may be permitted by order of  
21 the court upon petition by the person who is the subject thereof. The  
22 inspection shall be limited to inspection by the person who is the subject of  
23 the files or records and the person's designees.

24 (g) A certified copy of any order made pursuant to subsection (a) or  
25 (d) shall be sent to the Kansas bureau of investigation, which shall notify  
26 every juvenile or criminal justice agency which may possess records or  
27 files ordered to be expunged. If the agency fails to comply with the order  
28 within a reasonable time after its receipt, such agency may be adjudged in  
29 contempt of court and punished accordingly.

30 (h) The court shall inform any juvenile who has been adjudicated a  
31 juvenile offender of the provisions of this section.

32 (i) Nothing in this section shall be construed to prohibit the  
33 maintenance of information relating to an offense after records or files  
34 concerning the offense have been expunged if the information is kept in a  
35 manner that does not enable identification of the juvenile.

36 (j) Nothing in this section shall be construed to permit or require  
37 expungement of files or records related to a child support order registered  
38 pursuant to the revised Kansas juvenile justice code.

39 (k) Whenever the records or files of any adjudication have been  
40 expunged under the provisions of this section, the custodian of the records  
41 or files of adjudication relating to that offense shall not disclose the  
42 existence of such records or files, except when requested by:

43 (1) The person whose record was expunged;

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

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

7 (4) ~~the secretary of social and rehabilitation~~ *for aging and disability*  
8 *services*, or a designee of the secretary, for the purpose of obtaining  
9 information relating to employment in an institution, as defined in K.S.A.  
10 76-12a01, and amendments thereto, of the ~~department of social and~~  
11 ~~rehabilitation~~ *Kansas department for aging and disability* services of any  
12 person whose record has been expunged;

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

15 (6) the Kansas lottery, and the request is accompanied by a statement  
16 that the request is being made to aid in determining qualifications for  
17 employment with the Kansas lottery or for work in sensitive areas within  
18 the Kansas lottery as deemed appropriate by the executive director of the  
19 Kansas lottery;

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

27 (8) the Kansas sentencing commission; or

28 (9) the Kansas bureau of investigation, for the purposes of:

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

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

35 (l) The provisions of subsection (k)(9) shall apply to all records  
36 created prior to, on and after July 1, 2011.

37 Sec. 84. K.S.A. 2012 Supp. 38-2319 is hereby amended to read as  
38 follows: 38-2319. (a) The court shall order child support unless good cause  
39 is shown why such support should not be ordered. In determining the  
40 amount of a child support order under the revised Kansas juvenile justice  
41 code, the court shall apply the Kansas child support guidelines adopted  
42 pursuant to K.S.A. 20-165, and amendments thereto.

43 (b) If necessary to carry out the intent of this section, the court may

1 refer the matter to the secretary ~~of social and rehabilitation services for~~  
2 *children and families* for child support enforcement.

3 Sec. 85. K.S.A. 2012 Supp. 38-2326 is hereby amended to read as  
4 follows: 38-2326. (a) In order to properly advise the three branches of  
5 government on the operation of the juvenile justice system, there is hereby  
6 established within and as a part of the central repository, a juvenile  
7 offender information system. The system shall serve as a repository of  
8 juvenile offender information which is collected by juvenile justice  
9 agencies and reported to the system.

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

18 (c) Reporting methods may include:

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

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

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

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

30 (e) Juvenile offender information maintained in the juvenile offender  
31 information system is confidential and shall not be disseminated or  
32 publicly disclosed in a manner which enables identification of any  
33 individual who is a subject of the information, except that the information  
34 shall be open to inspection by law enforcement agencies of this state, by  
35 ~~the department of social and rehabilitation services~~ *Kansas department for*  
36 *children and families* if related to an individual in the secretary's custody  
37 or control, by the juvenile justice authority if related to an individual in the  
38 commissioner's custody or control, by the department of corrections if  
39 related to an individual in the custody and control of the secretary of  
40 corrections, by educational institutions to the extent necessary to provide  
41 the safest possible environment for pupils and employees, by any educator  
42 to the extent necessary for the protection of the educator and pupils, by the  
43 officers of any public institution to which the individual is committed, by

1 county and district attorneys, by attorneys for the parties to a proceeding  
2 under this code, by an intake and assessment worker or upon order of a  
3 judge of the district court or an appellate court. Such information shall  
4 reflect the offense level and whether such offense is a person or nonperson  
5 offense.

6 (f) Any journal entry of a trial of adjudication shall state the number  
7 of the statute under which the juvenile is adjudicated to be a juvenile  
8 offender and specify whether each offense, if done by an adult, would  
9 constitute a felony or misdemeanor, as defined in K.S.A. 2012 Supp. 21-  
10 5102, and amendments thereto.

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

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

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

20 Sec. 86. K.S.A. 2012 Supp. 38-2335 is hereby amended to read as  
21 follows: 38-2335. (a) The court shall not issue the first warrant or enter an  
22 order removing a juvenile from the custody of a parent pursuant to this  
23 section unless the court first finds probable cause that: (1) (A) The juvenile  
24 is likely to sustain harm if not immediately removed from the home;

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

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

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

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

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

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

42 (b) If the court determines that reasonable efforts to maintain the  
43 family unit and prevent unnecessary removal of a juvenile were not made,



1 the court shall determine whether such reasonable efforts were  
2 unnecessary because:

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

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

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

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

16 (c) Nothing in this section shall be construed to prohibit the court  
17 from issuing a warrant or entering an order authorizing or requiring  
18 removal of the juvenile from the home if the juvenile presents a risk to  
19 public safety.

20 (d) When the juvenile has been in foster care and has been placed at  
21 home or allowed a trial home visit for a period of six months or more and  
22 is again removed from the home, the court shall again make a  
23 determination pursuant to subsections (a) and (b).

24 Sec. 87. K.S.A. 2012 Supp. 38-2350 is hereby amended to read as  
25 follows: 38-2350. (a) If, after proceedings as required by K.S.A. 2012  
26 Supp. 38-2349, and amendments thereto, it is determined that a juvenile  
27 who has been found incompetent is not a mentally ill person subject to  
28 involuntary commitment for care and treatment as defined in subsection (f)  
29 of K.S.A. 59-2946, and amendments thereto, the juvenile shall remain in  
30 the institution where committed pursuant to K.S.A. 2012 Supp. 38-2348,  
31 and amendments thereto. The secretary of ~~social and rehabilitation services~~  
32 *for children and families* shall promptly notify the court in which the  
33 proceedings are pending and the commissioner of the result of the  
34 proceedings. The court shall then proceed pursuant to subsection (c).

35 (b) If a juvenile has been found to be a mentally ill person and  
36 committed to a state psychiatric hospital for evaluation and treatment  
37 pursuant to K.S.A. 2012 Supp. 38-2349, and amendments thereto, but  
38 thereafter is to be discharged because such juvenile is not a mentally ill  
39 person subject to involuntary commitment for care and treatment as  
40 defined in subsection (f) of K.S.A. 59-2946, and amendments thereto, the  
41 treatment facility shall promptly notify the court in which the proceedings  
42 are pending that the juvenile is to be discharged. The court shall then  
43 proceed pursuant to subsection (c).

1 (c) Unless the court finds pursuant to subsection (c) of K.S.A. 2012  
2 Supp. 38-2348, and amendments thereto, that the proceedings shall be  
3 resumed, within seven days after receiving notice pursuant to subsection  
4 (a) or (b), the court shall order the juvenile to be discharged from  
5 commitment and shall dismiss the charges without prejudice. The period  
6 of limitation for the prosecution for the crime charged shall not continue to  
7 run until the juvenile has been determined to have attained competency  
8 pursuant to subsection (e) of K.S.A. 2012 Supp. 38-2348, and amendments  
9 thereto.

10 Sec. 88. K.S.A. 2012 Supp. 38-2356 is hereby amended to read as  
11 follows: 38-2356. (a) If the court finds that the evidence fails to prove an  
12 offense charged or a lesser included offense as defined in subsection (b) of  
13 K.S.A. 2012 Supp. 21-5109, and amendments thereto, the court shall enter  
14 an order dismissing the charge.

15 (b) If the court finds that the juvenile committed the offense charged  
16 or a lesser included offense as defined in subsection (b) of K.S.A. 2012  
17 Supp. 21-5109, and amendments thereto, the court shall adjudicate the  
18 juvenile to be a juvenile offender and may issue a sentence as authorized  
19 by this code.

20 (c) If the court finds that the juvenile committed the acts constituting  
21 the offense charged or a lesser included offense as defined in subsection  
22 (b) of K.S.A. 2012 Supp. 21-5109, and amendments thereto, but is not  
23 responsible because of mental disease or defect, the juvenile shall not be  
24 adjudicated as a juvenile offender and shall be committed to the custody of  
25 the secretary of social and rehabilitation *for aging and disability* services  
26 and placed in a state hospital. The juvenile's continued commitment shall  
27 be subject to annual review in the manner provided by K.S.A. 22-3428a,  
28 and amendments thereto, for review of commitment of a defendant  
29 suffering from mental disease or defect, and the juvenile may be  
30 discharged or conditionally released pursuant to that section. The juvenile  
31 also may be discharged or conditionally released in the same manner and  
32 subject to the same procedures as provided by K.S.A. 22-3428, and  
33 amendments thereto, for discharge of or granting conditional release to a  
34 defendant found suffering from mental disease or defect. If the juvenile  
35 violates any conditions of an order of conditional release, the juvenile shall  
36 be subject to contempt proceedings and returned to custody as provided by  
37 K.S.A. 22-3428b, and amendments thereto.

38 (d) A copy of the court's order shall be sent to the school district in  
39 which the juvenile offender is enrolled or will be enrolled.

40 Sec. 89. K.S.A. 2012 Supp. 38-2361 is hereby amended to read as  
41 follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to  
42 K.S.A. 2012 Supp. 38-2356, and amendments thereto, modification of  
43 sentence pursuant to K.S.A. 2012 Supp. 38-2367, and amendments thereto,

1 or violation of a condition of sentence pursuant to K.S.A. 2012 Supp. 38-  
2 2368, and amendments thereto, and subject to subsection (a) of K.S.A.  
3 2012 Supp. 38-2365, and amendments thereto, the court may impose one  
4 or more of the following sentencing alternatives. In the event that any  
5 sentencing alternative chosen constitutes an order authorizing or requiring  
6 removal of the juvenile from the juvenile's home and such findings either  
7 have not previously been made or the findings are not or may no longer be  
8 current, the court shall make determinations as required by K.S.A. 2012  
9 Supp. 38-2334 and 38-2335, and amendments thereto.

10 (1) Place the juvenile on probation through court services or  
11 community corrections for a fixed period, subject to terms and conditions  
12 the court deems appropriate consistent with juvenile justice programs in  
13 the community.

14 (2) Order the juvenile to participate in a community based program  
15 available in such judicial district subject to the terms and conditions the  
16 court deems appropriate. This alternative shall not be ordered with the  
17 alternative in paragraph (12) and when ordered with the alternative in  
18 paragraph (10) shall constitute a recommendation. Requirements  
19 pertaining to child support may apply if custody is vested with other than a  
20 parent.

21 (3) Place the juvenile in the custody of a parent or other suitable  
22 person, subject to terms and conditions consistent with juvenile justice  
23 programs in the community. This alternative shall not be ordered with the  
24 alternative in paragraph (10) or (12). Requirements pertaining to child  
25 support may apply if custody is vested with other than a parent.

26 (4) Order the juvenile to attend counseling, educational, mediation or  
27 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

28 (5) Suspend or restrict the juvenile's driver's license or privilege to  
29 operate a motor vehicle on the streets and highways of this state pursuant  
30 to subsection (c).

31 (6) Order the juvenile to perform charitable or community service  
32 work.

33 (7) Order the juvenile to make appropriate reparation or restitution  
34 pursuant to subsection (d).

35 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to  
36 subsection (e).

37 (9) Place the juvenile under a house arrest program administered by  
38 the court pursuant to K.S.A. 2012 Supp. 21-6609, and amendments  
39 thereto.

40 (10) Place the juvenile in the custody of the commissioner as  
41 provided in K.S.A. 2012 Supp. 38-2365, and amendments thereto. This  
42 alternative shall not be ordered with the alternative in paragraph (3) or  
43 (12). Except for a mandatory drug and alcohol evaluation, when this

1 alternative is ordered with alternatives in paragraphs (2), (4) and (9), such  
2 orders shall constitute a recommendation by the court. Requirements  
3 pertaining to child support shall apply under this alternative.

4 (11) Commit the juvenile to a sanctions house for a period no longer  
5 than 28 days subject to the provisions of subsection (f).

6 (12) Commit the juvenile directly to the custody of the commissioner  
7 for a period of confinement in a juvenile correctional facility and a period  
8 of aftercare pursuant to K.S.A. 2012 Supp. 38-2369, and amendments  
9 thereto. The provisions of K.S.A. 2012 Supp. 38-2365, and amendments  
10 thereto, shall not apply to juveniles committed pursuant to this provision,  
11 provided however, that 21 days prior to the juvenile's release from a  
12 juvenile correctional facility, the commissioner or designee shall notify the  
13 court of the juvenile's anticipated release date. The court shall set and hold  
14 a permanency hearing pursuant to K.S.A. 2012 Supp. 38-2365, and  
15 amendments thereto, within seven days after the juvenile's release. This  
16 alternative may be ordered with the alternative in paragraph (7).  
17 Requirements pertaining to child support shall apply under this alternative.

18 (b) If the court orders the juvenile to attend counseling, educational,  
19 mediation or other sessions, or to undergo a drug and alcohol evaluation  
20 pursuant to subsection (a)(4), the following provisions apply:

21 (1) The court may order the juvenile offender to participate in  
22 counseling or mediation sessions or a program of education, including  
23 placement in an alternative educational program approved by a local  
24 school board. The costs of any counseling or mediation may be assessed as  
25 expenses in the case. No mental health center shall charge a fee for court-  
26 ordered counseling greater than what the center would have charged the  
27 person receiving the counseling if the person had requested counseling on  
28 the person's own initiative. No mediator shall charge a fee for court-  
29 ordered mediation greater than what the mediator would have charged the  
30 person participating in the mediation if the person had requested mediation  
31 on the person's own initiative. Mediation may include the victim but shall  
32 not be mandatory for the victim; and

33 (2) if the juvenile has been adjudicated to be a juvenile by reason of a  
34 violation of a statute that makes such a requirement, the court shall order  
35 and, if adjudicated for any other offense, the court may order the juvenile  
36 to submit to and complete a drug and alcohol evaluation by a community-  
37 based drug and alcohol safety action program certified pursuant to K.S.A.  
38 8-1008, and amendments thereto, and to pay a fee not to exceed the fee  
39 established by that statute for such evaluation. The court may waive the  
40 mandatory evaluation if the court finds that the juvenile completed a drug  
41 and alcohol evaluation, approved by the community-based alcohol and  
42 drug safety action program, within 12 months before sentencing. If the  
43 evaluation occurred more than 12 months before sentencing, the court

1 shall order the juvenile to resubmit to and complete the evaluation and  
2 program as provided herein. If the court finds that the juvenile and those  
3 legally liable for the juvenile's support are indigent, the court may waive  
4 the fee. In no event shall the fee be assessed against the commissioner or  
5 the juvenile justice authority nor shall the fee be assessed against the  
6 ~~secretary of social and rehabilitation services for children and families~~  
7 ~~the department of social and rehabilitation services~~ *Kansas department for*  
8 *children and families* if the juvenile is in the secretary's care, custody and  
9 control.

10 (c) If the court orders suspension or restriction of a juvenile offender's  
11 driver's license or privilege to operate a motor vehicle on the streets and  
12 highways of this state pursuant to subsection (a)(5), the following  
13 provisions apply:

14 (1) The duration of the suspension ordered by the court shall be for a  
15 definite time period to be determined by the court. Upon suspension of a  
16 license pursuant to this subsection, the court shall require the juvenile  
17 offender to surrender the license to the court. The court shall transmit the  
18 license to the division of motor vehicles of the department of revenue, to  
19 be retained until the period of suspension expires. At that time, the licensee  
20 may apply to the division for return of the license. If the license has  
21 expired, the juvenile offender may apply for a new license, which shall be  
22 issued promptly upon payment of the proper fee and satisfaction of other  
23 conditions established by law for obtaining a license unless another  
24 suspension or revocation of the juvenile offender's privilege to operate a  
25 motor vehicle is in effect. As used in this subsection, "highway" and  
26 "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and  
27 amendments thereto. Any juvenile offender who does not have a driver's  
28 license may have driving privileges revoked. No Kansas driver's license  
29 shall be issued to a juvenile offender whose driving privileges have been  
30 revoked pursuant to this section for a definite time period to be determined  
31 by the court; and

32 (2) in lieu of suspending a juvenile offender's driver's license or  
33 privilege to operate a motor vehicle on the highways of this state, the court  
34 may enter an order which places conditions on the juvenile offender's  
35 privilege of operating a motor vehicle on the streets and highways of this  
36 state, a certified copy of which the juvenile offender shall be required to  
37 carry any time the juvenile offender is operating a motor vehicle on the  
38 streets and highways of this state. The order shall prescribe a definite time  
39 period for the conditions imposed. Upon entering an order restricting a  
40 juvenile offender's license, the court shall require the juvenile offender to  
41 surrender such juvenile offender's license to the court. The court shall  
42 transmit the license to the division of vehicles, together with a copy of the  
43 order. Upon receipt thereof, the division of vehicles shall issue without

1 charge a driver's license which shall indicate on its face that conditions  
2 have been imposed on the juvenile offender's privilege of operating a  
3 motor vehicle and that a certified copy of the order imposing the  
4 conditions is required to be carried by the juvenile offender when  
5 operating a motor vehicle on the streets and highways of this state. If the  
6 juvenile offender is a nonresident, the court shall cause a copy of the order  
7 to be transmitted to the division and the division shall forward a copy of it  
8 to the motor vehicle administrator of the juvenile offender's state of  
9 issuance. The court shall furnish to any juvenile offender whose driver's  
10 license has had conditions imposed on it under this section a copy of the  
11 order, which shall be recognized as a valid Kansas driver's license until the  
12 division issues the restricted license provided for in this subsection. Upon  
13 expiration of the period of time for which conditions are imposed pursuant  
14 to this subsection, the juvenile offender may apply to the division for the  
15 return of the license previously surrendered by the juvenile offender. In the  
16 event the license has expired, the juvenile offender may apply to the  
17 division for a new license, which shall be issued immediately by the  
18 division upon payment of the proper fee and satisfaction of the other  
19 conditions established by law unless such juvenile offender's privilege to  
20 operate a motor vehicle on the streets and highways of this state has been  
21 suspended or revoked prior thereto. If any juvenile offender violates any of  
22 the conditions imposed under this subsection, the juvenile offender's  
23 driver's license or privilege to operate a motor vehicle on the streets and  
24 highways of this state shall be revoked for a period as determined by the  
25 court in which the juvenile offender is convicted of violating such  
26 conditions.

27 (d) The following provisions apply to the court's determination of  
28 whether to order reparation or restitution pursuant to subsection (a)(7):

29 (1) The court shall order the juvenile to make reparation or restitution  
30 to the aggrieved party for the damage or loss caused by the juvenile  
31 offender's offense unless it finds compelling circumstances that would  
32 render a plan of reparation or restitution unworkable. If the court finds  
33 compelling circumstances that would render a plan of reparation or  
34 restitution unworkable, the court shall enter such findings with  
35 particularity on the record. In lieu of reparation or restitution, the court  
36 may order the juvenile to perform charitable or social service for  
37 organizations performing services for the community; and

38 (2) restitution may include, but shall not be limited to, the amount of  
39 damage or loss caused by the juvenile's offense. Restitution may be made  
40 by payment of an amount fixed by the court or by working for the parties  
41 sustaining loss in the manner ordered by the court. An order of monetary  
42 restitution shall be a judgment against the juvenile that may be collected  
43 by the court by garnishment or other execution as on judgments in civil

1 cases. Such judgment shall not be affected by the termination of the court's  
2 jurisdiction over the juvenile offender.

3 (e) If the court imposes a fine pursuant to subsection (a)(8), the  
4 following provisions apply:

5 (1) The amount of the fine may not exceed \$1,000 for each offense.  
6 The amount of the fine should be related to the seriousness of the offense  
7 and the juvenile's ability to pay. Payment of a fine may be required in a  
8 lump sum or installments;

9 (2) in determining whether to impose a fine and the amount to be  
10 imposed, the court shall consider that imposition of a fine is most  
11 appropriate in cases where the juvenile has derived pecuniary gain from  
12 the offense and that imposition of a restitution order is preferable to  
13 imposition of a fine; and

14 (3) any fine imposed by court shall be a judgment against the juvenile  
15 that may be collected by the court by garnishment or other execution as on  
16 judgments in civil cases. Such judgment shall not be affected by the  
17 termination of the court's jurisdiction over the juvenile.

18 (f) If the court commits the juvenile to a sanctions house pursuant to  
19 subsection (a)(11), the following provisions shall apply:

20 (1) The court may order commitment for up to 28 days for the same  
21 offense or violation of sentencing condition. The court shall review the  
22 commitment every seven days and, may shorten the initial commitment or,  
23 if the initial term is less than 28 days, may extend the commitment;

24 (2) if, in the sentencing order, the court orders a sanctions house  
25 placement for a verifiable probation violation and such probation violation  
26 occurs, the juvenile may immediately be taken to a sanctions house and  
27 detained for no more than 48 hours, excluding Saturdays, Sundays,  
28 holidays, and days on which the office of the clerk of the court is not  
29 accessible, prior to court review of the placement. The court and all parties  
30 shall be notified of the sanctions house placement; and

31 (3) a juvenile over 18 years of age and less than 23 years of age at  
32 sentencing shall be committed to a county jail, in lieu of a sanctions house,  
33 under the same time restrictions imposed by paragraph (1), but shall not be  
34 committed to or confined in a juvenile detention facility.

35 (g) Any order issued by the judge pursuant to this section shall be in  
36 effect immediately upon entry into the court's minutes.

37 (h) In addition to the requirements of K.S.A. 2012 Supp. 38-2373,  
38 and amendments thereto, if a person is under 18 years of age and  
39 convicted of a felony or adjudicated as a juvenile offender for an offense if  
40 committed by an adult would constitute the commission of a felony, the  
41 court shall forward a signed copy of the journal entry to the commissioner  
42 within 30 days of final disposition.

43 (i) Except as further provided, if a juvenile has been adjudged to be a

1 juvenile offender for an offense that if committed by an adult would  
2 constitute the commission of: (1) Aggravated human trafficking, as defined  
3 in K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the victim is  
4 less than 14 years of age; (2) rape, as defined in subsection (a)(3) of  
5 K.S.A. 2012 Supp. 21-5503, and amendments thereto; (3) aggravated  
6 indecent liberties with a child, as defined in subsection (b)(3) of K.S.A.  
7 2012 Supp. 21-5506, and amendments thereto; (4) aggravated criminal  
8 sodomy, as defined in subsection (b)(1) or (b)(2) of K.S.A. 2012 Supp. 21-  
9 5504, and amendments thereto; (5) promoting prostitution, as defined in  
10 K.S.A. 2012 Supp. 21-6420, and amendments thereto, if the prostitute is  
11 less than 14 years of age; (6) sexual exploitation of a child, as defined in  
12 subsection (a)(1) or (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments  
13 thereto, if the victim is less than 14 years of age; or (7) an attempt,  
14 conspiracy or criminal solicitation, as defined in K.S.A. 2012 Supp. 21-  
15 5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined  
16 in parts (1) through (6); the court shall issue an order prohibiting the  
17 juvenile from attending the attendance center that the victim of the offense  
18 attends. If only one attendance center exists, for which the victim and  
19 juvenile are eligible to attend, in the school district where the victim and  
20 the juvenile reside, the court shall hear testimony and take evidence from  
21 the victim, the juvenile, their families and a representative of the school  
22 district as to why the juvenile should or should not be allowed to remain at  
23 the attendance center attended by the victim. After such hearing, the court  
24 may issue an order prohibiting the juvenile from attending the attendance  
25 center that the victim of the offense attends.

26 (j) The sentencing hearing shall be open to the public as provided in  
27 K.S.A. 2012 Supp. 38-2353, and amendments thereto.

28 Sec. 90. K.S.A. 39-110 is hereby amended to read as follows: 39-110.  
29 Any person who has not resided in the state of Kansas one year  
30 continuously prior to application for admission to a state hospital, state  
31 hospital and training center, Kansas neurological institute ~~or sanatorium or~~  
32 ~~hospital for tuberculosis,~~ may be returned by the secretary ~~of social and~~  
33 ~~rehabilitation services for aging and disability services~~ either before or  
34 after ~~his~~ *such person's* admission to the state of which ~~he~~ *such person* is a  
35 resident: ~~Provided, however, that~~. No such person shall be so returned  
36 unless arrangements to receive such person have been made in the state to  
37 which ~~he~~ *such person* is to be returned. The cost of the return to the  
38 person's place of residence shall be paid: First, by the person if funds are  
39 available; second, by ~~his~~ *such person's* responsible relatives if funds are  
40 available; and third, by the state institution concerned if no other funds are  
41 available: ~~Provided further, that~~. The secretary ~~of social and rehabilitation~~  
42 ~~for aging and disability services~~ is hereby empowered, authorized and  
43 directed to enter into agreements with the authorities of other states which



1 shall adopt legislation consistent with this act for the arbitration of  
2 disputed questions between such states and the state of Kansas respecting  
3 the residence of such persons.

4 Sec. 91. K.S.A. 39-111 is hereby amended to read as follows: 39-111.  
5 No person shall be admitted to a state hospital, a state hospital and training  
6 center, Kansas neurological institute, an institution for the education of the  
7 deaf, an institution for the education of the blind, or to a state hospital or  
8 sanatorium for tuberculosis, who has not lived in the state of Kansas at  
9 least one year continuously immediately prior to application for admission  
10 thereto. The residence of a minor child shall follow and be the same as ~~his~~  
11 ~~the child's~~ parents: ~~Provided, however,~~ The secretary ~~of social and~~  
12 ~~rehabilitation services for children and families or the secretary for aging~~  
13 ~~and disability services, as applies,~~ may waive the residence requirement in  
14 cases where the residence cannot be ascertained, or where the particular  
15 circumstances of the case constitute a medical emergency so that in ~~his~~ ~~the~~  
16 ~~secretary's~~ judgment a sufficient reason exists for the temporary  
17 suspension of the residence requirement.

18 Sec. 92. K.S.A. 39-702 is hereby amended to read as follows: 39-702.  
19 The following words and phrases when used in this act shall, for the  
20 purposes of this act, have the meanings respectively ascribed to them in  
21 this section:

22 (a) "Secretary" means the secretary ~~of social and rehabilitation~~  
23 ~~services for children and families.~~

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

26 (c) "Social welfare service" may include such functions as giving  
27 assistance, the prevention of public dependency, and promoting the  
28 rehabilitation of dependent persons or those who are approaching public  
29 dependency.

30 (d) "Assistance" includes such items or functions as the giving or  
31 providing of money, food stamps or coupons, food, clothing, shelter,  
32 medicine or other materials, the giving of any service, including  
33 instructive or scientific, and the providing of institutional care, which may  
34 be necessary or helpful to the recipient in providing the necessities of life  
35 for the recipient and the recipient's dependents. The definitions of social  
36 welfare service and assistance in this section shall be deemed as partially  
37 descriptive and not limiting.

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

42 (f) "Medical assistance" means the payment of all or part of the cost  
43 of necessary: (1) Medical, remedial, rehabilitative or preventive care and

1 services which are within the scope of services to be provided under a  
2 medical care plan developed by the secretary pursuant to this act and  
3 furnished by health care providers who have a current approved provider  
4 agreement with the secretary, and (2) transportation to obtain care and  
5 services which are within the scope of services to be provided under a  
6 medical care plan developed by the secretary pursuant to this act.

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

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

41 (i) "General assistance" means financial assistance in which the cost  
42 of such financial assistance is not participated in by the federal  
43 government. General assistance may be limited to transitional assistance in

1 some instances as specified by rules and regulations adopted by the  
2 secretary.

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

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

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

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

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

16 Sec. 93. K.S.A. 39-708c is hereby amended to read as follows: 39-  
17 708c. (a) ~~The secretary of social and rehabilitation services for children~~  
18 ~~and families~~ shall develop state plans, as provided under the federal social  
19 security act, whereby the state cooperates with the federal government in  
20 its program of assisting the states financially in furnishing assistance and  
21 services to eligible individuals. The secretary shall undertake to cooperate  
22 with the federal government on any other federal program providing  
23 federal financial assistance and services in the field of social welfare not  
24 inconsistent with this act. The secretary is not required to develop a state  
25 plan for participation or cooperation in all federal social security act  
26 programs or other federal programs that are available. The secretary shall  
27 also have the power, but is not required, to develop a state plan in regard to  
28 assistance and services in which the federal government does not  
29 participate.

30 (b) The secretary shall have the power and duty to determine the  
31 general policies relating to all forms of social welfare which are  
32 administered or supervised by the secretary and to adopt the rules and  
33 regulations therefor.

34 (c) The secretary shall hire, in accordance with the provisions of the  
35 Kansas civil service act, such employees as may be needed, in the  
36 judgment of the secretary, to carry out the provisions of this act. The  
37 secretary shall advise the governor and the legislature on all social welfare  
38 matters covered in this act.

39 (d) The secretary shall establish and maintain intake offices  
40 throughout the state. The secretary may establish and create area offices to  
41 coordinate and supervise the administration of the intake offices located  
42 within the area. The number and location of intake offices and area offices  
43 shall be within the discretion of the secretary. Each intake office shall be

1 open at least 12 hours of each working week on a regularly scheduled  
2 basis. The secretary shall supervise all social welfare activities of the  
3 intake offices and area offices. The secretary may lease office or business  
4 space, but no lease or rental contract shall be for a period to exceed 10  
5 years. A person desiring public assistance, or if the person is incapable or  
6 incapacitated, a relative, friend, personal representative or conservator of  
7 the person shall make application at the intake office. When it is necessary,  
8 employees may take applications elsewhere at any time. The applications  
9 shall contain a statement of the amount of property, both personal and real,  
10 in which the applicant has an interest and of all income which the  
11 applicant may have at the time of the filing of the application and such  
12 other information as may be required by the secretary. When a husband  
13 and wife are living together the combined income or resources of both  
14 shall be considered in determining the eligibility of either or both for  
15 assistance unless otherwise prohibited by law. The form of application, the  
16 procedure for the determination of eligibility and the amount and kind of  
17 assistance or service shall be determined by the secretary.

18 (e) The secretary shall provide special inservice training for  
19 employees of the secretary and may provide the training as a part of the  
20 job or at accredited educational institutions.

21 (f) The secretary shall establish an adequate system of financial  
22 records. The secretary shall make annual reports to the governor and shall  
23 make any reports required by federal agencies.

24 (g) The secretary shall sponsor, operate or supervise community work  
25 experience programs whereby recipients of assistance shall work out a part  
26 or all of their assistance and conserve work skills and develop new skills.  
27 The compensation credited to recipients for the programs shall be based  
28 upon an hourly rate equal to or in excess of the federal minimum wage  
29 hourly rate. The programs shall be administered by the secretary. In the  
30 programs, the secretary shall provide protection to the recipient under the  
31 workmen's compensation act or shall provide comparable protection and  
32 may enter into cooperative arrangements with other public officials and  
33 agencies or with private not-for-profit corporations providing assistance to  
34 needy persons in developing, subject to the approval of the secretary, the  
35 programs under this section.

36 (h) The secretary may receive, have custody of, protect, administer,  
37 disburse, dispose of and account for federal or private commodities,  
38 equipment, supplies and any kind of property, including food stamps or  
39 coupons, which are given, granted, loaned or advanced to the state of  
40 Kansas for social welfare works, and for any other purposes provided for  
41 by federal laws or rules and regulations or by private devise, grant or loan,  
42 or from corporations organized to act as federal agencies, and to do all  
43 things and acts which are necessary or required to perform the functions

1 and carry out the provisions of federal laws, rules and regulations under  
2 which such commodities, equipment, supplies and other property may be  
3 given, granted, loaned or advanced to the state of Kansas, and to act as an  
4 agent of the federal government when designated as an agent, and do and  
5 perform all things and acts that may be required by the federal laws or  
6 rules and regulations not inconsistent with the act.

7 (i) The secretary may assist other departments, agencies and  
8 institutions of the state and federal government and of other states under  
9 interstate agreements, when so requested, by performing services in  
10 conformity with the purpose of this act.

11 (j) The secretary shall have authority to lease real and personal  
12 property whenever the property is not available through the state or a  
13 political subdivision of the state, for carrying on the functions of the  
14 secretary.

15 (k) All contracts shall be made in the name of "~~secretary of social and~~  
16 ~~rehabilitation services,~~" *the secretary for children and families* and in that  
17 name the secretary may sue and be sued on such contracts. The grant of  
18 authority under this subsection shall not be construed to be a waiver of any  
19 rights retained by the state under the 11<sup>th</sup> amendment to the United States  
20 constitution and shall be subject to and shall not supersede the provisions  
21 of any appropriations act of this state.

22 (l) All moneys and property of any kind whatsoever received from  
23 the Kansas emergency relief committee or from any other state department  
24 or political subdivision of the state shall be used by the secretary in the  
25 administration and promotion of social welfare in the state of Kansas. The  
26 property may be given, loaned or placed at the disposal of any county, city  
27 or state agency engaged in the promotion of social welfare.

28 (m) The secretary shall prepare annually, at the time and in the form  
29 directed by the governor, a budget covering the estimated receipts and  
30 expenditures of the secretary for the ensuing year.

31 (n) The secretary shall have authority to make grants of funds,  
32 commodities or other needed property to local units of government under  
33 rules and regulations adopted by the secretary for the promotion of social  
34 welfare in local units of government.

35 (o) The secretary shall have authority to sell any property in the  
36 secretary's possession received from any source whatsoever for which  
37 there is no need or use in the administration or the promotion of social  
38 welfare in the state of Kansas.

39 (p) The secretary shall adopt a seal.

40 (q) The secretary shall initiate or cooperate with other agencies in  
41 developing programs for the prevention of blindness, the restoration of  
42 eyesight and the vocational rehabilitation of blind persons and shall  
43 establish a division of services for the blind. The secretary may initiate or

1 cooperate with other agencies in developing programs for the prevention  
2 and rehabilitation of other handicapped persons.

3 (r) The secretary shall develop a children and youth service program  
4 and shall administer or supervise program activities including the care and  
5 protection of children who are deprived, defective, wayward, miscreant,  
6 delinquent or children in need of care. The secretary shall cooperate with  
7 the federal government through its appropriate agency or instrumentality  
8 in establishing, extending and strengthening such services and undertake  
9 other services to children authorized by law. Nothing in this act shall be  
10 construed as authorizing any state official, agent or representative, in  
11 carrying out any of the provisions of this act, to take charge of any child  
12 over the objection of either of the parents of such child or of the person  
13 standing in loco parentis to such child except pursuant to a proper court  
14 order.

15 (s) The secretary shall develop plans financed by federal funds or  
16 state funds or both for providing medical care for needy persons. The  
17 secretary, in developing the plan, may enter into an agreement with an  
18 agent or intermediary for the purpose of performing certain functions,  
19 including the making of medical payment reviews, determining the  
20 amount due the medical vendors from the state in accordance with  
21 standards set by the secretary, preparing and certifying to the secretary lists  
22 of medical vendors and the amounts due them and other related functions  
23 determined by the secretary. The secretary may also provide medical,  
24 remedial, preventive or rehabilitative care and services for needy persons  
25 by the payment of premiums to the federal social security system for the  
26 purchase of supplemental medical insurance benefits as provided by the  
27 federal social security act and amendments thereto. Medicaid recipients  
28 who were residents of a nursing facility on September 1, 1991, and who  
29 subsequently lost eligibility in the period September 1, 1991, through June  
30 30, 1992, due to an increase in income shall be considered to meet the  
31 300% income cap eligibility test.

32 (t) The secretary shall carry on research and compile statistics relative  
33 to the entire social welfare program throughout the state, including all  
34 phases of dependency, defectiveness, delinquency and related problems;  
35 develop plans in cooperation with other public and private agencies for the  
36 prevention as well as treatment of conditions giving rise to social welfare  
37 problems.

38 (u) The secretary may receive grants, gifts, bequests, money or aid of  
39 any character whatsoever, for state welfare work. All moneys coming into  
40 the hands of the secretary shall be deposited in the state social welfare  
41 fund provided for in this act.

42 (v) The secretary may enter into agreements with other states or the  
43 welfare department of other states, in regard to the manner of determining

1 the state of residence in disputed cases, the manner of returning persons to  
2 the place of residence and the bearing or sharing of the costs.

3 (w) The secretary shall perform any other duties and services  
4 necessary to carry out the purposes of this act and promote social welfare  
5 in the state of Kansas, not inconsistent with the state law.

6 (x) The secretary shall establish payment schedules for each group of  
7 health care providers. Any payment schedules which are a part of the state  
8 medicaid plan shall conform to state and federal law. The secretary shall  
9 not be required to make any payments under the state medicaid plan which  
10 do not meet requirements for state and federal financial participation.

11 (1) The secretary shall consider budgetary constraints as a factor in  
12 establishing payment schedules so long as the result complies with state  
13 and federal law.

14 (2) The secretary shall establish payment schedules for providers of  
15 hospital and adult care home services under the medicaid plan that are  
16 reasonable and adequate to meet the costs which must be incurred by  
17 efficiently and economically operated facilities in order to provide care  
18 and services in conformity with applicable state and federal laws,  
19 regulations, and quality and safety standards. The secretary shall not be  
20 required to establish rates for any such facility that are in excess of the  
21 minimum necessary to efficiently and economically meet those standards  
22 regardless of any excess costs incurred by any such facility.

23 (y) The secretary shall maintain a system of centralized payment for  
24 all welfare expenditures.

25 Sec. 94. K.S.A. 39-708d is hereby amended to read as follows: 39-  
26 708d. Notwithstanding any of the provisions contained in subsection (d) of  
27 K.S.A. 39-708c, and amendments thereto, the secretary ~~of social and~~  
28 ~~rehabilitation services for children and families~~ may lease office or  
29 business space for a period exceeding 10 years if the proposed lease has  
30 been presented to the joint committee on state building construction for  
31 advice and consultation.

32 Sec. 95. K.S.A. 2012 Supp. 39-709 is hereby amended to read as  
33 follows: 39-709. (a) *General eligibility requirements for assistance for*  
34 *which federal moneys are expended.* Subject to the additional requirements  
35 below, assistance in accordance with plans under which federal moneys  
36 are expended may be granted to any needy person who:

37 (1) Has insufficient income or resources to provide a reasonable  
38 subsistence compatible with decency and health. Where a husband and  
39 wife are living together, the combined income or resources of both shall be  
40 considered in determining the eligibility of either or both for such  
41 assistance unless otherwise prohibited by law. The secretary, in  
42 determining need of any applicant for or recipient of assistance shall not  
43 take into account the financial responsibility of any individual for any

1 applicant or recipient of assistance unless such applicant or recipient is  
2 such individual's spouse or such individual's minor child or minor  
3 stepchild if the stepchild is living with such individual. The secretary in  
4 determining need of an individual may provide such income and resource  
5 exemptions as may be permitted by federal law. For purposes of eligibility  
6 for aid for families with dependent children, for food stamp assistance and  
7 for any other assistance provided through the ~~department of social and~~  
8 ~~rehabilitation services~~ *Kansas department for children and families* under  
9 which federal moneys are expended, the secretary ~~of social and~~  
10 ~~rehabilitation services~~ *for children and families* shall consider one motor  
11 vehicle owned by the applicant for assistance, regardless of the value of  
12 such vehicle, as exempt personal property and shall consider any equity in  
13 any additional motor vehicle owned by the applicant for assistance to be a  
14 nonexempt resource of the applicant for assistance.

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

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

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



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

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

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

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

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

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

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

1 fraud shall become ineligible to receive any form of general assistance for  
2 a period of 60 calendar months from the date of conviction.

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

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

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

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

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

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

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

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

32       (f) *Eligibility for medical assistance of resident receiving medical*  
33 *care outside state.* A person who is receiving medical care including long-  
34 term care outside of Kansas whose health would be endangered by the  
35 postponement of medical care until return to the state or by travel to return  
36 to Kansas, may be determined eligible for medical assistance if such  
37 individual is a resident of Kansas and all other eligibility factors are met.  
38 Persons who are receiving medical care on an ongoing basis in a long-term  
39 medical care facility in a state other than Kansas and who do not return to  
40 a care facility in Kansas when they are able to do so, shall no longer be  
41 eligible to receive assistance in Kansas unless such medical care is not  
42 available in a comparable facility or program providing such medical care  
43 in Kansas. For persons who are minors or who are under guardianship, the

1 actions of the parent or guardian shall be deemed to be the actions of the  
2 child or ward in determining whether or not the person is remaining  
3 outside the state voluntarily.

4 (g) *Medical assistance; assignment of rights to medical support and*  
5 *limited power of attorney; recovery from estates of deceased recipients.* (1)  
6 Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
7 amendments thereto, or as otherwise authorized on and after September  
8 30, 1989, under section 303, and amendments thereto, of the federal  
9 medicare catastrophic coverage act of 1988, whichever is applicable, by  
10 applying for or receiving medical assistance under a medical care plan in  
11 which federal funds are expended, any accrued, present or future rights to  
12 support and any rights to payment for medical care from a third party of an  
13 applicant or recipient and any other family member for whom the  
14 applicant is applying shall be deemed to have been assigned to the  
15 secretary on behalf of the state. The assignment shall automatically  
16 become effective upon the date of approval for such assistance without the  
17 requirement that any document be signed by the applicant or recipient. By  
18 applying for or receiving medical assistance the applicant or recipient is  
19 also deemed to have appointed the secretary, or the secretary's designee, as  
20 an attorney in fact to perform the specific act of negotiating and endorsing  
21 all drafts, checks, money orders or other negotiable instruments,  
22 representing payments received by the secretary in behalf of any person  
23 applying for, receiving or having received such assistance. This limited  
24 power of attorney shall be effective from the date the secretary approves  
25 the application for assistance and shall remain in effect until the  
26 assignment has been terminated in full. The assignment of any rights to  
27 payment for medical care from a third party under this subsection shall not  
28 prohibit a health care provider from directly billing an insurance carrier for  
29 services rendered if the provider has not submitted a claim covering such  
30 services to the secretary for payment. Support amounts collected on behalf  
31 of persons whose rights to support are assigned to the secretary only under  
32 this subsection and no other shall be distributed pursuant to subsection (d)  
33 of K.S.A. 39-756, and amendments thereto, except that any amounts  
34 designated as medical support shall be retained by the secretary for  
35 repayment of the unreimbursed portion of assistance. Amounts collected  
36 pursuant to the assignment of rights to payment for medical care from a  
37 third party shall also be retained by the secretary for repayment of the  
38 unreimbursed portion of assistance.

39 (2) The amount of any medical assistance paid after June 30, 1992,  
40 under the provisions of subsection (e) is: (A) A claim against the property  
41 or any interest therein belonging to and a part of the estate of any deceased  
42 recipient or, if there is no estate, the estate of the surviving spouse, if any,  
43 shall be charged for such medical assistance paid to either or both; and

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

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

30 (A) If an individual receives any medical assistance before July 1,  
31 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
32 which forms the basis for a claim under subsection (g)(2), such claim is  
33 limited to the individual's probatable estate as defined by applicable law;  
34 and

35 (B) if an individual receives any medical assistance on or after July 1,  
36 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
37 which forms the basis for a claim under subsection (g)(2), such claim shall  
38 apply to the individual's medical assistance estate. The medical assistance  
39 estate is defined as including all real and personal property and other  
40 assets in which the deceased individual had any legal title or interest  
41 immediately before or at the time of death to the extent of that interest or  
42 title. The medical assistance estate includes, without limitation assets  
43 conveyed to a survivor, heir or assign of the deceased recipient through

1 joint tenancy, tenancy in common, survivorship, transfer-on-death deed,  
2 payable-on-death contract, life estate, trust, annuities or similar  
3 arrangement.

4 (4) The secretary of ~~social and rehabilitation services~~ *health and*  
5 *environment* or the secretary's designee is authorized to file and enforce a  
6 lien against the real property of a recipient of medical assistance in certain  
7 situations, subject to all prior liens of record. The lien must be filed in the  
8 office of the register of deeds of the county where the real property is  
9 located and must contain the legal description of all real property in the  
10 county subject to the lien. This lien is for payments of medical assistance  
11 made by the ~~department of social and rehabilitation services~~ *Kansas*  
12 *department of health and environment* to the recipient who is an inpatient  
13 in a nursing home or other medical institution. Such lien may be filed only  
14 after notice and an opportunity for a hearing has been given. Such lien  
15 may be enforced only upon competent medical testimony that the recipient  
16 cannot reasonably be expected to be discharged and returned home. A six-  
17 month period of compensated inpatient care at a nursing home, nursing  
18 homes or other medical institution shall constitute a determination by the  
19 ~~department of social and rehabilitation services~~ *Kansas department of*  
20 *health and environment* that the recipient cannot reasonably be expected to  
21 be discharged and returned home. To return home means the recipient  
22 leaves the nursing or medical facility and resides in the home on which the  
23 lien has been placed for a period of at least 90 days without being  
24 readmitted as an inpatient to a nursing or medical facility. The amount of  
25 the lien shall be for the amount of assistance paid by the ~~department of~~  
26 ~~social and rehabilitation services~~ *Kansas department of health and*  
27 *environment* after the expiration of six months from the date the recipient  
28 became eligible for compensated inpatient care at a nursing home, nursing  
29 homes or other medical institution until the time of the filing of the lien  
30 and for any amount paid thereafter for such medical assistance to the  
31 recipient.

32 (5) The lien filed by the secretary or the secretary's designee for  
33 medical assistance correctly received may be enforced before or after the  
34 death of the recipient by the filing of an action to foreclose such lien in the  
35 Kansas district court or through an estate probate court action in the  
36 county where the real property of the recipient is located. However, it may  
37 be enforced only:

- 38 (A) After the death of the surviving spouse of the recipient;  
39 (B) when there is no child of the recipient, natural or adopted, who is  
40 20 years of age or less residing in the home;  
41 (C) when there is no adult child of the recipient, natural or adopted,  
42 who is blind or disabled residing in the home; or  
43 (D) when no brother or sister of the recipient is lawfully residing in

1 the home, who has resided there for at least one year immediately before  
2 the date of the recipient's admission to the nursing or medical facility, and  
3 has resided there on a continuous basis since that time.

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

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

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

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

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

24 (7) If the ~~secretary of social and rehabilitation~~ *secretary of health and environment, or both, or*  
25 *such* secretary's designee has not filed an action to foreclose the lien in the  
26 Kansas district court in the county where the real property is located  
27 within 10 years from the date of the filing of the lien, then the lien shall  
28 become dormant, and shall cease to operate as a lien on the real estate of  
29 the recipient. Such dormant lien may be revived in the same manner as a  
30 dormant judgment lien is revived under K.S.A. 60-2403 et seq., and  
31 amendments thereto.  
32

33 (h) *Placement under the revised Kansas code for care of children or*  
34 *revised Kansas juvenile justice code; assignment of support rights and*  
35 *limited power of attorney.* In any case in which the ~~secretary of social and~~  
36 ~~rehabilitation services for children and families~~ pays for the expenses of  
37 care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq.  
38 or 38-2301 et seq., and amendments thereto, including the expenses of any  
39 foster care placement, an assignment of all past, present and future support  
40 rights of the child in custody possessed by either parent or other person  
41 entitled to receive support payments for the child is, by operation of law,  
42 conveyed to the secretary. Such assignment shall become effective upon  
43 placement of a child in the custody of the secretary or upon payment of the



1 expenses of care and custody of a child by the secretary without the  
2 requirement that any document be signed by the parent or other person  
3 entitled to receive support payments for the child. When the secretary pays  
4 for the expenses of care and custody of a child or a child is placed in the  
5 custody of the secretary, the parent or other person entitled to receive  
6 support payments for the child is also deemed to have appointed the  
7 secretary, or the secretary's designee, as attorney in fact to perform the  
8 specific act of negotiating and endorsing all drafts, checks, money orders  
9 or other negotiable instruments representing support payments received by  
10 the secretary on behalf of the child. This limited power of attorney shall be  
11 effective from the date the assignment to support rights becomes effective  
12 and shall remain in effect until the assignment of support rights has been  
13 terminated in full.

14 (i) No person who voluntarily quits employment or who is fired from  
15 employment due to gross misconduct as defined by rules and regulations  
16 of the secretary or who is a fugitive from justice by reason of a felony  
17 conviction or charge shall be eligible to receive public assistance benefits  
18 in this state. Any recipient of public assistance who fails to timely comply  
19 with monthly reporting requirements under criteria and guidelines  
20 prescribed by rules and regulations of the secretary shall be subject to a  
21 penalty established by the secretary by rules and regulations.

22 (j) If the applicant or recipient of aid to families with dependent  
23 children is a mother of the dependent child, as a condition of the mother's  
24 eligibility for aid to families with dependent children the mother shall  
25 identify by name and, if known, by current address the father of the  
26 dependent child except that the secretary may adopt by rules and  
27 regulations exceptions to this requirement in cases of undue hardship. Any  
28 recipient of aid to families with dependent children who fails to cooperate  
29 with requirements relating to child support enforcement under criteria and  
30 guidelines prescribed by rules and regulations of the secretary shall be  
31 subject to a penalty established by the secretary by rules and regulations  
32 which penalty shall progress to ineligibility for the family after three  
33 months of noncooperation.

34 (k) By applying for or receiving child care benefits or food stamps,  
35 the applicant or recipient shall be deemed to have assigned, pursuant to  
36 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the  
37 state only accrued, present or future rights to support from any other  
38 person such applicant may have in such person's own behalf or in behalf of  
39 any other family member for whom the applicant is applying for or  
40 receiving aid. The assignment of support rights shall automatically become  
41 effective upon the date of approval for or receipt of such aid without the  
42 requirement that any document be signed by the applicant or recipient. By  
43 applying for or receiving child care benefits or food stamps, the applicant

1 or recipient is also deemed to have appointed the secretary, or the  
2 secretary's designee, as an attorney in fact to perform the specific act of  
3 negotiating and endorsing all drafts, checks, money orders or other  
4 negotiable instruments representing support payments received by the  
5 secretary in behalf of any person applying for, receiving or having  
6 received such assistance. This limited power of attorney shall be effective  
7 from the date the secretary approves the application for aid and shall  
8 remain in effect until the assignment of support rights has been terminated  
9 in full. An applicant or recipient who has assigned support rights to the  
10 secretary pursuant to this subsection shall cooperate in establishing and  
11 enforcing support obligations to the same extent required of applicants for  
12 or recipients of aid to families with dependent children.

13 Sec. 96. K.S.A. 39-711a is hereby amended to read as follows: 39-  
14 711a. The board of education of any school district may enter into an  
15 agreement with any private nonprofit organization or any public board,  
16 council or agency, which is authorized to provide meals for the aged by the  
17 ~~secretary of social and rehabilitation~~ *for aging and disability* services  
18 acting as an agent of the federal government in establishing and  
19 administering food service programs for the aged under any federal law,  
20 which agreement may provide for use of school lunch facilities to be used  
21 for preparation and service of meals for the aged. Such meals may be  
22 served on or off of school premises and school district employees may  
23 participate in providing such services to the extent authorized by such an  
24 agreement. Nothing in this act shall be deemed to authorize diversion of  
25 any federal funds from the purpose for which the same are provided, nor to  
26 authorize the keeping of accounts of federal moneys in a manner contrary  
27 to any act of congress or rules or directives promulgated pursuant thereto.

28 Sec. 97. K.S.A. 2012 Supp. 39-717 is hereby amended to read as  
29 follows: 39-717. (a) Assistance granted under the provisions of this act  
30 shall not:

31 (1) Be sold or otherwise disposed of to others by the client or by  
32 anyone else except under the rules and regulations of the ~~secretary of~~  
33 ~~social and rehabilitation services~~ *for children and families or the secretary*  
34 *of health and environment*; or

35 (2) knowingly be purchased, acquired or possessed by anyone unless  
36 the purchase, acquisition or possession is authorized by the rules and  
37 regulations of the ~~secretary of social and rehabilitation services~~ *for*  
38 *children and families, the Kansas department of health and environment or*  
39 *the laws under which the assistance was granted.*

40 (b) (1) Any person convicted of violating the provisions of this  
41 section shall be guilty of a class A nonperson misdemeanor if the value of  
42 the assistance sold or otherwise disposed of, purchased, acquired or  
43 possessed was less than \$1,000.

1 (2) Any person convicted of violating the provisions of this section  
2 shall be guilty of a severity level 9, nonperson felony if the value of the  
3 assistance sold or otherwise disposed of, purchased, acquired or possessed  
4 was at least \$1,000 but less than \$25,000.

5 (3) Any person convicted of violating the provisions of this section  
6 shall be guilty of a severity level 7, nonperson felony if the value of the  
7 assistance sold or otherwise disposed of, purchased, acquired or possessed  
8 was \$25,000 or more.

9 (c) None of the money paid, payable, or to be paid, or any tangible  
10 assistance received under this act shall be subject to execution, levy,  
11 attachment, garnishment, or other legal process, or to the operation of any  
12 bankruptcy or insolvency law.

13 Sec. 98. K.S.A. 39-718b is hereby amended to read as follows: 39-  
14 718b. (a) Except as provided in subsection (b), a child's parent, parents or  
15 guardian shall be liable to repay to the secretary ~~of social and~~  
16 ~~rehabilitation services for children and families~~ any assistance expended  
17 on the child's behalf, regardless of the specific program under which the  
18 assistance is or has been provided. When more than one person is legally  
19 obligated to support the child, liability to the secretary shall be joint and  
20 several. The secretary shall have the power and authority to file a civil  
21 action in the name of the secretary for repayment of the assistance,  
22 regardless of the existence of any other action involving the support of the  
23 child.

24 (b) With respect to an individual parent or guardian, the provisions of  
25 subsection (a) shall not apply to:

26 (1) Assistance provided on behalf of any person other than the child  
27 of the parent or guardian;

28 (2) assistance provided during a month in which the needs of the  
29 parent or guardian were included in the assistance provided to the child; or

30 (3) assistance provided during a month in which the parent or  
31 guardian has fully complied with the terms of an order of support for the  
32 child, if a court of competent jurisdiction has considered the issue of  
33 support. For the purposes of this subsection, if an order is silent on the  
34 issue of support, it shall not be presumed that the court has considered the  
35 issue of support. Amounts paid for a particular month pursuant to a  
36 judgment under this act shall be credited against the amount accruing for  
37 the same month under any other order of support for the child, up to the  
38 amount of the current support obligation for that month.

39 (c) When the assistance provided during a month is on behalf of more  
40 than one person, the amount of assistance provided on behalf of one  
41 person for that month shall be determined by dividing the total assistance  
42 by the number of people on whose behalf assistance was provided.

43 (d) Except as provided in subsection (b), a child's parent, parents or

1 guardian shall be liable to repay to an agency or subdivision of another  
2 state any assistance substantially similar to that defined in subsection (d)  
3 of K.S.A. 39-702, and amendments thereto, which has been expended in  
4 the other state on the child's behalf, regardless of the specific program  
5 under which the assistance is or has been provided. When more than one  
6 person is legally obligated to support the child, liability to the agency or  
7 subdivision shall be joint and several.

8 (e) Actions authorized herein are in addition to and not in substitution  
9 for any other remedies.

10 Sec. 99. K.S.A. 39-719e is hereby amended to read as follows: 39-  
11 719e. (a) Upon the request of the secretary ~~of social and rehabilitation for~~  
12 *aging and disability services or the Kansas department of health and*  
13 *environment, or both*, each medical benefit plan provider that provides or  
14 maintains a medical benefit plan, that provides any hospital or medical  
15 services or any other health care or other medical benefits or services, or  
16 both, in Kansas, shall provide the secretary with information, to the extent  
17 known by the medical benefit plan provider, identifying each person who  
18 is covered by such medical benefit plan or who is otherwise provided any  
19 such hospital or medical services or any other such health care or other  
20 medical benefits or services, or both, in Kansas under such medical benefit  
21 plan. The information shall be provided in such form as is prescribed by  
22 the secretary for the purpose of comparing such information with medicaid  
23 beneficiary information maintained by the secretary to assist in identifying  
24 other health care or medical benefit coverage available to medicaid  
25 beneficiaries. The secretary shall reimburse each medical benefit plan  
26 provider that provides information under this section for the reasonable  
27 cost of providing such information.

28 (b) All information provided by medical benefit plan providers under  
29 this section shall be confidential and shall not be disclosed pursuant to the  
30 provisions of the open records act or under the provisions of any other law.  
31 Such information may be used solely for the purpose of determining  
32 whether medical assistance has been paid or is eligible to be paid by the  
33 secretary for which a recovery from a medical benefit plan provider is due  
34 under K.S.A. 39-719a, and amendments thereto.

35 (c) Failure to provide information pursuant to a request by the  
36 secretary ~~of social and rehabilitation for~~  
37 *aging and disability services or the Kansas department of health and environment, or both*, under this  
38 section shall constitute a failure to reply to an inquiry of the commissioner  
39 of insurance and shall be subject to the penalties applicable thereto under  
40 K.S.A. ~~40-226~~ *40-2,125*, and amendments thereto. If a medical plan  
41 provider fails to provide information to the secretary ~~of social and~~  
42 ~~rehabilitation services for children and families~~ pursuant to a request under  
43 this section, the secretary shall notify the commissioner of such failure.

1 The commissioner of insurance may pursue each such failure to provide  
2 such information in accordance with K.S.A.—40-226 40-2,125, and  
3 amendments thereto.

4 (d) As used in this section:

5 (1) "Medical benefit plan" means any accident and health insurance  
6 or any other policy, contract, plan or agreement that provides benefits or  
7 services, or both, for any hospital or medical services or any other health  
8 care or medical benefits or services, or both, in Kansas, whether or not  
9 such benefits or services, or both, are provided pursuant to individual,  
10 group, blanket or certificates of accident and sickness insurance, any other  
11 insurance providing any accident and health insurance, or any other policy,  
12 contract, plan or agreement providing any such benefits or services, or  
13 both, in Kansas, and includes any policy, plan, contract or agreement  
14 offered in Kansas pursuant to the federal employee retirement income  
15 security act of 1974 (ERISA) that provides any hospital or medical  
16 services or any other health care or medical benefits or services, or both, in  
17 Kansas; and

18 (2) "medical benefit plan provider" means any insurance company,  
19 nonprofit medical and hospital service corporation, health maintenance  
20 organization, fraternal benefit society, municipal group-funded pool,  
21 group-funded workers compensation pool or any other entity providing or  
22 maintaining a medical benefit plan.

23 (e) No medicaid provider who rendered professional services to a  
24 medicaid beneficiary and was paid by the secretary for such services shall  
25 be liable to the medical benefit plan provider for any amounts recovered  
26 pursuant to this act or pursuant to the provisions of K.S.A. 39-719a, and  
27 amendments thereto.

28 Sec. 100. K.S.A. 39-740 is hereby amended to read as follows: 39-  
29 740. The records relating to the blind, as filed in the office of the state  
30 board of health, shall be available to the secretary—of—social—and—  
31 ~~rehabilitation services for children and families~~ at all times.

32 Sec. 101. K.S.A. 39-744 is hereby amended to read as follows: 39-  
33 744. From and after January 1, 1974: (a) All the powers, duties and  
34 functions of the existing county social welfare boards and the existing  
35 county directors are hereby transferred to and conferred and imposed,  
36 respectively, upon the secretary—of—social—and—rehabilitation—services—  
37 ~~for children and families~~ and the director of social services.

38 (b) The secretary—of—social—and—rehabilitation—services—  
39 ~~for children and families~~ and the director of social services shall be the successors in  
40 every way, respectively to the powers, duties and functions of the county  
41 social welfare boards and county directors in which the same were vested  
42 prior to the effective date of this act. Every act performed in the exercise  
43 of such powers, duties and functions by or under the authority of the

1 ~~secretary of social and rehabilitation services for children and families~~ or  
2 the director of social services, respectively, shall be deemed to have the  
3 same force and effect as if performed by the county social welfare boards  
4 or county directors, respectively, in which such functions were vested prior  
5 to the effective date of this act.

6 (c) Whenever the county social welfare board, or words of like effect,  
7 is referred to or designated by a statute, contract or other document, such  
8 reference or designation shall be deemed to apply to the ~~secretary of social  
9 and rehabilitation services for children and families~~.

10 (d) Whenever the county director, or words of like effect, is referred  
11 to or designated by a statute, contract or other document, such reference or  
12 designation shall be deemed to apply to the director of social services.

13 Sec. 102. K.S.A. 39-751 is hereby amended to read as follows: 39-  
14 751. The ~~secretary of social and rehabilitation services for children and  
15 families~~ shall hereby establish, maintain and improve, within the limits of  
16 funds appropriated therefor, including any grants or funds received from  
17 federal agencies and other sources, a program, the purpose of which shall  
18 be to aid the aged, the physically disabled and needy families in  
19 maintaining and repairing their respective homes. The secretary shall  
20 establish standards to determine the eligibility of persons to receive such  
21 aid. Such program shall be initially implemented for a period of one year  
22 in any county having a population of more than ~~one hundred fifty thousand  
23 (150,000)~~ 150,000 and less than ~~one hundred eighty thousand (180,000)  
24 180,000~~.

25 Sec. 103. K.S.A. 39-753 is hereby amended to read as follows: 39-  
26 753. For the purpose of providing title IV-D child support enforcement  
27 services, the ~~secretary of social and rehabilitation services for children and  
28 families~~ shall:

29 (a) Enter into contracts or agreements necessary to administer title  
30 IV-D services.

31 (b) Maintain and operate a central registry, within the organizational  
32 unit of the ~~department of social and rehabilitation services~~ *Kansas*  
33 *department for children and families* responsible for providing child  
34 support services, for the location of absent parents.

35 (c) Develop guidelines for coordinating activities of any  
36 governmental department, board, commission, bureau or agency in  
37 providing information necessary for the location of absent parents.

38 (d) Coordinate any activity on a state level in searching for an absent  
39 parent.

40 (e) Assist in the location of any parent or other person as required or  
41 permitted under title IV-D.

42 (f) Initiate and maintain legal actions necessary to implement the  
43 requirements of title IV-D.

1 (g) Assist in establishing paternity and in securing and enforcing  
2 orders for support in title IV-D cases.

3 (h) Utilize, in appropriate cases, support enforcement and collection  
4 and location services available through the federal department of health  
5 and human services, including but not limited to the services of federal  
6 courts, the federal parent locator services and the treasury department, if  
7 authorized or required by federal law.

8 (i) Accept, on behalf of the state, assignment of support rights  
9 pursuant to K.S.A. 39-709 or 39-756, and amendments thereto.

10 (j) Adopt rules and regulations necessary to provide title IV-D  
11 services and to enable the state to meet requirements set forth in title IV-D.

12 (k) Maintain and operate an automated system to manage title IV-D  
13 information and to perform such activities as may be required or permitted  
14 by title IV-D. The automated system shall include a registry, to be known  
15 as the "state case registry," that contains such records with respect to each  
16 title IV-D case as may be required by title IV-D.

17 Sec. 104. K.S.A. 2012 Supp. 39-754 is hereby amended to read as  
18 follows: 39-754. (a) If an assignment of support rights is deemed to have  
19 been made pursuant to K.S.A. 39-709 or 39-756, and amendments thereto,  
20 support payments shall be made to the ~~department of social and~~  
21 ~~rehabilitation services~~ *Kansas department for children and families*.

22 (b) If a court has ordered support payments to be made to an  
23 applicant for or recipient of financial assistance or other person whose  
24 support rights are assigned, the secretary ~~of social and rehabilitation~~  
25 ~~services for children and families~~ shall file a notice of the assignment with  
26 the court ordering the payments without the requirement that a copy of the  
27 notice be provided to the obligee or obligor. The notice shall not require  
28 the signature of the applicant, recipient or obligee on any accompanying  
29 assignment document. The notice shall include:

30 (1) A statement that the assignment is in effect;

31 (2) the name of any child and the caretaker or other adult for whom  
32 support has been ordered by the court;

33 (3) the number of the case in which support was ordered; and

34 (4) a request that the payments ordered be made to the secretary ~~of~~  
35 ~~social and rehabilitation services for children and families~~.

36 (c) Upon receipt of the notice and without the requirement of a  
37 hearing or order, the court shall forward all support payments, including  
38 those made as a result of any garnishment, contempt, attachment, income  
39 withholding, income assignment or release of lien process, to the secretary  
40 ~~of social and rehabilitation services for children and families~~ until the  
41 court receives notification of the termination of the assignment.

42 (d) If the claim of the secretary for repayment of the unreimbursed  
43 portion of aid to families with dependent children, medical assistance or

1 the child's share of the costs of care and custody of a child under K.S.A.  
2 2012 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, is  
3 not satisfied when such aid is discontinued, the secretary shall file a notice  
4 of partial termination of assignment of support rights with the court which  
5 will preserve the assignment in regard to unpaid support rights which were  
6 due and owing at the time of the discontinuance of such aid. A copy of the  
7 notice of the partial termination of the assignment need not be provided to  
8 the obligee or obligor. The notice shall include:

9 (1) A statement that the assignment has been partially terminated;

10 (2) the name of any child and the caretaker or other adult for whom  
11 support has been ordered by the court;

12 (3) the number of the case in which support was ordered; and

13 (4) the date the assignment was partially terminated.

14 (e) Upon receipt of the notice and without the requirement of a  
15 hearing or order, the court shall forward all payments made to satisfy  
16 support arrearages due and owing as of the date the assignment of support  
17 rights was partially terminated to the secretary ~~of social and rehabilitation~~  
18 ~~services for children and families~~ until the court receives notification of  
19 the termination of the assignment.

20 (f) If the secretary ~~of social and rehabilitation services for children~~  
21 ~~and families~~ or the secretary's designee has on file with the court ordering  
22 support payments, a notice of assignment of support rights pursuant to  
23 subsection (b) or a notice of partial termination of assignment of support  
24 rights pursuant to subsection (d), the secretary shall be considered a  
25 necessary party in interest concerning any legal action to enforce, modify,  
26 settle, satisfy or discharge an assigned support obligation and, as such,  
27 shall be given notice by the party filing such action in accordance with the  
28 rules of civil procedure.

29 (g) Upon written notification by the secretary's designee that assigned  
30 support has been collected pursuant to K.S.A. 44-718 or 75-6201 et seq.,  
31 and amendments thereto, or section 464 of title IV, part D, of the federal  
32 social security act, or any other method of direct payment to the secretary,  
33 the clerk of the court or other record keeper where the support order was  
34 established, shall enter the amounts collected by the secretary ~~of social and~~  
35 ~~rehabilitation services for children and families~~ in the court's payment  
36 ledger or other record to insure that the obligor is credited for the amounts  
37 collected.

38 Sec. 105. K.S.A. 39-755 is hereby amended to read as follows: 39-  
39 755. (a) In cases where the secretary ~~of social and rehabilitation services~~  
40 ~~for children and families~~ is deemed to have an assignment of support  
41 rights in accordance with the provisions of K.S.A. 39-709, and  
42 amendments thereto, the secretary is authorized to bring a civil action in  
43 the name of the state of Kansas or of the obligee whose support rights are



1 assigned to enforce such support rights, establish an order for medical  
2 support and, when appropriate or necessary, to establish the parentage of a  
3 child. The secretary may also enforce any assigned support order or file a  
4 motion to modify any such order.

5 (b) ~~The secretary of social and rehabilitation services for children~~  
6 ~~and families~~ shall be deemed to hold the interests of all persons, officials  
7 and agencies having an interest in the assignment. The court shall  
8 determine, in accordance with applicable provisions of law, the parties  
9 necessary to the proceeding and whether independent counsel should be  
10 appointed to represent any party to the assignment or any other person  
11 having an interest in the support right. In any action or proceeding brought  
12 by the ~~secretary of social and rehabilitation services for children and~~  
13 ~~families~~ to establish paternity or to establish, modify or enforce a support  
14 obligation, the ~~social and rehabilitation services'~~ *the department for*  
15 *children and families'* attorney or the attorneys with whom the agency  
16 contracts to provide legal services shall represent the ~~state department of~~  
17 ~~social and rehabilitation services~~ *Kansas department for children and*  
18 *families*. Nothing in this section shall be construed to modify any statutory  
19 mandate, authority or confidentiality required by any governmental  
20 agency. Any representation by such attorney shall not be construed to  
21 create an attorney-client relationship between the attorney and any party  
22 other than the ~~state department of social and rehabilitation services~~ *Kansas*  
23 *department for children and families*.

24 (c) Any support order made by the court in such a proceeding shall  
25 direct that payments be made to the ~~secretary of social and rehabilitation~~  
26 ~~services for children and families~~ so long as there is in effect an  
27 assignment of support rights to the secretary and, upon notification by the  
28 secretary to the court that the assignment is terminated, that payments be  
29 made to the person or family.

30 (d) The provisions of this section shall also apply to cases brought by  
31 the secretary on behalf of persons who have applied for services pursuant  
32 to K.S.A. 39-756, and amendments thereto.

33 (e) *In all child support actions initiated before the effective date of*  
34 *the governor's 2012 executive reorganization order 41, whenever the*  
35 *department of social and rehabilitation services, or words of like effect,*  
36 *are referred to or designated in case names and captions, pleadings, and*  
37 *all filings of any kind used by the department for children and families in*  
38 *the ordinary course of business with any court, business, agency, person*  
39 *or political subdivision of this state, such reference or designation shall be*  
40 *deemed to apply to the Kansas department for children and families.*

41 Sec. 106. K.S.A. 2012 Supp. 39-756 is hereby amended to read as  
42 follows: 39-756. (a) (1) ~~The secretary of social and rehabilitation services~~  
43 ~~for children and families~~ shall make support enforcement services required

1 under part D of title IV of the federal social security act (42 U.S.C. § 651  
2 et seq.), ~~or acts amendatory thereof or supplemental~~ *and amendments*  
3 thereto, and federal regulations promulgated pursuant thereto, including,  
4 but not limited to, the location of parents, the establishment of paternity  
5 and the enforcement of child support obligations, available to persons not  
6 subject to the requirements of K.S.A. 39-709, and amendments thereto,  
7 and not receiving support enforcement services pursuant to subsection (b).  
8 Persons who previously received public assistance but who are not  
9 receiving support enforcement services pursuant to subsection (b) may  
10 apply for or receive support enforcement services pursuant to this  
11 subsection.

12 (2) By applying for or receiving support enforcement services  
13 pursuant to subsection (a)(1), the applicant or recipient shall be deemed to  
14 have assigned to the secretary on behalf of the state any accrued, present  
15 or future rights to support from any other person such applicant may have  
16 in behalf of any family member, including the applicant, for whom the  
17 applicant is applying for or receiving support enforcement services. The  
18 assignment shall automatically become effective upon the date of  
19 application for or receipt of support enforcement services, whichever is  
20 earlier, and shall remain in full force and effect so long as the secretary  
21 provides support enforcement services on behalf of the applicant, recipient  
22 or child. By applying for or receiving support enforcement services  
23 pursuant to subsection (a)(1), the applicant, recipient or obligee is also  
24 deemed to have appointed the secretary or the secretary's designee as an  
25 attorney in fact to perform the specific act of negotiating and endorsing all  
26 drafts, checks, money orders or other negotiable instruments representing  
27 support payments received by the secretary in behalf of any person for  
28 whom the secretary is providing support enforcement services. This  
29 limited power of attorney shall be effective from the date support rights are  
30 assigned and shall remain in effect until the assignment is terminated in  
31 full.

32 (3) Nothing in this subsection shall affect or limit any existing  
33 assignment or claim for repayment of any unreimbursed portion of  
34 assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or  
35 limit any subsequent assignment of support rights.

36 (b) (1) Upon discontinuance of all public assistance giving rise to an  
37 assignment of support rights pursuant to K.S.A. 39-709, and amendments  
38 thereto, the secretary shall continue to provide all appropriate support  
39 enforcement services required under title IV-D of the federal social  
40 security act for the persons who were receiving assistance, unless the  
41 recipient requests that support enforcement services be discontinued.

42 (2) When support enforcement services are provided pursuant to  
43 subsection (b)(1), the assignment of support rights and limited power of

1 attorney pursuant to K.S.A. 39-709, and amendments thereto, shall remain  
2 in full force and effect. When the secretary is no longer providing support  
3 enforcement services related to support obligations accruing after the date  
4 assistance was discontinued, the assignment of support rights shall remain  
5 in effect to the extent provided in K.S.A. 39-756a, and amendments  
6 thereto.

7 (3) Nothing in this subsection shall affect or limit any existing  
8 assignment or claim for repayment of any unreimbursed portion of  
9 assistance pursuant to K.S.A. 39-709, and amendments thereto, or affect or  
10 limit any subsequent assignment of support rights.

11 (c) The secretary shall fix by rules and regulations fees for services  
12 rendered pursuant to this section. Such fees shall conform to the  
13 requirements of title IV-D of the federal social security act. Any fees  
14 imposed by the secretary upon a person required to make payments under  
15 a support order shall be in addition to any amount the person is required to  
16 pay as support.

17 (d) Except as otherwise provided in this subsection, assigned support  
18 that is collected while a person is receiving services pursuant to subsection  
19 (a) or (b) shall be distributed as required by title IV-D of the federal social  
20 security act. If federal law authorizes the secretary to elect to distribute  
21 more support to any families than would otherwise be permitted, the  
22 secretary may make such election by adopting rules and regulations for  
23 that purpose.

24 (e) If any attorney provides legal services on behalf of the secretary in  
25 any case in which the secretary is furnishing title IV-D services, such  
26 attorney shall have an attorney-client relationship only with the secretary.  
27 The provisions of this subsection shall apply whether the attorney is an  
28 employee of the state, a contractor subject to the requirements of K.S.A.  
29 75-5365, and amendments thereto, or an employee of such a contractor.  
30 Nothing in this subsection shall be construed to modify any statutory  
31 mandate, authority or confidentiality required by any governmental  
32 agency. No action by such attorney shall be construed to create an  
33 attorney-client relationship between the attorney and any person, other  
34 than the secretary.

35 Sec. 107. K.S.A. 2012 Supp. 39-757 is hereby amended to read as  
36 follows: 39-757. (a) The secretary ~~of social and rehabilitation services for~~  
37 *children and families* shall remit all moneys received by or for the  
38 secretary from the enforcement of rights assigned to the secretary under  
39 subsection (b) of K.S.A. 39-709, and amendments thereto, to the state  
40 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
41 amendments thereto. Upon receipt of each such remittance, the state  
42 treasurer shall deposit the entire amount in the state treasury as follows:

43 (1) Amounts to be distributed pursuant to part D of title IV of the federal

1 social security act (42 U.S.C. § 651 et seq.), ~~or acts amendatory thereof or~~  
2 ~~supplemental and amendments~~ thereto, to the state shall be credited to the  
3 title IV-D aid to families with dependent children fee fund, and all  
4 expenditures from such fund shall be made in accordance with  
5 appropriation acts upon warrants of the director of accounts and reports  
6 issued pursuant to vouchers approved by the secretary or by a person or  
7 persons designated by the secretary; and (2) amounts to be distributed  
8 pursuant to part D of title IV of the federal social security act (42 U.S.C. §  
9 651 et seq.), ~~or acts amendatory thereof or supplemental and amendments~~  
10 thereto, to applicants for or recipients of aid under subsection (b) of K.S.A.  
11 39-709, and amendments thereto, shall be credited to the title IV-D aid to  
12 families with dependent children claims fund, and all expenditures from  
13 such fund shall be made upon warrants of the director of accounts and  
14 reports issued pursuant to vouchers approved by the secretary or by a  
15 person or persons designated by the secretary.

16 (b) The secretary ~~of social and rehabilitation services for children~~  
17 ~~and families~~ shall remit all moneys received by or for the secretary under  
18 K.S.A. 39-756, and amendments thereto, to the state treasurer in  
19 accordance with the provisions of K.S.A. 75-4215, and amendments  
20 thereto. Upon receipt of each such remittance, the state treasurer shall  
21 deposit the entire amount in the state treasury as follows: (1) Amounts to  
22 be distributed pursuant to part D of title IV of the federal social security  
23 act (42 U.S.C. § 651 et seq.), ~~or acts amendatory thereof or supplemental~~  
24 ~~and amendments~~ thereto, to the state shall be credited to the title IV-D fee  
25 fund, and all expenditures from such fund shall be made in accordance  
26 with appropriate acts upon warrants of the director of accounts and reports  
27 issued pursuant to vouchers approved by the secretary or by a person or  
28 persons designated by the secretary; and (2) amounts to be distributed  
29 pursuant to part D of title IV of the federal social security act (42 U.S.C. §  
30 651 et seq.), ~~or acts amendatory thereof or supplemental and amendments~~  
31 thereto, to persons who under K.S.A. 39-756, and amendments thereto, are  
32 eligible for services specified in such section shall be credited to the title  
33 IV-D claims fund, and all expenditures from such fund shall be made upon  
34 warrants of the director of accounts and reports issued pursuant to  
35 vouchers approved by the secretary or by a person or persons designated  
36 by the secretary.

37 (c) Money shall be deposited in the funds established by subsections  
38 (a) and (b) of this section and shall be distributed from such funds in  
39 accordance with the provisions of part D of title IV of the federal social  
40 security act (42 U.S.C. § 651 et seq.), ~~or acts amendatory thereof or~~  
41 ~~supplemental and amendments~~ thereto.

42 Sec. 108. K.S.A. 39-758 is hereby amended to read as follows: 39-  
43 758. (a) State, county and local units of government, their officers and

1 employees, shall cooperate with the secretary of ~~social and rehabilitation~~  
2 ~~services for children and families~~ in locating absent parents or their assets  
3 and shall on request supply the secretary of ~~social and rehabilitation~~  
4 ~~services for children and families~~ with available information about an  
5 absent parent or the absent parent's assets including but not limited to the  
6 location, employment status, income, date of birth and social security  
7 number of the absent parent or any information concerning medical or  
8 health insurance coverage for dependents.

9 (b) Upon written request, federal and state agencies conducting  
10 locator activities under title IV-D shall be eligible to receive information  
11 leading to the location of an individual if the information is contained  
12 within any system used by this state to locate an individual for purposes  
13 relating to motor vehicles or law enforcement.

14 (c) Information received by the secretary of ~~social and rehabilitation~~  
15 ~~services for children and families~~ under this section shall be available  
16 upon request to persons authorized to receive such information.

17 Any person receiving such information shall be subject to the  
18 provisions of K.S.A. 39-759, and amendments thereto. Information of the  
19 department of revenue shall be subject to the limitations of K.S.A. 79-  
20 3234, and amendments thereto.

21 (d) Any person or entity providing access to information pursuant to  
22 this section, including but not limited to access by automated processes,  
23 shall not be liable to any person for good faith actions in providing the  
24 access or information. The provisions of this subsection shall not apply to  
25 information of the department of revenue.

26 (e) Notwithstanding any prohibition to the contrary which may apply  
27 to information of the department of revenue, the secretary may enter into  
28 an agreement with any agency or official in this state to permit the  
29 secretary and the secretary's designees access to information for the  
30 purposes of this section. Such an agreement shall not be construed to be a  
31 contract for the performance of support enforcement services pursuant to  
32 K.S.A. 75-5365, and amendments thereto.

33 Sec. 109. K.S.A. 2012 Supp. 39-760 is hereby amended to read as  
34 follows: 39-760. (a) The secretary of health and environment and the  
35 secretary of ~~social and rehabilitation services for children and families~~  
36 hereby directed to establish a system for the reporting of suspected abuse  
37 or fraud in connection with state welfare or medical assistance programs,  
38 either by recipients or health care providers. The system shall be designed  
39 to permit any person in the state at any time to place a toll-free call into the  
40 system and report suspected cases of welfare abuse or suspected cases of  
41 health care provider fraud.

42 (b) The secretary of health and environment and the secretary of  
43 ~~social and rehabilitation services for children and families~~ are further

1 directed to publicize the system throughout the state.

2 (c) Notice of the existence of the system established pursuant to this  
3 section shall be displayed prominently in the office or facility of every  
4 health care provider who provides services under the state medical  
5 assistance program.

6 (d) The secretary of health and environment shall notify annually  
7 each recipient of state medical assistance of the toll-free number of the  
8 system established pursuant to this section and the purpose thereof. If  
9 possible, such notice shall be printed on the medical cards issued to  
10 recipients by the secretary.

11 Sec. 110. K.S.A. 39-782 is hereby amended to read as follows: 39-  
12 782. Prior to certifying an adult care home for participation in the state  
13 medical assistance program as an intermediate care facility for mental  
14 health, the secretary ~~of social and rehabilitation~~ *for aging and disability*  
15 services shall hold a public hearing in the area in which the facility is  
16 located. At least 10 days prior to the hearing, the secretary ~~of social and~~  
17 ~~rehabilitation~~ *for aging and disability* services shall give notice in a  
18 newspaper of general circulation in the area in which the facility is located  
19 that the facility has applied for certification for participation in the state  
20 medical assistance program as an intermediate care facility for mental  
21 health and that a public hearing is to be held to obtain public comment in  
22 regard to such application. In addition, the notice shall state the time and  
23 place of the public hearing and the manner in which interested parties may  
24 present their views at the hearing. The secretary ~~of social and rehabilitation~~  
25 *for aging and disability* services shall consider the public comments at the  
26 hearing in determining whether to grant such certification.

27 Sec. 111. K.S.A. 39-783 is hereby amended to read as follows: 39-  
28 783. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
29 services *or the Kansas department of health and environment* shall mail a  
30 written notice to all affected health care provider groups of each reduction  
31 in the scope or reimbursement of services provided under the medical  
32 assistance program of the *Kansas* department ~~of social and rehabilitation~~  
33 *for aging and disability* services *or the Kansas department of health and*  
34 *environment* at least 10 days prior to the effective date of any such  
35 reduction. The written notice shall include a complete and accurate  
36 description of the proposed reductions. The secretary ~~of social and~~  
37 ~~rehabilitation~~ *for aging and disability* services *or the Kansas department*  
38 *of health and environment* shall not implement any such reduction in the  
39 medical assistance program until 10 days after the date that the written  
40 notice prescribed by this section is mailed to the affected provider groups.  
41 The failure to give notice as prescribed by this section shall not constitute  
42 or provide grounds for any cause of action concerning the medical  
43 assistance program and no such failure to give notice shall invalidate any

1 action of the secretary ~~of social and rehabilitation~~ *for aging and disability*  
2 *services or the Kansas department of health and environment* concerning  
3 the medical assistance program.

4 Sec. 112. K.S.A. 2012 Supp. 39-784 is hereby amended to read as  
5 follows: 39-784. (a) The secretary ~~of social and rehabilitation~~ *for aging*  
6 *and disability* services is hereby authorized to fix, charge and collect  
7 reasonable fees for providing home care services to recipients served  
8 under the medicaid home and community based services program.

9 (b) All moneys received for fees collected pursuant to subsection (a)  
10 shall be remitted to the state treasurer in accordance with the provisions of  
11 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
12 remittance, the state treasurer shall deposit the entire amount in the state  
13 treasury to the credit of the ~~SRS~~ *Kansas department for aging and*  
14 *disability services* temporary deposit fund.

15 Sec. 113. K.S.A. 2012 Supp. 39-785 is hereby amended to read as  
16 follows: 39-785. As used in K.S.A. 2012 Supp. 21-5606, K.S.A. 39-709  
17 and K.S.A. 39-785 to 39-790, inclusive, and amendments thereto:

18 (a) "Adult care home" means a nursing facility licensed under the  
19 adult care home licensure act.

20 (b) "Excess shelter allowance" means, for the applicant or recipient's  
21 spouse, the amount by which the sum of (1) the spouse's expense for rent  
22 or mortgage payment, including principal and interest, taxes and insurance  
23 and, in the case of a condominium or cooperative, required maintenance  
24 charges excluding utilities, for the spouse's principal residence, and (2) the  
25 standard utility allowance under section 5(e) of the food stamp act of 1977,  
26 exceeds 30% of the maximum amount of income allowed under K.S.A.  
27 39-787, and amendments thereto.

28 (c) "Home and community based services" means those services  
29 provided under the state medical assistance program under waivers as  
30 defined in title XIX of the federal social security act in accordance with  
31 the plan adopted under subsection (s) of K.S.A. 39-708c, and amendments  
32 thereto, to recipients who would require admission to an adult care home if  
33 such services were not otherwise provided.

34 (d) "Income" means earned income and unearned income as defined  
35 under the state medical assistance program in accordance with the plan  
36 adopted under subsection (s) of K.S.A. 39-708c, and amendments thereto,  
37 to determine eligibility of applicants for medical assistance.

38 (e) "Institution" means an adult care home or a long-term care unit of  
39 a medical care facility.

40 (f) "Medical assistance" has the meaning provided under K.S.A. 39-  
41 702, and amendments thereto.

42 (g) "Qualified applicant" means a person who (1) applies for medical  
43 assistance and (2) is receiving long-term care in an institution or would be

1 eligible for home and community based services if receiving medical  
2 assistance.

3 (h) "Qualified recipient" means a person who (1) receives medical  
4 assistance and (2) is receiving long-term care in an institution or is  
5 receiving home and community based services.

6 (i) "Resources" means cash or other liquid assets or any real or  
7 personal property that an individual or spouse owns and could convert to  
8 cash to be used for such individual's support and maintenance. If the  
9 individual has the right, authority or power to liquidate the property, or  
10 such individual's share of the property, it is a resource. If a property right  
11 cannot be liquidated, the property will not be considered a resource of the  
12 individual or spouse.

13 (j) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
14 *aging and disability* services.

15 (k) "Exempt income" means income which is not considered in  
16 determining eligibility for medical assistance under the plan adopted under  
17 subsection (s) of K.S.A. 39-708c, and amendments thereto.

18 (l) "Nonexempt income" means income which is considered in  
19 determining eligibility for medical assistance under the plan adopted under  
20 subsection (s) of K.S.A. 39-708c, and amendments thereto.

21 (m) "Exempt resources" means resources which are not considered in  
22 determining eligibility for medical assistance under the plan adopted under  
23 subsection (s) of K.S.A. 39-708c, and amendments thereto.

24 (n) "Nonexempt resources" means resources which are considered in  
25 determining eligibility for medical assistance under the plan adopted under  
26 subsection (s) of K.S.A. 39-708c, and amendments thereto.

27 (o) "Long-term care" means care which exceeds or is projected to  
28 exceed three months, including the month care begins.

29 Sec. 114. K.S.A. 39-786 is hereby amended to read as follows: 39-  
30 786. (a) For the purpose of determining medical assistance eligibility  
31 pursuant to K.S.A. 39-709, and amendments thereto, and the right to and  
32 obligation of medical support for the purposes of K.S.A. 39-709 and 39-  
33 719a, and amendments thereto, a qualified applicant or qualified recipient  
34 and such applicant's or recipient's spouse may divide their aggregate  
35 resources, whether owned jointly or singly, into separate shares as  
36 provided by this section. Subject to the provisions of subsection (g), if a  
37 qualified applicant or qualified recipient and such applicant's or recipient's  
38 spouse so divide their aggregate resources:

39 (1) Only the separate nonexempt resources of the applicant or  
40 recipient shall be considered in determining eligibility for medical  
41 assistance: (A) If the applicant's or recipient's spouse is not applying for or  
42 receiving medical assistance, in the month following the month in which  
43 the applicant or recipient enters an institution to receive long-term care or



1 begins to receive home and community based services, or at any time  
2 thereafter; or (B) if the applicant's or recipient's spouse is applying for or  
3 receiving medical assistance, in the seventh month following the month in  
4 which the applicant or recipient enters an institution to receive long-term  
5 care or begins to receive home and community based services, or at any  
6 time thereafter;

7 ~~(2) the secretary of social and rehabilitation services Kansas~~  
8 ~~department for children and families~~, in determining the eligibility of the  
9 applicant or recipient for long-term institutional care or home and  
10 community based services, shall not take into account the separate  
11 nonexempt resources of the applicant's or recipient's spouse and shall not  
12 require proof of adequate consideration for any transfer made in dividing  
13 resources in accordance with this section;

14 (3) the resources received by the qualified applicant's or qualified  
15 recipient's spouse pursuant to this section shall not be considered to be  
16 available to the applicant or recipient for future medical support and the  
17 qualified applicant's or qualified recipient's spouse shall have no duty of  
18 future medical support of the qualified applicant or qualified recipient  
19 from such resources;

20 (4) except as otherwise provided in this section, neither the secretary  
21 nor the state may recover from the resources received by the qualified  
22 applicant's or qualified recipient's spouse pursuant to this section any  
23 amounts paid for future medical assistance provided to the qualified  
24 applicant or qualified recipient; and

25 (5) neither the secretary nor the state shall be subrogated to or  
26 assigned any future right of the qualified applicant or qualified recipient to  
27 medical support from the resources of the qualified applicant's or qualified  
28 recipient's spouse.

29 (b) If a qualified applicant or qualified recipient and such applicant's  
30 or recipient's spouse choose to divide their aggregate resources pursuant to  
31 this section, the division shall be in such a manner that the qualified  
32 applicant's or qualified recipient's spouse owns singly aggregate  
33 nonexempt resources with a value which is the greater of: (A) \$12,000,  
34 subject to adjustment under subsection (i); or (B) the lesser of (i) the  
35 spousal share computed under subsection (c) or (ii) four times the amount  
36 described in clause (A).

37 (c) There shall be computed, as of the beginning of a continuous  
38 period of long-term care of the qualified applicant or qualified recipient:  
39 (A) The total value of the nonexempt resources to the extent the qualified  
40 applicant or qualified recipient or such applicant's or recipient's spouse has  
41 an ownership interest; and (B) a spousal share which is equal to  $\frac{1}{2}$  of such  
42 total value.

43 (d) A division of resources pursuant to this section shall be evidenced

1 by a written interspousal agreement, signed by both spouses or their  
2 personal representatives, to divide the resources as provided by this section  
3 and to make any transfers necessary to carry out the division. In the case of  
4 a qualified applicant, a notice of intent to divide resources shall be filed  
5 with the secretary at the time of application. In the case of a qualified  
6 recipient, such notice shall be filed with the secretary at the time the  
7 recipient and the recipient's spouse desire to divide resources. The division  
8 shall apply to resources owned on the date the notice of intent is filed and  
9 the division shall be presumed to take place on that date if a copy of the  
10 agreement to divide resources and evidence, satisfactory to the secretary,  
11 of completion of any transfers necessary to effect the division are filed  
12 with the secretary within 90 days after the notice of intent is filed or within  
13 such additional time as permitted by the secretary, in the secretary's  
14 discretion, for good cause shown.

15 (e) Once a qualified applicant for or qualified recipient of medical  
16 assistance has divided resources with a spouse pursuant to this section,  
17 such applicant or recipient may not thereafter again divide resources under  
18 this section with such spouse or any subsequent spouse.

19 (f) ~~The secretary of social and rehabilitation services~~ *Kansas*  
20 *department for children and families* shall furnish to each qualified  
21 applicant or qualified recipient and such applicant's or recipient's spouse,  
22 and any personal representative thereof, a clear and simple written  
23 statement that:

24 (1) The total resources of the qualified applicant or qualified recipient  
25 and of the applicant's or recipient's spouse may be divided hereunder;

26 (2) upon such a division, the spouse's nonexempt resources will not  
27 be considered in determining eligibility of the applicant or recipient for  
28 long-term institutional care or home and community based services and  
29 the spouse shall not be required to use the resources received by the spouse  
30 pursuant to this section to provide future medical support to the qualified  
31 applicant or qualified recipient;

32 (3) a lien for medical assistance paid may be imposed against the  
33 property of the qualified applicant or qualified recipient and the property  
34 of the applicant's or recipient's spouse but only to the extent authorized  
35 under this section.

36 (g) If a qualified recipient of medical assistance and such recipient's  
37 spouse have divided their resources as provided by this section, the  
38 secretary, may establish, enforce and foreclose a lien for any amount of  
39 medical assistance provided the recipient but only to the extent authorized  
40 under 42 U.S.C. § 1396p, as in effect on the effective date of this act.

41 (h) The secretary shall adopt such rules and regulations as necessary  
42 to implement and enforce the provisions of this section.

43 (i) The dollar amounts specified in subsection (b) and K.S.A. 39-

1 787(a), *and amendments thereto*, shall be increased by the same  
2 percentage as the percentage increase in the consumer price index for all  
3 urban consumers, all items, the United States city average, between  
4 September, 1987, and the September before the calendar year involved.

5 Sec. 115. K.S.A. 39-787 is hereby amended to read as follows: 39-  
6 787. (a) For the purpose of determining medical assistance eligibility  
7 pursuant to K.S.A. 39-709, and amendments thereto, and the right to and  
8 obligation of medical support for the purposes of K.S.A. 39-709 and 39-  
9 719a, and amendments thereto, a qualified applicant or qualified recipient  
10 and such applicant's or recipient's spouse may divide their aggregate  
11 income, whether received jointly or singly, into separate shares as  
12 provided by this section so that the spouse retains the first \$9,000 plus any  
13 allowable excess shelter allowance up to a maximum total of \$14,400 of  
14 the aggregate nonexempt income. If a qualified applicant or qualified  
15 recipient and such applicant's or recipient's spouse so divide their  
16 aggregate income:

17 (1) Only the separate nonexempt income of the qualified applicant or  
18 qualified recipient shall be considered in determining eligibility for  
19 medical assistance: (A) If the applicant's or recipient's spouse is not  
20 applying for or receiving medical assistance, in the month following the  
21 month in which the applicant or recipient enters an institution to receive  
22 long-term care or begins to receive home and community based services,  
23 or at any time thereafter; or (B) if the applicant or recipient and the  
24 applicant's or recipient's spouse share the same residence and the  
25 applicant's or recipient's spouse is applying for or receiving medical  
26 assistance, in the seventh month following the month in which the  
27 applicant or recipient enters an institution to receive long-term care or  
28 begins to receive home and community based services, or at any time  
29 thereafter;

30 (2) ~~the secretary of social and rehabilitation services for children and~~  
31 *families*, in determining the eligibility of the applicant or recipient for  
32 long-term institutional care or home and community based services, shall  
33 not take into account the separate nonexempt income of the applicant's or  
34 recipient's spouse and shall not require proof of adequate consideration for  
35 any assignment made in dividing income;

36 (3) of the annual income of the qualified applicant's or qualified  
37 recipient's spouse, only that portion exceeding \$9,000 plus any allowable  
38 excess shelter allowance up to a maximum total of \$14,400 shall be  
39 considered to be available to the qualified applicant or qualified recipient  
40 for future medical support and the qualified applicant's or qualified  
41 recipient's spouse shall have a duty of future medical support of the  
42 qualified applicant or qualified recipient only to the extent that such  
43 spouse's annual income exceeds \$9,000 plus any allowable excess shelter

1 allowance up to a maximum total of \$14,400;

2 (4) neither the secretary nor the state may recover from the income of  
3 the qualified applicant's or qualified recipient's spouse, for future medical  
4 assistance provided to the qualified applicant or qualified recipient: (A)  
5 Any amount in any calendar year when the income of such spouse is less  
6 than \$9,000 plus any allowable excess shelter allowance up to a maximum  
7 total of \$14,400; or (B) an amount in any calendar year which would  
8 reduce such spouse's income to less than \$9,000 plus any allowable excess  
9 shelter allowance up to a maximum total of \$14,400 for such calendar  
10 year; and

11 (5) the secretary's subrogation rights on behalf of the state shall be  
12 subject to the limitation of subsection (a)(4).

13 (b) A division of income pursuant to this section shall be evidenced  
14 by a written interspousal agreement, signed by both spouses or their  
15 personal representatives, to divide income as provided by this section and  
16 to carry out the division. In the case of a qualified applicant, a notice of  
17 intent to divide income shall be filed with the secretary at the time of  
18 application. In the case of a qualified recipient, such notice shall be filed  
19 with the secretary.

20 (c) ~~The secretary of social and rehabilitation services for children and~~  
21 ~~families~~ shall furnish to each qualified applicant or qualified recipient and  
22 such applicant's or recipient's spouse, and any personal representative  
23 thereof, a clear and simple written statement that the total income of the  
24 qualified applicant or qualified recipient and of the applicant's or  
25 recipient's spouse may be divided hereunder and that, upon such a  
26 division, the spouse's income will not be considered in determining  
27 eligibility of the applicant or recipient for long-term institutional care or  
28 home and community based services and the spouse shall be required to  
29 use only that portion of the spouse's annual income which exceeds \$9,000  
30 plus any allowable excess shelter allowance up to a maximum total of  
31 \$14,400 to provide future medical support to the applicant or recipient.

32 (d) The secretary shall adopt such rules and regulations as necessary  
33 to implement and enforce the provisions of this section.

34 Sec. 116. K.S.A. 39-788 is hereby amended to read as follows: 39-  
35 788. (a) No provision of this act shall be considered to be in conflict with  
36 any federal statute or regulation until after a final determination by the  
37 secretary of the United States department of health and human services  
38 finding such a conflict.

39 (b) If the secretary of the United States department of health and  
40 human services makes an initial determination that any provision of this  
41 act is in conflict with any federal statute or regulation, the secretary ~~of~~  
42 ~~social and rehabilitation for aging and disability services or the Kansas~~  
43 ~~department of health and environment, or both,~~ shall take all available and

1 necessary steps to obtain a final determination reversing that decision. If a  
2 final determination is made that this act conflicts with federal law, the  
3 ~~secretary of social and rehabilitation~~ *for aging and disability services or*  
4 *the Kansas department of health and environment, or both,* shall  
5 immediately request that the attorney general seek judicial review of the  
6 determination and shall immediately notify the appropriate policy and  
7 fiscal committees of the legislature.

8 Sec. 117. K.S.A. 39-7,100 is hereby amended to read as follows: 39-  
9 7,100. (a) As used in this section:

10 (1) "Home and community based services programs" mean the  
11 programs established under the state medical assistance program under  
12 plans or waivers as defined in the federal social security act in accordance  
13 with the plans or waivers adopted by the ~~secretary of social and~~  
14 ~~rehabilitation services and the secretary of aging,~~ *either separately or*  
15 *jointly, for aging and disability services* to provide attendant care services  
16 to individuals in need of in-home care who would require admission to an  
17 institution if the attendant care services were not otherwise provided.

18 (2) "Secretary" means ~~either the secretary of social and rehabilitation~~  
19 ~~services or the secretary of aging~~ *for aging and disability services.*

20 (b) The secretary as part of the home and community based services  
21 programs, subject to social security act grant requirements, shall provide  
22 that:

23 (1) Priority recipients of attendant care services shall be those  
24 individuals in need of in-home care who are at the greatest risk of being  
25 placed in an institutional setting;

26 (2) individuals in need of in-home care who are recipients of  
27 attendant care services and the parents or guardians of individuals who are  
28 minors at least 16 years of age and who are in need of in-home care shall  
29 have the right to choose the option to make decisions about, direct the  
30 provisions of and control the attendant care services received by such  
31 individuals including, but not limited to, selecting, training, managing,  
32 paying and dismissing of an attendant;

33 (3) any proposals to provide attendant care services solicited by the  
34 secretary shall be selected based on service priorities developed by the  
35 secretary, except that priority shall be given to proposals that will serve  
36 those at greatest risk of being placed in an institution as determined by the  
37 secretary;

38 (4) providers, where appropriate, shall include individuals in need of  
39 in-home care in the planning, startup, delivery and administration of  
40 attendant care services and the training of personal care attendants; and

41 (5) within the limits of appropriations therefor, the home and  
42 community based services programs shall serve eligible individuals in  
43 need of in-home care throughout this state.

1 (c) Within the limits of appropriations therefor, the secretary may  
2 initiate demonstration projects to test new ways of providing attendant  
3 care services and may conduct specific research into ways to best provide  
4 attendant care services in both urban and rural environments.

5 Sec. 118. K.S.A. 39-7,100a is hereby amended to read as follows: 39-  
6 7,100a. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
7 services shall apply for appropriate waivers to applicable federal medicaid  
8 provisions to permit an expansion of home and community based services  
9 to include the services provided under the Kansas senior care act and to  
10 obtain medicaid funding therefor.

11 Sec. 119. K.S.A. 39-7,102 is hereby amended to read as follows: 39-  
12 7,102. As used in the KanWork act, unless the context clearly requires  
13 otherwise:

14 (a) "Committee" means the KanWork interagency coordinating  
15 committee established under K.S.A. 39-7,108 and amendments thereto.

16 (b) "KanWork program" means the work experience and training  
17 program for public assistance recipients established under the KanWork  
18 act.

19 (c) "Participant" means a public assistance recipient who participates  
20 in the KanWork program.

21 (d) "Secretary" means the secretary ~~of social and rehabilitation~~  
22 *services for children and families*.

23 (e) "State child care center" means a child care center licensed under  
24 K.S.A. 65-501 et seq., and amendments thereto.

25 (f) The terms defined in K.S.A. 39-702, and amendments thereto, and  
26 used in the KanWork act have the meanings provided by K.S.A. 39-702,  
27 and amendments thereto.

28 Sec. 120. K.S.A. 39-7,103 is hereby amended to read as follows: 39-  
29 7,103. (a) The secretary ~~of social and rehabilitation services for children~~  
30 *and families* shall be responsible for the planning, integration and  
31 coordination of employment and related services for public assistance  
32 recipients. All appropriate state and local agencies shall cooperate with the  
33 secretary in the planning, integration and coordination of employment and  
34 related services as provided under the KanWork act.

35 (b) Within the limits of appropriations therefor, the secretary shall  
36 establish and administer the KanWork program for recipients of public  
37 assistance which shall consist of the following components: Evaluation for  
38 eligibility and services; job preparation, training and education; support  
39 services; and transitional services.

40 (c) The secretary shall adopt rules and regulations which establish  
41 KanWork program requirements for eligibility for the receipt of public  
42 assistance and which establish penalties to be imposed when an  
43 assignment under a KanWork program requirement is not completed

1 without good cause. The secretary may adopt rules and regulations  
2 establishing exemptions from any such KanWork program requirements,  
3 except that no person shall be exempt solely because such person provides  
4 care for a child three years of age or older unless federal law or rules and  
5 regulations specifically provide that such a person be exempt and a waiver  
6 of such requirement cannot be obtained. Requirements, exemptions and  
7 penalties established under this subsection (c) shall be consistent with the  
8 provisions of any state or federal law, rules and regulations or waiver  
9 granted under federal law or rules and regulations which relate thereto.

10 (d) In carrying out the duties specified under the KanWork act, the  
11 secretary shall seek the advice of and consult with the KanWork  
12 interagency coordinating committee. The secretary may enter into  
13 contracts as may be necessary to carry out the provisions of the KanWork  
14 act.

15 (e) The secretary shall monitor and evaluate periodically the  
16 KanWork program and shall track job retention rates of participants for not  
17 more than 15 months after a participant is employed and is no longer  
18 eligible for cash assistance. Within the limits of appropriations therefor,  
19 the secretary may enter into contracts for marketing and publishing  
20 information concerning the KanWork program and may enter into  
21 contracts for assistance in monitoring and evaluating the KanWork  
22 program and in tracking job retention rates of applicants.

23 (f) The secretary may seek waivers from program requirements of the  
24 federal government as may be needed to carry out the provisions of the  
25 KanWork act and to maximize federal matching and other funds with  
26 respect to the programs established under such act.

27 Sec. 121. K.S.A. 39-7,104 is hereby amended to read as follows: 39-  
28 7,104. (a) ~~The secretary of social and rehabilitation services for children~~  
29 ~~and families~~ shall provide for the evaluation of public assistance recipients  
30 to determine whether such persons are required to participate in the  
31 KanWork program and whether such persons are employable. All public  
32 assistance recipients not required to participate in the KanWork program  
33 who are employable shall be encouraged to participate in such program.  
34 The secretary also shall provide for the evaluation of KanWork  
35 participants to assess the appropriate level of services needed by such  
36 participants under the KanWork program; shall provide initial  
37 employability screening, goal setting, identification of support service  
38 needs and development of initial timeline goals for completion of  
39 activities; and shall establish and enter into with such participants written  
40 contracts of participant self-sufficiency. The secretary shall also develop a  
41 set of performance standards by which the effectiveness of the KanWork  
42 program may be evaluated.

43 (b) ~~The secretary of social and rehabilitation services for children~~

1 *and families* may enter into agreements with public, private and  
2 community-based providers for services including but not limited to the  
3 following: Determination and provision of employment occupational  
4 assessment, goal setting, training services, job development and placement  
5 and such other services as the secretary may deem appropriate within the  
6 provisions of this act.

7 (c) A KanWork participant who is determined to be employable shall  
8 not be eligible to participate in the KanWork program for more than 30  
9 months, inclusive of any educational program under the KanWork  
10 program. Except as otherwise provided in this subsection, a KanWork  
11 participant under the KanWork program shall not be eligible to receive any  
12 cash assistance for three years subsequent to the time participation in the  
13 KanWork program ceases. ~~The secretary of social and rehabilitation~~  
14 ~~services for children and families~~ may adopt by rules and regulations  
15 exceptions to such limitations on participation in the KanWork program,  
16 on participation in any educational program thereunder, or on eligibility  
17 for cash assistance, in cases of undue hardship. Notwithstanding the  
18 foregoing provisions of this subsection, a KanWork participant who fails  
19 to become employed while participating in the KanWork program is  
20 authorized to receive support services as defined in K.S.A. 39-7,106, and  
21 amendments thereto, for a period not to exceed six months while a person  
22 is seeking employment. If the person obtains employment, the person is  
23 authorized to receive transitional services under K.S.A. 39-7,107, and  
24 amendments thereto.

25 (d) KanWork participants may bring grievances and appeal decisions  
26 of the secretary under the KanWork program in accordance with grievance  
27 and appeal procedures established by the secretary by rules and  
28 regulations.

29 Sec. 122. K.S.A. 39-7,105 is hereby amended to read as follows: 39-  
30 7,105. (a) Within the limits of appropriations therefor and to the extent  
31 allowed under any applicable federal law or rule and regulation adopted  
32 pursuant thereto, the secretary shall establish and make available to  
33 eligible public assistance recipients the job preparation, training and  
34 education component of the KanWork program.

35 (b) The job preparation element of the job preparation, training and  
36 education component includes, but is not limited to, the following:

37 (1) Unsupervised job search, in which the participant individually  
38 seeks work and makes periodic progress reports to the secretary or an  
39 agency contracting with the secretary.

40 (2) Supervised job search which includes, but is not limited to, access  
41 to telephones to contact prospective employers, job orders, direct referrals  
42 to employers, or other organized methods of seeking work which are  
43 overseen, reviewed and critiqued by the secretary or an agent of the



1 secretary. The amount and type of activity required during this supervised  
2 job search period shall be determined by the secretary and the participant,  
3 based on the participant's employment history and need for supportive  
4 services and shall be consistent with rules and regulations adopted by the  
5 secretary.

6 (3) Job club workshops, including group or individual training  
7 sessions, where participants learn various job finding and job retention  
8 skills. Workshops shall be conducted by persons trained in employment  
9 counseling. The skills taught in job clubs shall include preparation of an  
10 application, writing a resume, interviewing techniques, understanding  
11 employer requirements and expectations, telephone canvassing for job  
12 leads, proper dress and conduct on the job and ways to enhance self-  
13 esteem, self-image and confidence.

14 (4) Job referral and placement services.

15 (5) Employment counseling to assist persons to reach informed  
16 decisions on appropriate employment goals.

17 (c) The training and education element of the job preparation, training  
18 and education component includes, but is not limited to, the following:

19 (1) Job training which includes, but is not limited to, training in  
20 industry-specific job skills in a classroom or onsite setting, including  
21 training provided by private industry, universities, community colleges,  
22 state and local agencies and school districts.

23 (2) Community work experience for a public or nonprofit agency that  
24 provides the participant the opportunity to develop basic work skills,  
25 practice and improve existing skills and acquire on-the-job experience  
26 established in accordance with the provisions of subsection (g) of K.S.A.  
27 39-708c, and amendments thereto, or subsection (d)(B)(3) of K.S.A. 39-  
28 709, and amendments thereto, or both such sections.

29 (3) Work experience through a grant diversion program which the  
30 secretary is hereby authorized to implement in which an employer receives  
31 a wage subsidy from money diverted in accordance with law from public  
32 assistance grants. Grant diversion shall be implemented through a contract  
33 entered into by the secretary and the employer.

34 (4) Work experience through employment with state government or  
35 local governmental units in work which otherwise would have gone  
36 undone, if the participant is unable to be placed in other employment. The  
37 state government and local governmental units may cooperate with the  
38 ~~secretary of social and rehabilitation services~~ *for children and families* in  
39 developing and making available such employment opportunities.

40 (5) Remedial education, which shall include adult basic education,  
41 high school completion and general equivalency diploma instruction. Only  
42 participants deemed able to become substantially more employable for an  
43 educational experience shall be placed in remedial education.

1 (6) College and community college education, when that education  
2 provides sufficient employment skills training which can be expected to  
3 lead to employment based on a labor market needs assessment. Only  
4 participants deemed capable of becoming substantially more employable  
5 from such an educational experience shall be placed in this education  
6 component.

7 (7) Vocational training in a community college, vocational technical  
8 school or local school district program which can be expected to lead to  
9 employment based upon a labor market needs assessment.

10 (8) English language instruction for non-English speaking  
11 participants.

12 (9) Other programs that may be made available through federal  
13 legislation authorizing employment and training programs for public  
14 assistance recipients.

15 (10) No participant who has graduated from high school shall  
16 participate in any educational program under the KanWork act for more  
17 than 30 months. A participant who has not graduated from high school but  
18 who the secretary determines is able to obtain general educational  
19 development credentials within nine months after becoming a KanWork  
20 participant may participate in the educational program under the KanWork  
21 act, but such educational program participation under the KanWork  
22 program shall be limited to 30 months, less the period of time required for  
23 the participant to obtain general educational development credentials, after  
24 the participant has received the general educational development  
25 credentials. The secretary of ~~social and rehabilitation services for children~~  
26 *and families* may adopt by rules and regulations exceptions to such  
27 limitations on participation in any such educational program in cases of  
28 undue hardship.

29 (d) Workers assigned to state agencies under the KanWork program  
30 may participate in classified civil service examinations equivalent to the  
31 position occupied, as well as any other civil service examination for which  
32 the participant is qualified, and experience in the position occupied by the  
33 participant shall be included in determining whether the participant meets  
34 the experience requirements for the particular position under the Kansas  
35 civil service act.

36 (e) The secretary may enter into contracts with community service  
37 providers for job development and service provision.

38 Sec. 123. K.S.A. 2012 Supp. 39-7,108 is hereby amended to read as  
39 follows: 39-7,108. (a) There is hereby created the KanWork interagency  
40 coordinating committee which shall consist of the following members: (1)  
41 No more than 10 members appointed by the governor; (2) the secretary of  
42 ~~social and rehabilitation services for children and families~~;  
43 the secretary of labor; (4) the secretary of administration or the secretary's

1 designee; (5) the secretary of commerce or the secretary's designee; (6) a  
2 faculty member engaged in teaching social welfare courses or other  
3 relevant academic disciplines at a college or university located in this state  
4 appointed by the chairperson of the state board of regents; and (7) a  
5 representative of the state department of education who is knowledgeable  
6 in the area of vocational-technical education or community colleges, or  
7 both, appointed by the chairperson of the state board of education.  
8 Individuals appointed to the committee by the governor shall include: A  
9 representative of the Kansas league of municipalities; a representative of  
10 the Kansas association of counties; a representative of a local school  
11 district; a representative of the financial community; a representative of  
12 the business community; a representative of organized labor; a  
13 representative of the child support enforcement program of the judicial  
14 branch; and a social services advocacy representative.

15 (b) The member of the committee appointed by the chairperson of the  
16 state board of regents, the member of the committee appointed by the  
17 chairperson of the state board of education and the members of the  
18 committee appointed by the governor shall be appointed for two-year  
19 terms and until their successors are appointed and qualified. Upon the  
20 vacancy of a position on the committee, the person appointing the member  
21 whose position is vacant, or the successor to the position of the person  
22 appointing such member, shall appoint a person to fill such vacancy.

23 (c) ~~The secretary of social and rehabilitation services for children and~~  
24 ~~families~~ shall serve as chairperson of the committee. The committee shall  
25 meet on the call of the chairperson. A majority of all the members of the  
26 committee shall constitute a quorum.

27 (d) The committee shall provide oversight of the KanWork program  
28 to insure cooperation at all levels of government, to avoid duplication  
29 among agencies and programs, insure cooperation and smooth  
30 implementation of the program, encourage involvement by the public,  
31 private and nonprofit sectors in the state and provide ongoing planning for  
32 the program. In addition, the committee shall review periodically the use  
33 of funds under the federal job training and partnership act and other  
34 federal funds available for any similar programs and may issue reports as  
35 necessary.

36 (e) ~~The secretary of social and rehabilitation services for children and~~  
37 ~~families~~ shall provide staff assistance and clerical services to the  
38 committee. Other state agencies shall cooperate with the committee by  
39 providing information and other assistance as may be helpful to the  
40 committee in carrying out its duties under this section.

41 (f) The members of the committee who are not state officers or  
42 employees and who are attending meetings of such committee, or  
43 attending a subcommittee meeting thereof authorized by such committee,

1 shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and  
2 amendments thereto. Amounts paid under this subsection (f) shall be from  
3 appropriations to the ~~department of social and rehabilitation services~~  
4 *Kansas department for children and families* upon warrants of the director  
5 of accounts and reports issued pursuant to vouchers approved by the  
6 secretary of ~~social and rehabilitation services~~ *for children and families* or a  
7 person designated by the secretary.

8 Sec. 124. K.S.A. 39-7,109 is hereby amended to read as follows: 39-  
9 7,109. (a) The secretary of ~~social and rehabilitation services~~ *for children*  
10 *and families* shall establish state child care centers and may operate such  
11 centers or enter into contracts with private providers for the operation of  
12 such centers. State child care centers shall be licensed under the provisions  
13 of K.S.A. 65-501 et seq., and amendments thereto. The secretary of ~~social~~  
14 ~~and rehabilitation services~~ *for children and families* and the secretary of  
15 health and environment are hereby authorized to enter into joint  
16 agreements as may be necessary to facilitate the establishment and  
17 operation of state child care centers.

18 (b) A state child care center shall provide child care services for  
19 children of KanWork participants. A state child care center may provide  
20 child care services for children of state employees; children of employees  
21 of local governments and other agencies participating in the KanWork  
22 program which have entered into agreements with the secretary  
23 authorizing their employees to utilize state child care center services; and  
24 children of teenage parents who have not yet completed high school if the  
25 parent is working to complete high school or is working for a high school  
26 equivalency certificate and if the school district has entered into an  
27 agreement with the secretary that such teenage parents will be allowed to  
28 continue attending school.

29 (c) The secretary by rules and regulations shall establish a sliding fee  
30 scale based upon ability to pay for child care services provided by a state  
31 child care center. All persons whose children are utilizing such child care  
32 services, other than persons whose children are receiving such child care  
33 services under subsection (b) of K.S.A. 39-7,106, *and amendments*  
34 *thereto*, shall pay a fee for the services based upon such sliding fee scale.

35 Sec. 125. K.S.A. 39-7,122 is hereby amended to read as follows: 39-  
36 7,122. (a) The secretary of ~~social and rehabilitation services~~ *health and*  
37 *environment* shall provide transitional medical care services, including  
38 extended medical care services under KanWork, under the medical care  
39 plan for medical assistance adopted by the secretary. The transitional  
40 medical care services shall be provided for not to exceed 24 months after a  
41 recipient of assistance becomes employed and is no longer eligible for  
42 cash assistance unless the recipient is otherwise covered by health benefits.  
43 Such transitional medical care services shall be provided with a 25%

1 copayment requirement during the 13<sup>th</sup> month through the 24<sup>th</sup> month.

2 (b) As used in this section, terms have the meanings provided by  
3 K.S.A. 39-702, and amendments thereto.

4 Sec. 126. K.S.A. 39-7,123 is hereby amended to read as follows: 39-  
5 7,123. (a) As used in this section: "Individual assistance support trust"  
6 means a trust created by a not-for-profit corporation which is a 501(c)(3)  
7 organization under the federal internal revenue code of 1986 and which  
8 was organized for the purpose of receiving money pursuant to an  
9 agreement under this section.

10 (b) There is hereby established in the state treasury the state  
11 individual assistance support trust fund.

12 (c) On or before the 10<sup>th</sup> of each month, the director of accounts and  
13 reports shall transfer from the state general fund to the state individual  
14 assistance support trust fund interest earnings based on:

15 (1) The average daily balance of moneys in the state individual  
16 assistance support trust fund for the preceding month; and

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

19 ~~(d) The secretary of social and rehabilitation services for children~~  
20 ~~and families~~ may accept moneys from an individual assistance support  
21 trust for deposit in the state individual assistance support trust fund  
22 pursuant to an agreement with the individual assistance support trust for  
23 purposes of matching federal funds. The individual assistance support trust  
24 may retain 5% of any grant it receives for purposes of this section. The  
25 secretary shall deposit 10% of such moneys in the state general fund and  
26 5% of such moneys shall be deposited in the state general fund and  
27 credited to the social welfare fund. The balance of such moneys shall be  
28 deposited in a separate account in the state individual assistance support  
29 trust fund for each grant so received. The moneys in each such account  
30 shall be expended by the secretary, in accordance with rules and  
31 regulations of the secretary, only for the purpose of matching federal funds  
32 in accordance with the terms of the agreement. Interest earned on moneys  
33 in the trust fund and transferred to the trust fund under subsection (c) shall  
34 be prorated in accordance with procedures approved by the director of  
35 accounts and reports and credited monthly to each such account.

36 (e) If the secretary determines that the moneys cannot be used for the  
37 purpose of matching federal funds in a manner consistent with the rules  
38 and regulations of the secretary and the agreement, or upon the request of  
39 the individual assistance support trust, the remaining moneys in such  
40 account, together with any accumulated interest thereon, shall be paid to  
41 the individual assistance support trust which deposited such moneys in the  
42 state individual assistance support trust fund.

43 (f) The secretary shall adopt rules and regulations and procedures as

1 may be necessary or useful for the administration of the trust fund. All  
2 payments and disbursements from the trust fund shall be made upon  
3 warrants of the director of accounts and reports issued pursuant to  
4 vouchers approved by the secretary or by a person designated by the  
5 secretary.

6 Sec. 127. K.S.A. 39-7,125 is hereby amended to read as follows: 39-  
7 7,125. (a) (1) In determining the amount of aid to families with dependent  
8 children for a family with fewer than three dependent children at the  
9 beginning of any period of time such assistance is received by such family,  
10 the ~~secretary of social and rehabilitation services~~ *for children and families*  
11 shall revise the schedule of benefits to be paid to such recipient family by  
12 eliminating: (A) In the case of the birth of the third dependent child born  
13 to such family while receiving aid to families with dependent children,  
14 50% of the increment in aid to families with dependent children benefits  
15 for which that family would otherwise be eligible as a result of such birth;  
16 and (B) in the case of the birth of the fourth or subsequent dependent child,  
17 100% of the increment in aid to families with dependent children benefits  
18 for which that family would otherwise be eligible as a result of such birth.

19 (2) The ~~secretary of social and rehabilitation services~~ *for children*  
20 *and families* shall provide instead that a recipient family with fewer than  
21 three dependent children at the time such assistance is first received by  
22 such family, may receive additional benefits only pursuant to subsection  
23 (a)(3) or subsection (c).

24 (3) Each such family shall benefit from any general increase in the  
25 amount of aid to families with dependent children benefits which is  
26 provided to all program recipients.

27 (b) (1) In determining the amount of aid to families with dependent  
28 children to a recipient family with three or more dependent children at the  
29 beginning of any period of time such assistance is received by such family,  
30 the ~~secretary of social and rehabilitation services~~ *for children and families*  
31 shall revise the schedule of benefits to be paid to such recipient family by  
32 eliminating: (A) In the case of the birth of the first child born to such  
33 family while receiving aid to families with dependent children, 50% of the  
34 increment in benefits under the program for which that family would  
35 otherwise be eligible as a result of such birth; and (B) in the case of the  
36 birth of each subsequent dependent child, 100% of the increment in  
37 benefits under the program for which that family would otherwise be  
38 eligible as a result of such birth.

39 (2) The ~~secretary of social and rehabilitation services~~ *for children*  
40 *and families* shall provide instead that a recipient family with three or  
41 more dependent children at the time such assistance is first received by  
42 such family may receive additional benefits only pursuant to subsection  
43 (b)(3) or subsection (c).

1 (3) Each such family shall benefit from any general increase in the  
2 amount of aid to families with dependent children benefits which is  
3 provided to all program recipients.

4 (c) ~~The secretary of social and rehabilitation services for children and~~  
5 ~~families~~ shall provide: (1) That in computing the amount of aid to families  
6 with dependent children available to any family in which one or more  
7 adults have earned income from bona fide employment, as defined by  
8 rules and regulations of the ~~secretary of social and rehabilitation services~~  
9 ~~for children and families~~, the provisions of subsection (a)(1) and  
10 subsection (b)(1), which limit the amount of assistance a family can  
11 receive, shall not apply; (2) in the case of a family with two adults and  
12 only one of whom is employed, the monthly earned income disregard shall  
13 increase by an amount equal to not more than 100% of that which the  
14 family would have otherwise received by parenting an additional child;  
15 and (3) in any family each employed individual shall receive the earnings  
16 disregards specified in K.S.A. 39-7,127, and amendments thereto.

17 (d) For purposes of this section: (1) Any child born to an adult while  
18 that adult is ineligible for aid to families with dependent children pursuant  
19 to a penalty imposed by the ~~secretary of social and rehabilitation services~~  
20 ~~for children and families~~ for failure to comply with benefit eligibility  
21 requirements shall be considered to be born while the adult is a recipient of  
22 aid to families with dependent children; (2) each child in a multiple birth  
23 shall be entitled to receive the same incremental increase in benefits as the  
24 first child in such birth; and (3) the birth of any child which results from a  
25 pregnancy which exists at the time aid to families with dependent children  
26 is first received after June 30, 1994, shall not be considered to be the birth  
27 of a third or subsequent child for the purpose of applying the provisions of  
28 subsection (a)(1) or subsection (b)(1) which limit the amount of assistance  
29 a family can receive for aid to families with dependent children.

30 Sec. 128. K.S.A. 39-7,127 is hereby amended to read as follows: 39-  
31 7,127. (a) ~~The secretary of social and rehabilitation services for children~~  
32 ~~and families~~ shall make program modifications to the aid to families with  
33 dependent children program of the ~~department of social and rehabilitation~~  
34 ~~services~~ *Kansas department for children and families*, to include a work-  
35 and-earn incentive program containing provisions such that:

36 (1) If an individual's earned income is considered, the individual shall  
37 be allowed a work-and-earn incentive adjustment to assistance which shall  
38 be determined in accordance with policies prescribed by rules and  
39 regulations adopted by the ~~secretary of social and rehabilitation services~~  
40 ~~for children and families~~ and shall include an incentive disregard of the  
41 amount equal to a \$90 work expense plus 40% of the gross monthly earned  
42 income above the \$90 with (A) the individual's eligibility continuing until  
43 the family's total income exceeds the maximum income limit established

1 by the secretary ~~of social and rehabilitation services for children and~~  
2 *families* in rules and regulations, (B) no time limit on the incentive  
3 disregard, and (C) no application of any other time-limited, work-related  
4 income disregard when the work-and-earn incentive program is applicable;  
5 and

6 (2) if an individual's earned income is considered, the individual shall  
7 be allowed the work expense deduction referenced in paragraph (1) of this  
8 subsection from the earned income, which shall include, as provided in  
9 rules and regulations of the secretary ~~of social and rehabilitation services~~  
10 *for children and families*, generally all work-related expenses, other than  
11 day care, and includes specifically: Taxes, transportation expenses, meal  
12 expenses and acquisition and maintenance expense for required uniforms.

13 (b) The secretary ~~of social and rehabilitation services for children~~  
14 *and families* shall seek waivers from program requirements of the federal  
15 government as may be needed to carry out the provisions of this section  
16 and to maximize federal matching and other funds with respect to the  
17 provisions of this section. The secretary ~~of social and rehabilitation~~  
18 *services for children and families* shall implement the provisions of this  
19 section only if such waivers to federal program requirements have been  
20 obtained from the federal government.

21 Sec. 129. K.S.A. 39-7,128 is hereby amended to read as follows: 39-  
22 7,128. In determining eligibility for aid to families with dependent  
23 children or grant determinations relating thereto, the secretary ~~of social~~  
24 ~~and rehabilitation services for children and families~~ shall exclude from  
25 income and resources any income earned by a minor and saved by the  
26 minor for educational purposes for the minor. This earned income shall be  
27 income earned by the minor and saved for educational purposes in  
28 accordance with rules and regulations of the secretary ~~of social and~~  
29 ~~rehabilitation services for children and families~~ which define earned  
30 income for the purposes of this section and specify the method by which  
31 such income may be dedicated to educational purposes to ensure that such  
32 income is used in a manner to comply with the provisions of this section.

33 Sec. 130. K.S.A. 2012 Supp. 39-7,129 is hereby amended to read as  
34 follows: 39-7,129. The secretary ~~of social and rehabilitation services for~~  
35 *children and families* shall adjust, by rules and regulations, the program  
36 requirements for aid to families with dependent children provided through  
37 the ~~department of social and rehabilitation services~~ *Kansas department for*  
38 *children and families* to include requirements that, as a condition for  
39 continued eligibility for aid to families with dependent children, the family  
40 comply with laws providing for immunization and vaccination of children  
41 attending school or a child care facility. The secretary of health and  
42 environment shall provide to the secretary ~~of social and rehabilitation~~  
43 *services for children and families* current information on the requirements



1 of these laws which relate to the immunization and vaccination of  
2 children.

3 Sec. 131. K.S.A. 39-7,130 is hereby amended to read as follows: 39-  
4 7,130. (a) The ~~secretary of social and rehabilitation services for children~~  
5 ~~and families~~ shall seek a waiver under federal law to allow two-parent  
6 families otherwise eligible for aid to families with dependent children to  
7 be eligible even though the principal wage earner may be working more  
8 than the allowable hours per month and have not worked in the required  
9 quarters of the year or earned less than required in such quarters of the  
10 year, or both; to allow pregnant women otherwise eligible for aid to  
11 families with dependent children to be eligible for aid to families with  
12 dependent children from the first month of pregnancy; and to allow  
13 children otherwise eligible for aid to families with dependent children  
14 foster care to be eligible even though the child's family does not meet aid  
15 to families with dependent children criteria.

16 (b) As used in this section, terms have the meanings provided by  
17 K.S.A. 39-702, and amendments thereto.

18 Sec. 132. K.S.A. 39-7,131 is hereby amended to read as follows: 39-  
19 7,131. Where required, the ~~secretary of social and rehabilitation services~~  
20 ~~for children and families~~ shall apply for waiver of federal law or regulation  
21 as necessary to implement the provisions of this act. The ~~secretary of~~  
22 ~~social and rehabilitation services for children and families~~ shall not  
23 implement any provision of this act if the secretary determines that  
24 implementing such provision would have the effect of spending more state  
25 general funds than appropriated or reducing or eliminating federal  
26 matching funds or other federal funds.

27 Sec. 133. K.S.A. 2012 Supp. 39-7,132 is hereby amended to read as  
28 follows: 39-7,132. (a) Any person who agrees to provide financial support  
29 to a person who would otherwise be eligible to receive aid to families with  
30 dependent children and who has entered into an agreement with the  
31 ~~secretary of social and rehabilitation services for children and families~~  
32 for this purpose, in accordance with rules and regulations adopted by the  
33 ~~secretary of social and rehabilitation services for children and families~~  
34 establishing the terms and conditions of such agreement, shall receive a  
35 credit against the tax liability imposed under the Kansas income tax act as  
36 provided under K.S.A. 79-32,200, and amendments thereto.

37 (b) Moneys received by the secretary under this section shall be used  
38 to match available federal moneys for providing aid to families with  
39 dependent children in the following manner: (1) The portion equal to 80%  
40 of such moneys shall be credited to the state general fund; (2) the portion  
41 equal to 15% of such moneys shall be used by the secretary to match  
42 available federal moneys and shall be added by the secretary to the grant  
43 of the recipient family; and (3) the remaining portion equal to 5% of such

1 moneys shall be credited to the social welfare fund for administrative  
2 expenses and one-time grants.

3 (c) For tax year 2013 and all tax years thereafter, the income tax  
4 credit provided by this section shall only be available to taxpayers subject  
5 to the income tax on corporations imposed pursuant to subsection (c) of  
6 K.S.A. 79-32,110, and amendments thereto, and shall be applied only  
7 against such taxpayer's corporate income tax liability.

8 Sec. 134. K.S.A. 2012 Supp. 39-7,134 is hereby amended to read as  
9 follows: 39-7,134. The ~~secretary of social and rehabilitation services for~~  
10 *children and families* is hereby directed to establish a system for  
11 disseminating information and advice to and making referrals of persons  
12 seeking to enforce child support orders, whether or not the person or child  
13 is receiving public assistance.

14 Sec. 135. K.S.A. 2012 Supp. 39-7,135 is hereby amended to read as  
15 follows: 39-7,135. (a) ~~The department of social and rehabilitation services~~  
16 *Kansas department for children and families*, the title IV-D agency for the  
17 state, shall maintain a central unit for collection and disbursement of  
18 support payments to meet the requirements of title IV-D and this section.  
19 Such central unit shall be known as the Kansas payment center. The name  
20 "Kansas payment center" shall be reserved for use by the state of Kansas  
21 for the functions of the central unit and shall not be used by any entity  
22 without the consent of the ~~secretary of social and rehabilitation services~~  
23 *for children and families*.

24 The department may contract with another entity for development,  
25 enhancement or operation, in whole or in part, of such central unit. The  
26 Kansas payment center shall be subject to the following conditions and  
27 limitations:

28 (1) The Kansas payment center shall be subject to the Kansas  
29 supreme court rule concerning official child support and maintenance  
30 records established pursuant to subsection (c).

31 (2) No contract shall include provisions allowing the contractor to be  
32 paid, in whole or in part, on the basis of an amount per phone call received  
33 by the center nor allowing the contractor to be paid an amount per check  
34 issued for checks that were issued in error by the center. Nothing in this  
35 paragraph shall be construed to prevent the ~~secretary of social and~~  
36 ~~rehabilitation services for children and families~~ from compensating on the  
37 basis of an amount per phone call any contractor that does not process  
38 receipts or disbursements under this section.

39 (3) Any contract for processing receipts or disbursements under this  
40 section shall include penalty provisions for noncompliance with federal  
41 regulations relating to the timeliness of collections and disbursements and  
42 shall include a monetary penalty of \$100 for each erroneous transaction,  
43 whether related to collection or disbursement. Penalties shall be collected

1 as and when assessed. Of the penalty, \$25 shall be allocated to the obligee  
2 and \$75 shall be allocated to the ~~department of social and rehabilitation~~  
3 ~~services~~ *Kansas department for children and families*.

4 (4) Designees of the secretary ~~of social and rehabilitation services for~~  
5 ~~children and families~~ and designees of the office of judicial administration  
6 shall have full access to all data, subject to the provisions of title IV-D of  
7 the federal social security act, 42 U.S.C. § 651 et seq. Designees of the  
8 secretary ~~of social and rehabilitation services for children and families~~, all  
9 district court clerks and court trustees shall have access to records of the  
10 Kansas payment center sufficient to allow them to assist in the process of  
11 matching support payments to the correct accounts.

12 (5) The Kansas payment center shall provide sufficient customer  
13 service staff during regular business hours. Obligors and obligees shall be  
14 provided 24-hour access to information about the status of receipts and  
15 disbursements, including, but not limited to, date of receipt by the center,  
16 date of processing by the center and date of disbursement to the obligee.

17 (b) The Kansas payment center shall have, by operation of law, a  
18 limited power of attorney to perform the specific act of endorsing and  
19 negotiating all drafts, checks, money orders or other negotiable  
20 instruments representing support payments received by the center. Nothing  
21 in this subsection shall be construed as affecting the property rights or  
22 interests of any person in such negotiable instruments. The provisions of  
23 this subsection shall apply to any negotiable instrument received by the  
24 center on or after October 1, 2000.

25 (c) The Kansas supreme court, by court rule, shall establish the  
26 procedure for the creation, maintenance and correction of official child  
27 support and maintenance records for use as official court records.

28 (d) The department shall collaborate with the Kansas supreme court  
29 to maintain the Kansas payment center, which shall include all support  
30 payments subject to the requirements of title IV-D of the federal social  
31 security act, 42 U.S.C. § 651 et seq., and, except as specifically directed  
32 otherwise by the court pursuant to K.S.A. 2012 Supp. 23-2712 and 23-  
33 2802 and articles 29, 30 and 31 of chapter 23 of the Kansas Statutes  
34 Annotated, and amendments thereto, all other support payments due under  
35 a court order entered in this state.

36 (e) Any provision in any support order or income withholding order  
37 entered in this state which requires remittance of support payments to the  
38 clerk of the district court or district court trustee shall be deemed to require  
39 remittance of support payments to the Kansas payment center, regardless  
40 of the date the support or income withholding order was entered.

41 (f) (1) Except as otherwise provided in this subsection, payments  
42 received by the Kansas payment center which cannot be matched to any  
43 account nor returned to the payor shall be transferred to the state treasurer

1 in accordance with the unclaimed property act.

2 (2) Except as otherwise provided in this subsection, disbursements  
3 which cannot be delivered to the payee after a good faith effort to locate  
4 the payee shall be transferred to the state treasurer in accordance with the  
5 unclaimed property act.

6 (3) To the extent that the secretary ~~of social and rehabilitation~~  
7 ~~services for children and families~~ would be required to treat as federal  
8 program income any amount transferable to the state treasurer pursuant to  
9 this subsection or the unclaimed property act, such amount shall not be  
10 presumed abandoned but shall be held by the secretary until the amount  
11 may be delivered to the true owner. The secretary and the state treasurer  
12 shall collaborate on procedures for locating the true owner and confirming  
13 claims to amounts so held.

14 Sec. 136. K.S.A. 2012 Supp. 39-7,138 is hereby amended to read as  
15 follows: 39-7,138. The following definitions shall apply in any IV-D  
16 administrative proceeding related to K.S.A. 39-7,137 through 39-7,152,  
17 and amendments thereto, except where the context requires otherwise.

18 (a) "Account" means a demand deposit account, checking or  
19 negotiable withdrawal order account, savings account, time deposit  
20 account or money-market mutual fund account.

21 (b) "Arrearages" means past due support under any support order of  
22 any tribunal of this or any other state, including but not limited to the  
23 unpaid balance of any costs awarded, public assistance debt or accrued  
24 interest.

25 (c) "Business day" means a day on which state offices in Kansas are  
26 open for regular business.

27 (d) "Cash asset" means any intangible property that consistently  
28 maintains a fair market value of one dollar per unit. It shall be presumed  
29 that any account held by a financial institution and from which the obligor  
30 may make cash withdrawals, with or without penalty, consists entirely of  
31 cash assets.

32 (e) "Current support" includes but is not limited to the duty to provide  
33 for a child's ongoing medical needs through cash, insurance coverage or  
34 other means. "Current support" does not include any periodic amount  
35 specified to defray arrearages.

36 (f) "Custodial parent" means the parent or other person receiving IV-  
37 D services on the child's behalf and may include an agency acting in loco  
38 parentis, a guardian, or a blood or adoptive relative with whom the child  
39 resides.

40 (g) "Duty of support" means any duty to support another person that  
41 is imposed or imposable by law or by any order, decree or judgment of any  
42 tribunal, whether interlocutory or final or whether incidental to a  
43 proceeding for divorce, judicial separation, separate maintenance or

1 otherwise, including but not limited to the duty to provide current support,  
2 the duty to provide medical support, the duty to pay birth expenses, the  
3 duty to pay a public assistance debt and the duty to pay arrearages.

4 (h) "Financial institution" means any financial institution as defined  
5 in 469A of the federal social security act, 42 U.S.C. § 469A, and  
6 amendments thereto.

7 (i) "Holder" means any person who is or may be in possession or  
8 control of any cash asset of the responsible parent.

9 (j) "IV-D" or "title IV-D" means part D of title IV of the federal social  
10 security act, 42 U.S.C. § 651 et seq., and amendments thereto, as in effect  
11 on May 1, 1997. "IV-D services" means those services the secretary  
12 provides pursuant to title IV-D.

13 (k) "Party" means the secretary, the responsible parent, the custodial  
14 parent or the child or any assignee or other successor in interest to any of  
15 them.

16 (l) "Public assistance debt" means the obligation to reimburse public  
17 assistance as described in K.S.A. 39-718b or 39-719, and amendments  
18 thereto, or in any similar law of this or any other state.

19 (m) "Responsible parent" means, if a child is receiving or has  
20 received IV-D services from the secretary, the mother, father or alleged  
21 father of the child.

22 (n) "Secretary" means the secretary ~~of social and rehabilitation~~  
23 ~~services for children and families~~ or a designee of the secretary.

24 (o) "State" means a state of the United States, the District of  
25 Columbia, Puerto Rico, the United States Virgin Islands or any territory or  
26 insular possession subject to the jurisdiction of the United States. The term  
27 "state" includes an Indian tribe and includes any jurisdiction declared a  
28 foreign reciprocating country by the United States secretary of state and  
29 any foreign jurisdiction that has established procedures for issuance and  
30 enforcement of child support orders which are substantially similar to the  
31 procedures of this state. It shall be presumed that a foreign jurisdiction  
32 which is the subject of an unrevoked declaration by the attorney general  
33 pursuant to K.S.A. 2012 Supp. 23-3601, and amendments thereto, is a state  
34 as defined in this subsection.

35 (p) "Support order" means any order by which a person's duty of  
36 support is established, including but not limited to any order modifying a  
37 prior support order.

38 (q) "Tribunal" means any court, administrative agency or quasi-  
39 judicial entity authorized to establish, modify or enforce support orders or  
40 to determine parentage. With respect to support orders entered in this state,  
41 the courts are the tribunals in Kansas.

42 Sec. 137. K.S.A. 39-7,139 is hereby amended to read as follows: 39-  
43 7,139. (a) The powers and remedies provided in this section are

1 cumulative and do not affect any other powers of the secretary or the  
2 availability of remedies under other law.

3 (b) In any case for which the secretary is providing IV-D services, the  
4 secretary, subject to de novo court review as provided in subsection (c),  
5 may:

6 (1) Obtain access to information as authorized by law;

7 (2) subpoena records pursuant to K.S.A. 39-7,144, and amendments  
8 thereto;

9 (3) order genetic tests pursuant to K.S.A. 39-7,145, and amendments  
10 thereto;

11 (4) order minimum payments to defray arrearages pursuant to K.S.A.  
12 39-7,146, and amendments thereto;

13 (5) enforce any duty of support by income withholding pursuant to  
14 the income withholding act and K.S.A. 39-7,147 et seq., and amendments  
15 thereto;

16 (6) enforce any duty of support by administrative levy pursuant to  
17 K.S.A. 39-7,150, and amendments thereto;

18 (7) perfect any lien against property;

19 (8) order executions against property pursuant to K.S.A. 60-2401, and  
20 amendments thereto; and

21 (9) change the payee of any support order pursuant to K.S.A. 39-  
22 7,151, and amendments thereto.

23 (c) In any action by the secretary pursuant to subsection (b), an  
24 aggrieved person has the right to file a petition with the district court  
25 pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments  
26 thereto, for de novo court review of such action by the secretary. An  
27 aggrieved person shall not be required to first exhaust administrative  
28 remedies that may be available to such person. If such person files a  
29 petition for de novo review and a request for an administrative hearing has  
30 already been docketed, such administrative hearing shall be stayed until  
31 the court has reviewed and rendered a decision on such petition. The  
32 secretary ~~of social and rehabilitation services for children and families~~  
33 shall be a necessary party to the action. In any action under this subsection,  
34 the court may grant relief that would have been available to the parties in  
35 an administrative hearing conducted pursuant to K.S.A. 75-3306, and  
36 amendments thereto.

37 (d) In any action by the secretary pursuant to subsection (b), the  
38 secretary shall give written notice to the party, clearly and conspicuously,  
39 of the right to a de novo court review pursuant to subsection (c).

40 (e) The secretary may designate employees of the secretary to serve  
41 as authorized agents to exercise powers of the secretary in IV-D  
42 administrative proceedings. By written contract, the secretary may  
43 designate other persons to serve as authorized agents to exercise specific

1 powers of the secretary in IV-D cases.

2 Sec. 138. K.S.A. 2012 Supp. 39-7,151 is hereby amended to read as  
3 follows: 39-7,151. (a) Nothing in this section shall be construed to prevent  
4 the secretary from redirecting support payments by filing a notice of  
5 assignment pursuant to K.S.A. 39-754, and amendments thereto, or to  
6 require the secretary to issue an order to change payee in lieu of filing such  
7 a notice of assignment.

8 (b) If a support order has been entered in any IV-D case, the secretary  
9 may enter an order to change the payee. The order may be directed to the  
10 clerk of court or any other payer under the support order and shall require  
11 payments to be made and disbursed as provided in the order to change  
12 payee until further notice. The order to change payee shall be served on the  
13 clerk of the court or other payer by only personal service or registered  
14 mail, return receipt requested. The secretary shall serve a copy of the order  
15 to change payee on the responsible parent and the custodial parent and, if  
16 the previous payee is a real party in interest, upon the previous payee by  
17 only personal service or registered mail, return receipt requested. An order  
18 to change payee may be entered pursuant to this section only if the payer is  
19 subject, or may be made subject, to the jurisdiction of the courts of this  
20 state. The jurisdiction of the secretary over the payer for purposes of this  
21 section shall commence when the payer is served with the order to change  
22 payee and shall continue so long as the order to change payee is in effect  
23 and has not been superseded.

24 (c) If an order to change payee is directed to any payer other than the  
25 clerk of court, a copy shall also be filed with the tribunal that issued the  
26 support order.

27 (d) If the underlying support order was entered or has been registered  
28 in this state, no order to change payee issued by any IV-D agency shall be  
29 effective to require any payer, other than a clerk of court, to send payments  
30 to any location other than to the clerk of court where the support order was  
31 entered or registered, a location specified in the support order or a location  
32 specified by court rule. If the clerk of court receives an order to change  
33 payee from anyone other than the secretary and a notice of assignment  
34 pursuant to K.S.A. 39-754, and amendments thereto, or a conflicting order  
35 to change payee is still in effect, the clerk of court may at any time request  
36 an administrative hearing pursuant to K.S.A. 75-3306, and amendments  
37 thereto, by complying with procedures established by the secretary.

38 (e) If the underlying support order was not entered and has not been  
39 registered in this state, any person whose interest may be prejudiced by the  
40 order to change payee may request: (1) An administrative hearing pursuant  
41 to K.S.A. 75-3306, and amendments thereto, by complying with  
42 procedures established by the secretary within 10 days after entry of the  
43 order being contested; or (2) a de novo court review pursuant to K.S.A.

1 39-7,139, and amendments thereto. If the order is served on the person by  
2 mail, the person's time for requesting review shall be extended by three  
3 days.

4 (f) An order to change payee issued by a IV-D agency in another state  
5 shall have the same force and effect in this state, and be subject to the  
6 same limitations, as an order to change payee issued by the secretary under  
7 this section. Upon request of a IV-D agency in another state, the secretary  
8 may enforce such an order to change payee as though it had been issued by  
9 the secretary of social and rehabilitation services for children and families.  
10 By serving an order to change payee related to a support order entered in  
11 this state, such IV-D agency shall be deemed to have consented to the  
12 jurisdiction of this state to determine how payments will be directed to  
13 maintain accurate payment records and rapid disbursement of support  
14 collections.

15 (g) As used in this section, "clerk of court" includes any district court  
16 trustee generally designated to process support payments and includes any  
17 disbursement unit or entity that may be established by court rule to process  
18 support payments.

19 (h) In an administrative hearing pursuant to K.S.A. 75-3306, and  
20 amendments thereto, the effect of an order to change payee may be stayed  
21 only upon request and only if the new payee is a person or entity other  
22 than the clerk of the court.

23 (i) An order issued pursuant to this section whose effect has not been  
24 stayed may be enforced pursuant to the civil enforcement provisions of the  
25 Kansas judicial review act, K.S.A. 77-601 et seq., and amendments  
26 thereto, after the time for compliance with the order has expired.

27 Sec. 139. K.S.A. 2012 Supp. 39-7,155 is hereby amended to read as  
28 follows: 39-7,155. (a) The secretary of revenue shall restrict a person's  
29 driving privileges pursuant to K.S.A. 8-255, and amendments thereto,  
30 upon request of the secretary of social and rehabilitation services for  
31 children and families if the secretary of social and rehabilitation services  
32 for children and families certifies, as provided in this section, that the  
33 person owes past due support or has failed to comply with a warrant or  
34 subpoena in a title IV-D case. The secretary of social and rehabilitation  
35 services for children and families shall provide the secretary of revenue  
36 identifying information about each person so certified. When this section  
37 requires the division to place restrictions on a person's driving privileges,  
38 the division shall restrict the person's driving privileges only under the  
39 circumstances provided by subsections (a)(1), (a)(2), (a)(3) and (a)(4) of  
40 K.S.A. 8-292, and amendments thereto.

41 (b) A restriction of driving privileges under this section shall continue  
42 until the secretary of social and rehabilitation services for children and  
43 families decertifies the person and the person meets requirements for



1 receiving a driver's license.

2 (c) The secretary of ~~social and rehabilitation services~~ *for children and*  
3 *families* is authorized to certify a person to the secretary of revenue for  
4 restriction of the person's driving privileges if:

5 (1) The person owes past due support in a title IV-D case equal to or  
6 greater than \$500 or has failed, after appropriate notice, to comply with an  
7 outstanding warrant or subpoena directed to the person in a title IV-D case;  
8 and

9 (2) at least 30 days have elapsed from the date written notice of the  
10 proposed certification was mailed to the person and no timely request for  
11 review has been made or such review has been resolved in favor of the  
12 secretary of ~~social and rehabilitation services~~ *for children and families*.

13 (d) The secretary of ~~social and rehabilitation services~~ *for children*  
14 *and families* shall mail to the person a notice of the proposed certification  
15 to restrict driving privileges by certified mail, return receipt requested,  
16 addressed to the person at the person's last known address. The notice shall  
17 describe the basis of the proposed certification, compliance actions that the  
18 person may take to prevent certification, how the person may request a fair  
19 hearing pursuant to K.S.A. 75-3306, and amendments thereto, the time  
20 frame the person shall meet to prevent certification, how the person may  
21 be decertified once certification occurs and how the person may obtain  
22 additional information.

23 (e) If, within the time frame stated in the notice, the person  
24 demonstrates to the secretary of ~~social and rehabilitation services~~ *for*  
25 *children and families* that the person has met applicable requirements of  
26 subsection (a) of K.S.A. 2012 Supp. 39-7,156, and amendments thereto,  
27 the secretary shall not certify the person under this section so long as the  
28 person remains in compliance. Nothing in this subsection shall be  
29 construed to prevent the secretary from issuing a new notice of proposed  
30 certification if the person ceases to be in compliance, owes past due  
31 support equal to or greater than \$500 in a different title IV-D case or fails  
32 to comply with a different warrant or subpoena in a title IV-D case.

33 (f) If a timely request for fair hearing pursuant to K.S.A. 75-3306,  
34 and amendments thereto, is made, certification by the secretary of ~~social~~  
35 ~~and rehabilitation services~~ *for children and families* shall be stayed  
36 pending resolution of the fair hearing.

37 (g) As used in this section, "title IV-D case" means a case being  
38 administered by the secretary of ~~social and rehabilitation services~~ *for*  
39 *children and families* pursuant to part D of title IV of the federal social  
40 security act (42 U.S.C. § 651 et seq.).

41 Sec. 140. K.S.A. 2012 Supp. 39-7,156 is hereby amended to read as  
42 follows: 39-7,156.(a) A person may prevent certification pursuant to  
43 subsection (e) of K.S.A. 2012 Supp. 39-7,155, and amendments thereto, or

1 may request decertification if:

2 (1) The arrearages are paid in full or a tribunal of competent  
3 jurisdiction has determined that no arrearage is owed;

4 (2) an income withholding order in the case has been served upon the  
5 person's current employer or payor;

6 (3) an agreement has been completed or an order has been entered  
7 setting minimum payments to defray the arrearage, together with receipt of  
8 the first minimum payment; or

9 (4) the person has complied with the warrant or subpoena or the  
10 warrant or subpoena has been quashed or withdrawn.

11 (b) The burden of showing that the applicable requirements of  
12 subsection (a) have been met shall be upon the person seeking to prevent  
13 certification or to be decertified. If the ~~secretary of social and~~  
14 ~~rehabilitation services for children and families~~ is satisfied that the person  
15 has met the necessary requirements and the person has been certified  
16 pursuant to K.S.A. 2012 Supp. 39-7,155, and amendments thereto, the  
17 secretary shall decertify the person immediately.

18 Sec. 141. K.S.A. 2012 Supp. 39-7,157 is hereby amended to read as  
19 follows: 39-7,157. If a person previously certified pursuant to K.S.A. 2012  
20 Supp. 39-7,155, and amendments thereto, is decertified by the ~~secretary of~~  
21 ~~social and rehabilitation services for children and families~~, the secretary of  
22 revenue shall immediately terminate any proceedings under K.S.A. 2012  
23 Supp. 39-7,155, and amendments thereto, and, if the person's driving  
24 privileges have been restricted, may issue a driver's license to the person if  
25 the person meets requirements to receive a license. Nothing in this section  
26 shall be construed to prevent or stay any proceeding by the secretary of  
27 revenue to suspend, revoke or restrict the person's driving privileges on  
28 any other grounds.

29 Sec. 142. K.S.A. 2012 Supp. 39-7,158 is hereby amended to read as  
30 follows: 39-7,158. (a) The ~~secretary of social and rehabilitation services~~  
31 ~~for children and families~~ and the secretary of revenue may enter into an  
32 agreement for administering the provisions of K.S.A. 2012 Supp. 39-7,155  
33 through 39-7,157, and amendments thereto, including time frames for  
34 implementation.

35 (b) The ~~secretary of social and rehabilitation services for children~~  
36 ~~and families~~ and the secretary of revenue may each adopt rules and  
37 regulations necessary to carry out the provisions of K.S.A. 2012 Supp. 39-  
38 7,155 through 39-7,157, and amendments thereto.

39 Sec. 143. K.S.A. 2012 Supp. 39-7,159 is hereby amended to read as  
40 follows: 39-7,159. (a) In the state of Kansas, long-term care services,  
41 including home and community based services, shall be provided through  
42 a comprehensive and coordinated system throughout the state.

43 (b) The system shall:

1 (1) Emphasize a delivery concept of self-direction, individual choice,  
2 home and community settings and privacy;

3 (2) ensure transparency, accountability, safety and high quality  
4 services;

5 (3) increase expedited eligibility determination;

6 (4) provide timely services;

7 (5) utilize informal services; and

8 (6) ensure the moneys follow the person into the community.

9 (c) All persons receiving services pursuant to this section shall be  
10 offered the appropriate services which are determined to be in aggregate  
11 the most economical available with regard to state general fund  
12 expenditures. For those persons moving from a nursing facility to the  
13 home and community based services, the nursing facility reimbursement  
14 shall follow the person into the community.

15 (d) ~~The department on aging~~ *Kansas department for aging and*  
16 *disability services*, ~~the department of social and rehabilitation services~~  
17 *Kansas department for children and families* and the department of health  
18 and environment shall design and implement the system, in consultation  
19 with stakeholders and advocates related to long-term care services.

20 (e) ~~The department on aging~~ *Kansas department for aging and*  
21 *disability services* and ~~the department of social and rehabilitation services~~  
22 *Kansas department for children and families*, in consultation with the  
23 department of health and environment, shall submit an annual report on  
24 the long-term care system to the governor and the legislature annually,  
25 during the first week of the regular session.

26 Sec. 144. K.S.A. 2012 Supp. 39-7,160 is hereby amended to read as  
27 follows: 39-7,160.(a) There is hereby established the joint committee on  
28 home and community based services oversight. The joint committee shall  
29 review the number of individuals who are transferred from state or private  
30 institutions and long-term care facilities to the home and community based  
31 services and the associated cost savings and other outcomes of the money-  
32 follows-the-person program. The joint committee shall review the funding  
33 targets recommended by the interim report submitted for the 2007  
34 legislature by the joint committee on legislative budget and use them as  
35 guidelines for the future funding planning and policy making. The joint  
36 committee shall have oversight of savings resulting from the transfer of  
37 individuals from state or private institutions to home and community based  
38 services. As used in K.S.A. 2012 Supp. 39-7,159 through 39-7,162, and  
39 amendments thereto, "savings" means the difference between the average  
40 cost of providing services for individuals in an institutional setting and the  
41 cost of providing services in a home and community based setting. The  
42 joint committee shall study and determine the effectiveness of the program  
43 and cost-analysis of the state institutions or long-term care facilities based

1 on the success of the transfer of individuals to home and community based  
2 services. The joint committee shall consider the issues of whether  
3 sufficient funding is provided for enhancement of wages and benefits of  
4 direct individual care workers and their staff training and whether adequate  
5 progress is being made to transfer individuals from the institutions and to  
6 move them from the waiver waiting lists to receive home and community  
7 based services. The joint committee shall review and ensure that any  
8 proceeds resulting from the successful transfer be applied to the system of  
9 provision of services for long-term care and home and community based  
10 services.

11 (b) The joint committee shall consist of nine members as follows: (1)  
12 One member of the house of representatives appointed by the speaker of  
13 the house of representatives; (2) one member of the house of  
14 representatives appointed by the minority leader of the house of  
15 representatives; (3) one member of the senate appointed by the president  
16 of the senate; (4) one member of the senate appointed by the minority  
17 leader of the senate; (5) one member of the house of representatives  
18 appointed by the chairperson of the house committee on appropriations;  
19 (6) one member of the senate appointed by the chairperson of the senate  
20 committee on ways and means; (7) one member of the house of  
21 representatives appointed by the ranking minority member of the house  
22 committee on appropriations; (8) one member of the senate appointed by  
23 the ranking minority member of the senate committee on ways and means;  
24 and (9) one member of the house of representatives appointed by the  
25 majority leader of the house of representatives.

26 (c) Members shall be appointed for terms coinciding with the  
27 legislative terms for which such members are elected or appointed. All  
28 members appointed to fill vacancies in the membership of the joint  
29 committee and all members appointed to succeed members appointed to  
30 membership on the joint committee shall be appointed in the manner  
31 provided for the original appointment of the member succeeded. The first  
32 meeting of the joint committee shall be held before August 1, 2008.

33 (d) The members originally appointed as members of the joint  
34 committee shall meet upon the call of the member appointed by the  
35 speaker of the house of representatives, who shall be the first chairperson,  
36 within 30 days of the effective date of this act. The vice-chairperson of the  
37 joint committee shall be appointed by the president of the senate.  
38 Chairperson and vice-chairperson shall alternate annually between the  
39 members appointed by the speaker of the house of representatives and the  
40 president of the senate. The ranking minority member shall be from the  
41 same chamber as the chairperson. The joint committee shall meet at least  
42 four times each year at the call of the chairperson of the joint committee.  
43 Five members of the joint committee shall constitute a quorum.

1 (e) At the beginning of each regular session of the legislature, the  
2 committee shall submit to the president of the senate and the speaker of the  
3 house of representatives a written report on numbers of individuals  
4 transferred from the state or private institutions to the home and  
5 community based services including the average daily census in the state  
6 institutions and long-term care facilities, savings resulting from the  
7 transfer certified by the ~~secretary of social and rehabilitation services and~~  
8 ~~the secretary of aging~~ *for aging and disability services* in a quarterly report  
9 filed in accordance with K.S.A. 2012 Supp. 39-7,161 and 39-7,162, and  
10 amendments thereto, and the current balance in the home and community  
11 based services savings fund of the ~~department of social and rehabilitation~~  
12 ~~services and the department on aging~~ *Kansas department for aging and*  
13 *disability services*.

14 (f) Members of the committee shall be paid compensation, travel  
15 expenses and subsistence expenses or allowance as provided in K.S.A. 75-  
16 3212, and amendments thereto, for attendance at any meeting of the joint  
17 committee or any subcommittee meeting authorized by the committee.

18 Sec. 145. K.S.A. 2012 Supp. 39-7,162 is hereby amended to read as  
19 follows: 39-7,162. (a) (1) There is hereby established the home and  
20 community based services savings fund in the state treasury which shall be  
21 administered by the ~~secretary of aging~~ *for aging and disability services*.  
22 All savings resulting from transferring individuals from the institutions to  
23 home and community based services shall be deposited in this fund. All  
24 expenditures from the home and community based services savings fund  
25 shall be in accordance with the provisions of appropriation acts upon  
26 vouchers approved by the ~~secretary of aging~~ *for aging and disability*  
27 *services* or the secretary's designee.

28 (2) Whenever an individual, who is residing in an institution,  
29 transfers to home and community based services, the ~~secretary of aging~~ *for*  
30 *aging and disability services* shall determine the savings attributable to  
31 such transfer and shall certify the amount or amounts of such savings to  
32 the director of accounts and reports. Upon receipt of each such  
33 certification, the director of accounts and reports shall transfer the amount  
34 or amounts specified in such certification from the funds and accounts  
35 specified to the home and community based services savings fund of the  
36 ~~department on aging~~ *Kansas department for aging and disability services*  
37 in accordance with such certification. The ~~secretary of aging~~ *for aging and*  
38 *disability services* shall transmit a copy of each such certification to the  
39 director of the budget and to the director of legislative research.

40 (b) The secretary shall certify to the joint committee on home and  
41 community based services oversight at the beginning of each calendar  
42 quarter the amount of savings resulting from transferring individuals from  
43 institutions to home and community based services that have been

1 transferred during the preceding calendar quarter to the home and  
2 community based services savings fund from each institution during the  
3 preceding quarter.

4 Sec. 146. K.S.A. 2012 Supp. 39-923 is hereby amended to read as  
5 follows: 39-923. (a) As used in this act:

6 (1) "Adult care home" means any nursing facility, nursing facility for  
7 mental health, intermediate care facility for people with intellectual  
8 disability, assisted living facility, residential health care facility, home plus,  
9 boarding care home and adult day care facility; all of which are  
10 classifications of adult care homes and are required to be licensed by the  
11 secretary of aging.

12 (2) "Nursing facility" means any place or facility operating 24 hours a  
13 day, seven days a week, caring for six or more individuals not related  
14 within the third degree of relationship to the administrator or owner by  
15 blood or marriage and who, due to functional impairments, need skilled  
16 nursing care to compensate for activities of daily living limitations.

17 (3) "Nursing facility for mental health" means any place or facility  
18 operating 24 hours a day, seven days a week, caring for six or more  
19 individuals not related within the third degree of relationship to the  
20 administrator or owner by blood or marriage and who, due to functional  
21 impairments, need skilled nursing care and special mental health services  
22 to compensate for activities of daily living limitations.

23 (4) "Intermediate care facility for people with intellectual disability"  
24 means any place or facility operating 24 hours a day, seven days a week,  
25 caring for four or more individuals not related within the third degree of  
26 relationship to the administrator or owner by blood or marriage and who,  
27 due to functional impairments caused by intellectual disability or related  
28 conditions, need services to compensate for activities of daily living  
29 limitations.

30 (5) "Assisted living facility" means any place or facility caring for six  
31 or more individuals not related within the third degree of relationship to  
32 the administrator, operator or owner by blood or marriage and who, by  
33 choice or due to functional impairments, may need personal care and may  
34 need supervised nursing care to compensate for activities of daily living  
35 limitations and in which the place or facility includes apartments for  
36 residents and provides or coordinates a range of services including  
37 personal care or supervised nursing care available 24 hours a day, seven  
38 days a week, for the support of resident independence. The provision of  
39 skilled nursing procedures to a resident in an assisted living facility is not  
40 prohibited by this act. Generally, the skilled services provided in an  
41 assisted living facility shall be provided on an intermittent or limited term  
42 basis, or if limited in scope, a regular basis.

43 (6) "Residential health care facility" means any place or facility, or a

1 contiguous portion of a place or facility, caring for six or more individuals  
2 not related within the third degree of relationship to the administrator,  
3 operator or owner by blood or marriage and who, by choice or due to  
4 functional impairments, may need personal care and may need supervised  
5 nursing care to compensate for activities of daily living limitations and in  
6 which the place or facility includes individual living units and provides or  
7 coordinates personal care or supervised nursing care available on a 24-  
8 hour, seven-days-a-week basis for the support of resident independence.  
9 The provision of skilled nursing procedures to a resident in a residential  
10 health care facility is not prohibited by this act. Generally, the skilled  
11 services provided in a residential health care facility shall be provided on  
12 an intermittent or limited term basis, or if limited in scope, a regular basis.

13 (7) "Home plus" means any residence or facility caring for not more  
14 than 12 individuals not related within the third degree of relationship to the  
15 operator or owner by blood or marriage unless the resident in need of care  
16 is approved for placement by the secretary ~~of the department of social and~~  
17 ~~rehabilitation~~ *for aging and disability* services, and who, due to functional  
18 impairment, needs personal care and may need supervised nursing care to  
19 compensate for activities of daily living limitations. The level of care  
20 provided to residents shall be determined by preparation of the staff and  
21 rules and regulations developed by the department on aging. An adult care  
22 home may convert a portion of one wing of the facility to a not less than  
23 five-bed and not more than 12-bed home plus facility provided that the  
24 home plus facility remains separate from the adult care home, and each  
25 facility must remain contiguous. Any home plus that provides care for  
26 more than eight individuals after the effective date of this act shall adjust  
27 staffing personnel and resources as necessary to meet residents' needs in  
28 order to maintain the current level of nursing care standards. Personnel of  
29 any home plus who provide services for residents with dementia shall be  
30 required to take annual dementia care training.

31 (8) "Boarding care home" means any place or facility operating 24  
32 hours a day, seven days a week, caring for not more than 10 individuals  
33 not related within the third degree of relationship to the operator or owner  
34 by blood or marriage and who, due to functional impairment, need  
35 supervision of activities of daily living but who are ambulatory and  
36 essentially capable of managing their own care and affairs.

37 (9) "Adult day care" means any place or facility operating less than  
38 24 hours a day caring for individuals not related within the third degree of  
39 relationship to the operator or owner by blood or marriage and who, due to  
40 functional impairment, need supervision of or assistance with activities of  
41 daily living.

42 (10) "Place or facility" means a building or any one or more complete  
43 floors of a building, or any one or more complete wings of a building, or

1 any one or more complete wings and one or more complete floors of a  
2 building, and the term "place or facility" may include multiple buildings.

3 (11) "Skilled nursing care" means services performed by or under the  
4 immediate supervision of a registered professional nurse and additional  
5 licensed nursing personnel. Skilled nursing includes administration of  
6 medications and treatments as prescribed by a licensed physician or  
7 dentist; and other nursing functions which require substantial nursing  
8 judgment and skill based on the knowledge and application of scientific  
9 principles.

10 (12) "Supervised nursing care" means services provided by or under  
11 the guidance of a licensed nurse with initial direction for nursing  
12 procedures and periodic inspection of the actual act of accomplishing the  
13 procedures; administration of medications and treatments as prescribed by  
14 a licensed physician or dentist and assistance of residents with the  
15 performance of activities of daily living.

16 (13) "Resident" means all individuals kept, cared for, treated, boarded  
17 or otherwise accommodated in any adult care home.

18 (14) "Person" means any individual, firm, partnership, corporation,  
19 company, association or joint-stock association, and the legal successor  
20 thereof.

21 (15) "Operate an adult care home" means to own, lease, establish,  
22 maintain, conduct the affairs of or manage an adult care home, except that  
23 for the purposes of this definition the word "own" and the word "lease"  
24 shall not include hospital districts, cities and counties which hold title to an  
25 adult care home purchased or constructed through the sale of bonds.

26 (16) "Licensing agency" means the secretary ~~of aging~~ *for aging and*  
27 *disability services*.

28 (17) "Skilled nursing home" means a nursing facility.

29 (18) "Intermediate nursing care home" means a nursing facility.

30 (19) "Apartment" means a private unit which includes, but is not  
31 limited to, a toilet room with bathing facilities, a kitchen, sleeping, living  
32 and storage area and a lockable door.

33 (20) "Individual living unit" means a private unit which includes, but  
34 is not limited to, a toilet room with bathing facilities, sleeping, living and  
35 storage area and a lockable door.

36 (21) "Operator" means an individual who operates an assisted living  
37 facility or residential health care facility with fewer than 61 residents, a  
38 home plus or adult day care facility and has completed a course approved  
39 by the secretary ~~of health and environment~~ *for aging and disability*  
40 *services* on principles of assisted living and has successfully passed an  
41 examination approved by the secretary ~~of health and environment~~ *for*  
42 *aging and disability services* on principles of assisted living and such other  
43 requirements as may be established by the secretary ~~of health and~~



1 ~~environment for aging and disability services~~ by rules and regulations.

2 (22) "Activities of daily living" means those personal, functional  
3 activities required by an individual for continued well-being, including but  
4 not limited to eating, nutrition, dressing, personal hygiene, mobility and  
5 toileting.

6 (23) "Personal care" means care provided by staff to assist an  
7 individual with, or to perform activities of daily living.

8 (24) "Functional impairment" means an individual has experienced a  
9 decline in physical, mental and psychosocial well-being and as a result, is  
10 unable to compensate for the effects of the decline.

11 (25) "Kitchen" means a food preparation area that includes a sink,  
12 refrigerator and a microwave oven or stove.

13 (26) The term "intermediate personal care home" for purposes of  
14 those individuals applying for or receiving veterans' benefits means  
15 residential health care facility.

16 (27) "Paid nutrition assistant" means an individual who is paid to feed  
17 residents of an adult care home, or who is used under an arrangement with  
18 another agency or organization, who is trained by a person meeting nurse  
19 aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42  
20 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who  
21 provides such assistance under the supervision of a registered professional  
22 or licensed practical nurse.

23 (28) "Medicaid program" means the Kansas program of medical  
24 assistance for which federal or state moneys, or any combination thereof,  
25 are expended, or any successor federal or state, or both, health insurance  
26 program or waiver granted thereunder.

27 (b) The term "adult care home" shall not include institutions operated  
28 by federal or state governments, except institutions operated by the Kansas  
29 commission on veterans affairs, hospitals or institutions for the treatment  
30 and care of psychiatric patients, child care facilities, maternity centers,  
31 hotels, offices of physicians or hospices which are certified to participate  
32 in the medicare program under 42 code of federal regulations, chapter IV,  
33 section 418.1 et seq., and amendments thereto, and which provide services  
34 only to hospice patients.

35 (c) Nursing facilities in existence on the effective date of this act  
36 changing licensure categories to become residential health care facilities  
37 shall be required to provide private bathing facilities in a minimum of 20%  
38 of the individual living units.

39 (d) Facilities licensed under the adult care home licensure act on the  
40 day immediately preceding the effective date of this act shall continue to  
41 be licensed facilities until the annual renewal date of such license and may  
42 renew such license in the appropriate licensure category under the adult  
43 care home licensure act subject to the payment of fees and other conditions

1 and limitations of such act.

2 (e) Nursing facilities with less than 60 beds converting a portion of  
3 the facility to residential health care shall have the option of licensing for  
4 residential health care for less than six individuals but not less than 10% of  
5 the total bed count within a contiguous portion of the facility.

6 (f) The licensing agency may by rule and regulation change the name  
7 of the different classes of homes when necessary to avoid confusion in  
8 terminology and the agency may further amend, substitute, change and in a  
9 manner consistent with the definitions established in this section, further  
10 define and identify the specific acts and services which shall fall within the  
11 respective categories of facilities so long as the above categories for adult  
12 care homes are used as guidelines to define and identify the specific acts.

13 Sec. 147. K.S.A. 2012 Supp. 39-924 is hereby amended to read as  
14 follows: 39-924. The purpose of this act is the development, establishment,  
15 and enforcement of standards: (1) For the care, treatment, health, safety,  
16 welfare and comfort of individuals in adult care homes licensed by the  
17 secretary ~~of aging for aging and disability services~~; and (2) for the  
18 construction, general hygiene, maintenance and operation of said adult  
19 care homes, which, in the light of advancing knowledge, will promote safe  
20 and adequate accommodation, care and treatment of such individuals in  
21 adult care homes.

22 Sec. 148. K.S.A. 2012 Supp. 39-926 is hereby amended to read as  
23 follows: 39-926. It shall be unlawful for any person or persons acting  
24 jointly or severally to operate an adult care home within this state except  
25 upon license first had and obtained for that purpose from the secretary ~~of~~  
26 ~~aging for aging and disability services~~ as the licensing agency upon  
27 application made therefor as provided in this act, and compliance with the  
28 requirements, standards, rules and regulations, promulgated under its  
29 provisions.

30 Sec. 149. K.S.A. 2012 Supp. 39-930 is hereby amended to read as  
31 follows: 39-930. (a) The fee for license to operate an adult care home shall  
32 be a base amount plus an additional amount for each bed of such home  
33 which shall be paid to the secretary ~~of aging for aging and disability~~  
34 ~~services~~ before the license is issued. The fee shall be fixed by rules and  
35 regulations of the secretary ~~of aging for aging and disability services~~. The  
36 amount received for the license fee shall be deposited in the state treasury  
37 in accordance with K.S.A. 75-4215, and amendments thereto, and shall be  
38 credited to the state licensure fee fund, which is hereby created in the state  
39 treasury and which shall be administered by the ~~department on aging-~~  
40 ~~Kansas department for aging and disability services~~.

41 (b) If the evaluation and inspection was made by a county, city-  
42 county or multicounty health department at the direction of the secretary ~~of~~  
43 ~~aging for aging and disability services~~ and the papers required are

1 completed and filed with the secretary, then the amount equal to 40% of  
2 the fee collected shall be paid to such county, city-county or multicounty  
3 health department. If a facility has a change of administrator after the  
4 commencement of the licensing period, the fee shall be \$15 and shall be  
5 deposited in the state treasury and credited to the state licensure fee fund.

6 (c) All expenditures from the state licensure fee fund shall be made in  
7 accordance with appropriation acts upon warrants of the director of  
8 accounts and reports issued pursuant to vouchers approved by the  
9 secretary ~~of aging~~ *for aging and disability services* or by the secretary's  
10 designee.

11 Sec. 150. K.S.A. 2012 Supp. 39-935 is hereby amended to read as  
12 follows: 39-935. (a) Inspections shall be made and reported in writing by  
13 the authorized agents and representatives of the licensing agency and state  
14 fire marshal, and of the county, city-county and multicounty health  
15 departments as often and in the manner and form prescribed by the rules  
16 and regulations promulgated under the provisions of this act. Access shall  
17 be given to the premises of any adult care home at any time upon  
18 presenting adequate identification to carry out the requirements of this  
19 section and the provisions and purposes of this act, and failure to provide  
20 such access shall constitute grounds for denial or revocation of license. A  
21 copy of any inspection reports required by this section shall be furnished  
22 to the applicant, except that a copy of the preliminary inspection report  
23 signed jointly by a representative of the adult care home and the inspector  
24 shall be left with the applicant when an inspection under this section is  
25 completed. This preliminary inspection report shall constitute the final  
26 record of deficiencies assessed against the adult care home during the  
27 inspection, all deficiencies shall be specifically listed and no additional  
28 deficiencies based upon the data developed at that time shall be assessed at  
29 a later time. An exit interview shall be conducted in conjunction with the  
30 joint signing of the preliminary inspection report.

31 (b) The authorized agents and representatives of the licensing agency  
32 shall conduct at least one unannounced inspection of each adult care home  
33 within 15 months of any previous inspection for the purpose of  
34 determining whether the adult care home is complying with applicable  
35 statutes and rules and regulations relating to the health and safety of the  
36 residents of the adult care home. The statewide average interval between  
37 inspections shall not exceed 12 months.

38 (c) Every adult care home shall post in a conspicuous place a notice  
39 indicating that the most recent inspection report and related documents  
40 may be examined in the office of the administrator of the adult care home.  
41 Upon request, every adult care home shall provide to any person a copy of  
42 the most recent inspection report and related documents, provided the  
43 person requesting such report agrees to pay a reasonable charge to cover

1 copying costs.

2 (d) Each nursing facility that provides skilled nursing care, nursing  
3 facility for mental health that provides skilled nursing care or assisted  
4 living facility may establish and maintain a risk management program  
5 which shall consist of: (1) A system for investigation and analysis of the  
6 frequency and causes of reportable incidents within the facility; (2)  
7 measures to minimize the occurrence of reportable incidents and the  
8 resulting injuries within the facility; and (3) a reporting system based upon  
9 the duty of all health care providers staffing the facility and all agents and  
10 employees of the facility directly involved in the delivery of health care  
11 services to report reportable incidents to the chief of the medical staff,  
12 chief administrative officer or risk manager of the facility. Any reports and  
13 records reviewed, obtained or prepared by the ~~department on aging~~  
14 *Kansas department for aging and disability services* in connection with  
15 any reportable incidents referred for investigation under such risk  
16 management program, including any reports and records reflecting the  
17 results of an inspection or survey under this chapter or in accordance with  
18 the regulations, guidelines and procedures issued by the United States  
19 secretary of health and human services under Titles XVIII and XIX of the  
20 "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. § 301, as amended,  
21 shall not be admissible in any civil action under the laws of the state of  
22 Kansas unless the court determines on the record, following a hearing  
23 outside the presence of the jury, that the proffered evidence excerpted from  
24 any report, record, inspection or survey is relevant and substantially  
25 related to the plaintiff's allegations and otherwise admissible under the  
26 rules of evidence set forth in article 4, chapter 60 of the Kansas Statutes  
27 Annotated, and amendments thereto. This subsection shall not be  
28 construed to limit or impair a person's or entity's discovery of or access to  
29 any such report, record, inspection or survey under state or federal law;  
30 limit or impair the authority of the ~~department on aging~~ *Kansas*  
31 *department for aging and disability services* to investigate complaints or  
32 reportable incidents under state or federal law; or diminish or expand the  
33 department on aging's discovery of or access to quality assessment and  
34 assurance committee records under state or federal law.

35 Sec. 151. K.S.A. 2012 Supp. 39-936 is hereby amended to read as  
36 follows: 39-936. (a) The presence of each resident in an adult care home  
37 shall be covered by a statement provided at the time of admission, or prior  
38 thereto, setting forth the general responsibilities and services and daily or  
39 monthly charges for such responsibilities and services. Each resident shall  
40 be provided with a copy of such statement, with a copy going to any  
41 individual responsible for payment of such services and the adult care  
42 home shall keep a copy of such statement in the resident's file. No such  
43 statement shall be construed to relieve any adult care home of any

1 requirement or obligation imposed upon it by law or by any requirement,  
2 standard or rule and regulation adopted pursuant thereto.

3 (b) A qualified person or persons shall be in attendance at all times  
4 upon residents receiving accommodation, board, care, training or treatment  
5 in adult care homes. The licensing agency may establish necessary  
6 standards and rules and regulations prescribing the number, qualifications,  
7 training, standards of conduct and integrity for such qualified person or  
8 persons attendant upon the residents.

9 (c) (1) The licensing agency shall require unlicensed employees of an  
10 adult care home, except an adult care home licensed for the provision of  
11 services to people with intellectual disability which has been granted an  
12 exception by the secretary ~~of aging~~ *for aging and disability services* upon  
13 a finding by the licensing agency that an appropriate training program for  
14 unlicensed employees is in place for such adult care home, employed on  
15 and after the effective date of this act who provide direct, individual care  
16 to residents and who do not administer medications to residents and who  
17 have not completed a course of education and training relating to resident  
18 care and treatment approved by the secretary ~~of health and environment~~  
19 *for aging and disability services* or are not participating in such a course  
20 on the effective date of this act to complete successfully 40 hours of  
21 training in basic resident care skills. Any unlicensed person who has not  
22 completed 40 hours of training relating to resident care and treatment  
23 approved by the secretary ~~of health and environment~~ *for aging and*  
24 *disability services* shall not provide direct, individual care to residents. The  
25 40 hours of training shall be supervised by a registered professional nurse  
26 and the content and administration thereof shall comply with rules and  
27 regulations adopted by the secretary ~~of health and environment~~ *for aging*  
28 *and disability services*. The 40 hours of training may be prepared and  
29 administered by an adult care home or by any other qualified person and  
30 may be conducted on the premises of the adult care home. The 40 hours of  
31 training required in this section shall be a part of any course of education  
32 and training required by the secretary ~~of health and environment~~ *for aging*  
33 *and disability services* under subsection (c)(2). Training for paid nutrition  
34 assistants shall consist of at least eight hours of instruction, at a minimum,  
35 which meets the requirements of 42 C.F.R. § 483.160.

36 (2) The licensing agency may require unlicensed employees of an  
37 adult care home, except an adult care home licensed for the provision of  
38 services to people with intellectual disability which has been granted an  
39 exception by the secretary ~~of health and environment~~ *for aging and*  
40 *disability services* upon a finding by the licensing agency that an  
41 appropriate training program for unlicensed employees is in place for such  
42 adult care home, who provide direct, individual care to residents and who  
43 do not administer medications to residents and who do not meet the

1 definition of paid nutrition ~~assistance~~ *assistant* under paragraph (a)(27) of  
2 K.S.A. 39-923, and amendments thereto, after 90 days of employment to  
3 successfully complete an approved course of instruction and an  
4 examination relating to resident care and treatment as a condition to  
5 continued employment by an adult care home. A course of instruction may  
6 be prepared and administered by any adult care home or by any other  
7 qualified person. A course of instruction prepared and administered by an  
8 adult care home may be conducted on the premises of the adult care home  
9 which prepared and which will administer the course of instruction. The  
10 licensing agency shall not require unlicensed employees of an adult care  
11 home who provide direct, individual care to residents and who do not  
12 administer medications to residents to enroll in any particular approved  
13 course of instruction as a condition to the taking of an examination, but the  
14 ~~secretary of health and environment~~ *for aging and disability services* shall  
15 prepare guidelines for the preparation and administration of courses of  
16 instruction and shall approve or disapprove courses of instruction.  
17 Unlicensed employees of adult care homes who provide direct, individual  
18 care to residents and who do not administer medications to residents may  
19 enroll in any approved course of instruction and upon completion of the  
20 approved course of instruction shall be eligible to take an examination.  
21 The examination shall be prescribed by the ~~secretary of health and~~  
22 ~~environment~~ *for aging and disability services*, shall be reasonably related  
23 to the duties performed by unlicensed employees of adult care homes who  
24 provide direct, individual care to residents and who do not administer  
25 medications to residents and shall be the same examination given by the  
26 ~~secretary of health and environment~~ *for aging and disability services* to all  
27 unlicensed employees of adult care homes who provide direct, individual  
28 care to residents and who do not administer medications.

29 (3) The ~~secretary of health and environment~~ *for aging and disability*  
30 *services* shall fix, charge and collect a fee to cover all or any part of the  
31 costs of the licensing agency under this subsection (c). The fee shall be  
32 fixed by rules and regulations of the ~~secretary of health and environment~~  
33 *for aging and disability services*. The fee shall be remitted to the state  
34 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
35 amendments thereto. Upon receipt of each such remittance, the state  
36 treasurer shall deposit the entire amount in the state treasury to the credit  
37 of the state general fund.

38 (4) The ~~secretary of health and environment~~ *for aging and disability*  
39 *services* shall establish a state registry containing information about  
40 unlicensed employees of adult care homes who provide direct, individual  
41 care to residents and who do not administer medications in compliance  
42 with the requirements pursuant to PL 100-203, Subtitle C, as amended  
43 November 5, 1990.

1 (5) No adult care home shall use an individual as an unlicensed  
2 employee of the adult care home who provides direct, individual care to  
3 residents and who does not administer medications unless the facility has  
4 inquired of the state registry as to information contained in the registry  
5 concerning the individual.

6 (6) Beginning July 1, 1993, the adult care home must require any  
7 unlicensed employee of the adult care home who provides direct,  
8 individual care to residents and who does not administer medications and  
9 who since passing the examination required under paragraph (2) of this  
10 subsection has had a continuous period of 24 consecutive months during  
11 none of which the unlicensed employee provided direct, individual care to  
12 residents to complete an approved refresher course. The ~~secretary of health~~  
13 ~~and environment for aging and disability services~~ shall prepare guidelines  
14 for the preparation and administration of refresher courses and shall  
15 approve or disapprove courses.

16 (d) Any person who has been employed as an unlicensed employee of  
17 an adult care home in another state may be so employed in this state  
18 without an examination if the ~~secretary of health and environment for~~  
19 ~~aging and disability services~~ determines that such other state requires  
20 training or examination, or both, for such employees at least equal to that  
21 required by this state.

22 (e) All medical care and treatment shall be given under the direction  
23 of a physician authorized to practice under the laws of this state and shall  
24 be provided promptly as needed.

25 (f) No adult care home shall require as a condition of admission to or  
26 as a condition to continued residence in the adult care home that a person  
27 change from a supplier of medication needs of their choice to a supplier of  
28 medication selected by the adult care home. Nothing in this subsection (f)  
29 shall be construed to abrogate or affect any agreements entered into prior  
30 to the effective date of this act between the adult care home and any person  
31 seeking admission to or resident of the adult care home.

32 (g) Except in emergencies as defined by rules and regulations of the  
33 licensing agency and except as otherwise authorized under federal law, no  
34 resident may be transferred from or discharged from an adult care home  
35 involuntarily unless the resident or legal guardian of the resident has been  
36 notified in writing at least 30 days in advance of a transfer or discharge of  
37 the resident.

38 (h) No resident who relies in good faith upon spiritual means or  
39 prayer for healing shall, if such resident objects thereto, be required to  
40 undergo medical care or treatment.

41 Sec. 152. K.S.A. 2012 Supp. 39-938 is hereby amended to read as  
42 follows: 39-938. Adult care homes shall comply with all the lawfully  
43 established requirements and rules and regulations of the ~~secretary of~~

1 ~~aging for aging and disability services~~ and the state fire marshal, and any  
2 other agency of government so far as pertinent and applicable to adult care  
3 homes, their buildings, operators, staffs, facilities, maintenance, operation,  
4 conduct, and the care and treatment of residents. The administrative rules  
5 and regulations of the state board of cosmetology and of the Kansas board  
6 of barbering shall not apply to adult care homes.

7 Sec. 153. K.S.A. 2012 Supp. 39-940 is hereby amended to read as  
8 follows: 39-940. (a) The secretary ~~of aging for aging and disability~~  
9 ~~services~~ may prescribe and supply necessary forms for applications,  
10 reports, records and inspections for adult care homes. All prescribed  
11 records shall be open to inspection by the designated agents of the  
12 agencies administering this act.

13 (b) It shall be unlawful to:

14 (1) Make false entries in such records;

15 (2) omit any information required or make any false report  
16 concerning any adult care home; or

17 (3) file or cause to be filed such false or incomplete records or reports  
18 with the ~~department on aging~~ *Kansas department for aging and disability*  
19 *services* or with any agency administering this act, knowing that such  
20 records or reports are false or incomplete.

21 Sec. 154. K.S.A. 2012 Supp. 39-944 is hereby amended to read as  
22 follows: 39-944. Notwithstanding the existence or pursuit of any other  
23 remedy, the secretary ~~of aging for aging and disability services~~, as the  
24 licensing agency, in the manner provided by the Kansas judicial review  
25 act, may maintain an action in the name of the state of Kansas for  
26 injunction or other process against any person or agency to restrain or  
27 prevent the operation of an adult care home without a license under this  
28 act.

29 Sec. 155. K.S.A. 2012 Supp. 39-945 is hereby amended to read as  
30 follows: 39-945. A correction order may be issued by the secretary ~~of~~  
31 ~~aging for aging and disability services~~ or the secretary's designee to a  
32 person licensed to operate an adult care home whenever the state fire  
33 marshal or the marshal's representative or a duly authorized representative  
34 of the secretary ~~of aging for aging and disability services~~ inspects or  
35 investigates an adult care home and determines that the adult care home is  
36 not in compliance with the provisions of article 9 of chapter 39 of the  
37 Kansas Statutes Annotated or rules and regulations promulgated  
38 thereunder which individually or jointly affects significantly and adversely  
39 the health, safety, nutrition or sanitation of the adult care home residents.  
40 The correction order shall be served upon the licensee either personally or  
41 by certified mail, return receipt requested. The correction order shall be in  
42 writing, shall state the specific deficiency, cite the specific statutory  
43 provision or rule and regulation alleged to have been violated, and shall



1 specify the time allowed for correction.

2 Sec. 156. K.S.A. 2012 Supp. 39-946 is hereby amended to read as  
3 follows: 39-946. (a) If upon reinspection by the state fire marshal or the  
4 marshal's representative or a duly authorized representative of the  
5 secretary ~~of aging for aging and disability services~~, which reinspection  
6 shall be conducted within 14 days from the day the correction order is  
7 served upon the licensee, it is found that the licensee of the adult care  
8 home which was issued a correction order has not corrected the deficiency  
9 or deficiencies specified in the order, the secretary ~~of aging for aging and~~  
10 *disability services* may assess a civil penalty in an amount not to exceed  
11 \$500 per day per deficiency against the licensee of an adult care home for  
12 each day subsequent to the day following the time allowed for correction  
13 of the deficiency as specified in the correction order that the adult care  
14 home has not corrected the deficiency or deficiencies listed in the  
15 correction order, but the maximum assessment shall not exceed \$2,500. A  
16 written notice of assessment shall be served upon the licensee of an adult  
17 care home either personally or by certified mail, return receipt requested.

18 (b) Before the assessment of a civil penalty, the secretary ~~of aging for~~  
19 *aging and disability services* shall consider the following factors in  
20 determining the amount of the civil penalty to be assessed: (1) The severity  
21 of the violation; (2) the good faith effort exercised by the adult care home  
22 to correct the violation; and (3) the history of compliance of the ownership  
23 of the adult care home with the rules and regulations. If the secretary ~~of~~  
24 *aging for aging and disability services* finds that some or all deficiencies  
25 cited in the correction order have also been cited against the adult care  
26 home as a result of any inspection or investigation which occurred within  
27 18 months prior to the inspection or investigation which resulted in such  
28 correction order, the secretary ~~of aging for aging and disability services~~  
29 may double the civil penalty assessed against the licensee of the adult care  
30 home, the maximum not to exceed \$5,000.

31 (c) All civil penalties assessed shall be due and payable within 10  
32 days after written notice of assessment is served on the licensee, unless a  
33 longer period of time is granted by the secretary. If a civil penalty is not  
34 paid within the applicable time period, the secretary ~~of aging for aging~~  
35 *and disability services* may file a certified copy of the notice of assessment  
36 with the clerk of the district court in the county where the adult care home  
37 is located. The notice of assessment shall be enforced in the same manner  
38 as a judgment of the district court.

39 Sec. 157. K.S.A. 2012 Supp. 39-947 is hereby amended to read as  
40 follows: 39-947. Any licensee against whom a civil penalty has been  
41 assessed under K.S.A. 39-946, and amendments thereto, may appeal such  
42 assessment within 10 days after receiving a written notice of assessment  
43 by filing with the secretary ~~of aging for aging and disability services~~

1 written notice of appeal specifying why such civil penalty should not be  
2 assessed. Such appeal shall not operate to stay the payment of the civil  
3 penalty. Upon receipt of the notice of appeal, the secretary ~~of aging for~~  
4 *aging and disability services* shall conduct a hearing in accordance with  
5 the provisions of the Kansas administrative procedure act. If the secretary  
6 ~~of aging for aging and disability services~~ sustains the appeal, any civil  
7 penalties collected shall be refunded forthwith to the appellant licensee  
8 with interest at the rate established by K.S.A. 16-204, and amendments  
9 thereto, from the date of payment of the civil penalties to the secretary ~~of~~  
10 ~~aging for aging and disability services~~. If the secretary ~~of aging for aging~~  
11 ~~and disability services~~ denies the appeal and no appeal from the secretary  
12 is taken to the district court in accordance with the provisions of the  
13 Kansas judicial review act, the secretary ~~of aging for aging and disability~~  
14 ~~services~~ shall dispose of any civil penalties collected as provided in K.S.A.  
15 39-949, and amendments thereto.

16 Sec. 158. K.S.A. 2012 Supp. 39-947a is hereby amended to read as  
17 follows: 39-947a. (a) Upon receipt of a statement of deficiencies, an adult  
18 care home administrator may within 10 calendar days after receipt of a  
19 statement make a written request to the secretary ~~of aging for aging and~~  
20 ~~disability services~~ for informal dispute resolution by an independent  
21 review panel. The administrator may make one request for informal  
22 dispute resolution per inspection to dispute any deficiencies with which  
23 such administrator disagrees. The informal dispute resolution may be  
24 based upon the statement of deficiencies and any other materials  
25 submitted; however, the department shall provide the administrator with a  
26 face to face informal dispute resolution meeting upon request by the  
27 administrator.

28 (b) A written request for informal dispute resolution shall:

- 29 (1) State the specific deficiencies being disputed;  
30 (2) provide a detailed explanation of the basis for the dispute; and  
31 (3) include any supporting documentation, including any information  
32 that was not available at the time of the inspection.

33 (c) Upon receipt of the written request provided for in subsection (a),  
34 the secretary ~~of aging for aging and disability services~~ shall appoint a  
35 panel of three persons to compose the independent review panel. One  
36 member shall be an employee from the ~~department on aging~~ *Kansas*  
37 *department for aging and disability services* adult care home survey unit,  
38 provided that the individual did not participate in the survey in dispute.  
39 Two members shall be appointed from outside of the survey unit and may  
40 be employees of the ~~department on aging~~ *Kansas department for aging*  
41 *and disability services*, or a health care professional or consumer not  
42 employed by the ~~department on aging~~ *Kansas department for aging and*  
43 *disability services*.

1 (d) A request for informal dispute resolution shall not delay the  
2 timely correction of any deficiency. A facility may not seek a delay of any  
3 enforcement action against it on the grounds that the informal dispute  
4 resolution has not been completed before the effective date of the  
5 enforcement action. Any decision or proposed resolution of the  
6 independent review panel shall be advisory to the secretary of aging.

7 (e) Costs of the panel including traveling expenses and other  
8 expenses of the review shall be paid by the ~~department of aging~~ *Kansas*  
9 *department for aging and disability services*.

10 (f) The secretary ~~of aging~~ *for aging and disability services* shall by  
11 rules and regulations implement the provisions of this section.

12 (g) This act shall be a part of and supplemental to the adult care home  
13 licensure act.

14 Sec. 159. K.S.A. 2012 Supp. 39-948 is hereby amended to read as  
15 follows: 39-948. (a) A licensee may appeal to the district court from a  
16 decision of the secretary ~~of aging~~ *for aging and disability services* under  
17 K.S.A. 39-947, and amendments thereto. The appeal shall be tried in  
18 accordance with the provisions of the Kansas judicial review act.

19 (b) An appeal to the district court or to an appellate court shall not  
20 stay the payment of the civil penalty. If the court sustains the appeal, the  
21 secretary ~~of aging~~ *for aging and disability services* shall refund forthwith  
22 the payment of any civil penalties to the licensee with interest at the rate  
23 established by K.S.A. 16-204, and amendments thereto, from the date of  
24 payment of the civil penalties to the secretary. If the court denies the  
25 appeal, the secretary ~~of aging~~ *for aging and disability services* shall  
26 dispose of any civil penalties collected as provided in K.S.A. 39-949, and  
27 amendments thereto.

28 Sec. 160. K.S.A. 2012 Supp. 39-950 is hereby amended to read as  
29 follows: 39-950. The secretary ~~of aging~~ *for aging and disability services*  
30 may adopt rules and regulations necessary to carry out the provisions of  
31 this act.

32 Sec. 161. K.S.A. 2012 Supp. 39-951 is hereby amended to read as  
33 follows: 39-951. The authority granted to the secretary ~~of aging~~ *for aging*  
34 *and disability services* under this act is in addition to other statutory  
35 authority the secretary ~~of aging~~ *for aging and disability services* has to  
36 require the licensing and operation of adult care homes and is not to be  
37 construed to limit any of the powers and duties of the secretary ~~of aging~~  
38 *for aging and disability services* under article 9 of chapter 39 of the  
39 Kansas Statutes Annotated, *and amendments thereto*.

40 Sec. 162. K.S.A. 2012 Supp. 39-952 is hereby amended to read as  
41 follows: 39-952. The secretary ~~of aging~~ *for aging and disability services* or  
42 the secretary's designee shall not issue a correction order to a person  
43 licensed to operate an adult care home because of a violation of a

1 provision of article 9 of chapter 39 of the Kansas Statutes Annotated, *and*  
2 *amendments thereto*, or a rule and regulation adopted thereunder which  
3 was caused by any person licensed by the state board of healing arts to  
4 practice a branch of the healing arts if such person licensed by the state  
5 board of healing arts is not an owner, operator or employee of the adult  
6 care home and if the person licensed to operate the adult care home shows  
7 that such person has exercised reasonable diligence in notifying the person  
8 licensed by the state board of healing arts to practice a branch of the  
9 healing arts of such person's duty to the residents of the adult care home.

10 Sec. 163. K.S.A. 2012 Supp. 39-953a is hereby amended to read as  
11 follows: 39-953a. (a) At any time the secretary-~~of aging~~ *for aging and*  
12 *disability services* initiates any action concerning an adult care home in  
13 which it is alleged that there has been a substantial failure to comply with  
14 the requirements, standards or rules and regulations established under the  
15 adult care home licensure act, that conditions exist in the adult care home  
16 which are life threatening or endangering to the residents of the adult care  
17 home, that the adult care home is insolvent, or that the adult care home has  
18 deficiencies which significantly and adversely affect the health, safety,  
19 nutrition or sanitation of the adult care home residents, the secretary-~~of~~  
20 ~~aging~~ *for aging and disability services* may issue an order, pursuant to the  
21 emergency proceedings provided for under the Kansas administrative  
22 procedure act, prohibiting any new admissions into the adult care home  
23 until further determination by the secretary-~~of aging~~ *for aging and*  
24 *disability services*. This remedy granted to the secretary-~~of aging~~ *for aging*  
25 *and disability services* is in addition to any other statutory authority the  
26 secretary-~~of aging~~ *for aging and disability services* has relating to the  
27 licensure and operation of adult care homes and is not be construed to limit  
28 any of the powers and duties of the secretary-~~of aging~~ *for aging and*  
29 *disability services* under the adult care home licensure act.

30 (b) This section shall be part of and supplemental to the adult care  
31 home licensure act.

32 Sec. 164. K.S.A. 2012 Supp. 39-954 is hereby amended to read as  
33 follows: 39-954. (a) The secretary-~~of aging~~ *for aging and disability*  
34 *services*, the owner of an adult care home, or the person licensed to operate  
35 an adult care home may file an application with the district court for an  
36 order appointing the secretary-~~of aging~~ *for aging and disability services* or  
37 the designee of the secretary as receiver to operate an adult care home  
38 whenever: (1) Conditions exist in the adult care home that are life  
39 threatening or endangering to the residents of the adult care home; (2) the  
40 adult care home is insolvent; or (3) the secretary-~~of aging~~ *for aging and*  
41 *disability services* has issued an order revoking the license of the adult  
42 care home.

43 (b) The secretary-~~of aging~~ *for aging and disability services* may adopt

1 rules and regulations setting forth the necessary qualifications of persons  
2 to be designated receivers and a method for selecting designees.

3 Sec. 165. K.S.A. 2012 Supp. 39-958 is hereby amended to read as  
4 follows: 39-958. (a) The application for receivership shall be given priority  
5 by the district court and shall be heard no later than the seventh day  
6 following the filing of the application. A continuance of no more than 10  
7 days may be granted by the district court for good cause. The district court  
8 shall give all parties who have filed an answer the opportunity to present  
9 evidence pertaining to the application. If the district court finds that the  
10 facts warrant the granting of the application, the court shall appoint the  
11 secretary ~~of aging~~ *for aging and disability services* or the designee of the  
12 secretary as receiver to operate the home.

13 (b) Upon the appointment of a receiver under this section, the  
14 receiver shall be granted a license by the licensing agency to operate an  
15 adult care home as provided under the provisions of article 9 of chapter 39  
16 of the Kansas Statutes Annotated, and ~~acts amending the provisions~~  
17 ~~thereof or acts supplemental~~ *amendments* thereto. The provisions of article  
18 9 of chapter 39 of the Kansas Statutes Annotated, and ~~acts amending the~~  
19 ~~provisions thereof and acts supplemental~~ *amendments* thereto, relating to  
20 inspection prior to granting a license to operate an adult care home and  
21 relating to payment of license fees shall not apply to a license granted to a  
22 receiver under this section, and such license shall remain in effect during  
23 the existence of the receivership and shall expire on the termination of the  
24 receivership. The receiver shall make application for the license on forms  
25 provided for this purpose by the licensing agency.

26 Sec. 166. K.S.A. 39-960 is hereby amended to read as follows: 39-  
27 960. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
28 *services*, upon request of a receiver, may authorize expenditures from  
29 moneys appropriated for purposes set forth in this act if incoming  
30 payments from the operation of the adult care home are less than the cost  
31 incurred by the receiver in the performance of the receiver's functions as  
32 receiver or for purposes of initial operating expenses of the receivership.  
33 Any payments made by the secretary ~~of social and rehabilitation~~ *for aging*  
34 *and disability services* pursuant to this section shall be owed by the owner  
35 or licensee and repaid to the secretary ~~of social and rehabilitation~~ *for aging*  
36 *and disability services* when the receivership is terminated pursuant to  
37 K.S.A. 39-963, and amendments thereto, and until repaid shall constitute a  
38 lien against all non-exempt personal and real property of the owner or  
39 licensee.

40 Sec. 167. K.S.A. 2012 Supp. 39-961 is hereby amended to read as  
41 follows: 39-961. (a) The personnel and facilities of the ~~department on~~  
42 ~~aging~~ *Kansas department for aging and disability services* shall be  
43 available to the receiver for the purposes of carrying out the receiver's

1 duties as receiver as authorized by the secretary ~~of aging~~ *for aging and*  
2 *disability services*.

3 (b) ~~The department on aging~~ *Kansas department for aging and*  
4 *disability services* shall itemize and keep a ledger showing costs of  
5 personnel and other expenses establishing the receivership and assisting  
6 the receiver and such amount shall be owed by the owner or licensee to the  
7 ~~department on aging~~ *Kansas department for aging and disability services*.  
8 Such department shall submit a bill for such expenses to the receiver for  
9 inclusion in the receiver's final accounting. Any amount so billed and until  
10 repaid shall constitute a lien against all nonexempt personal and real  
11 property of the owner or licensee.

12 Sec. 168. K.S.A. 2012 Supp. 39-963 is hereby amended to read as  
13 follows: 39-963. (a) The court shall terminate the receivership only under  
14 any of the following circumstances:

15 (1) Twenty-four months after the date on which the receivership was  
16 ordered;

17 (2) a new license, other than the license granted to the receiver under  
18 K.S.A. 39-958, and amendments thereto, has been granted to operate the  
19 adult care home; or

20 (3) at such time as all of the residents in the adult care home have  
21 been provided alternative modes of health care, either in another adult care  
22 home or otherwise.

23 (b) (1) At the time of termination of the receivership, the receiver  
24 shall render a full and complete accounting to the district court and shall  
25 make disposition of surplus money at the direction of the district court.

26 (2) The court may make such additional orders as are appropriate to  
27 recover the expenses and costs to the ~~department on aging~~ *Kansas*  
28 *department for aging and disability services* and the secretary ~~of social and~~  
29 ~~rehabilitation services for children and families~~ incurred pursuant to  
30 K.S.A. 39-960 or 39-961, and amendments thereto.

31 Sec. 169. K.S.A. 2012 Supp. 39-965 is hereby amended to read as  
32 follows: 39-965. (a) If the secretary ~~of aging~~ *for aging and disability*  
33 *services* determines that an adult care home is in violation of or has  
34 violated any requirements, standards or rules and regulations established  
35 under the adult care home licensure act which violation can reasonably be  
36 determined to have resulted in, caused or posed serious physical harm to a  
37 resident, the secretary ~~of aging~~ *for aging and disability services* in  
38 accordance with proceedings under the Kansas administrative procedure  
39 act, may assess a civil penalty against the licensee of such adult care home  
40 in an amount of not to exceed \$1,000 per day per violation for each day  
41 the secretary finds that the adult care home was not in compliance with  
42 such requirements, standards or rules and regulations but the maximum  
43 assessment shall not exceed \$10,000.

1 (b) All civil penalties assessed shall be due and payable in accordance  
2 with subsection (c) of K.S.A. 39-946 and K.S.A. 39-947, and amendments  
3 thereto.

4 (c) The secretary ~~of aging~~ *for aging and disability services* may adopt  
5 rules and regulations which shall include due process procedures for the  
6 issuance of civil penalties relating to nursing facilities.

7 (d) The authority to assess civil penalties granted to the secretary ~~of~~  
8 ~~aging~~ *for aging and disability services* under this section is in addition to  
9 any other statutory authority of the secretary relating to the licensure and  
10 operation of adult care homes and is not to be construed to limit any of the  
11 powers and duties of the secretary ~~of aging~~ *for aging and disability*  
12 *services* under the adult care home licensure act.

13 (e) This section shall be part of and supplemental to the adult care  
14 home licensure act.

15 Sec. 170. K.S.A. 2012 Supp. 39-968 is hereby amended to read as  
16 follows: 39-968. (a) To achieve a quality of life for Kansans with long-  
17 term care needs in an environment of choice that maximizes independent  
18 living capabilities and recognizes diversity, this act establishes a program  
19 which is intended to encourage a wide array of quality, cost-effective and  
20 affordable long-term care choices. This program shall be known as client  
21 assessment, referral and evaluation (CARE). The purposes of CARE is for  
22 data collection and individual assessment and referral to community-based  
23 services and appropriate placement in long-term care facilities.

24 (b) As used in this section:

25 (1) "Assessment services" means evaluation of an individual's health  
26 and functional status to determine the need for long-term care services and  
27 to identify appropriate service options which meet these needs utilizing the  
28 client assessment, referral and evaluation (CARE) form.

29 (2) "Health care data governing board" means the board abolished by  
30 K.S.A. 65-6803, and amendments thereto.

31 (3) "Medical care facility" shall have the meaning ascribed to such  
32 term under K.S.A. 65-425, and amendments thereto.

33 (4) "Nursing facility" shall have the meaning ascribed to such term  
34 under K.S.A. 39-923, and amendments thereto.

35 (5) "Secretary" means the secretary ~~of aging~~ *for aging and disability*  
36 *services*.

37 (c) There is hereby established the client assessment, referral and  
38 evaluation (CARE) program. The CARE program shall be administered by  
39 the secretary ~~of aging~~ *for aging and disability services* and shall be  
40 implemented on a phased-in basis in accordance with the provisions of this  
41 section.

42 (d) All rules and regulations adopted by the health care data  
43 governing board relating to client assessment, referral and evaluation

1 (CARE) data entry form shall be deemed to be the rules and regulations of  
2 the department of health and environment until revised, revoked or  
3 nullified pursuant to law. The purpose of this form is for data collection  
4 and referral services. Such form shall be concise and questions shall be  
5 limited to those necessary to carry out the stated purposes. The client  
6 assessment, referral and evaluation (CARE) data entry form shall include,  
7 but not be limited to, the preadmission screening and annual resident  
8 review (PASARR) questions. Prior to the adoption of the client  
9 assessment, referral and evaluation (CARE) data entry form by the health  
10 care data governing board, the secretary ~~of aging~~ *for aging and disability*  
11 *services* shall approve the form. The client assessment, referral and  
12 evaluation (CARE) data entry form shall be used by all persons providing  
13 assessment services.

14 (e) (1) Each individual prior to admission to a nursing facility as a  
15 resident of the facility shall receive assessment services to be provided by  
16 the secretary ~~of aging~~ *for aging and disability services*, with the assistance  
17 of area agencies on aging, except: (A) Such assessment services shall be  
18 provided by a medical care facility to a patient of the medical care facility  
19 who is considering becoming a resident of a nursing facility upon  
20 discharge from the medical care facility; and (B) as authorized by rules  
21 and regulations adopted by the secretary ~~of aging~~ *for aging and disability*  
22 *services* pursuant to subsection (i).

23 (2) The provisions of this subsection (e) shall not apply to any  
24 individual exempted from preadmission screening and annual resident  
25 review under 42 code of federal regulations 483.106.

26 (f) The secretary ~~of aging~~ *for aging and disability services* shall  
27 cooperate with the area agencies on aging providing assessment services  
28 under this section.

29 (g) The secretary ~~of aging~~ *for aging and disability services* shall  
30 assure that each area agency on aging shall compile comprehensive  
31 resource information for use by individuals and agencies related to long-  
32 term care resources including all area offices of the ~~department of social~~  
33 ~~and rehabilitation services~~ *Kansas department for children and families*  
34 and local health departments. This information shall include, but not be  
35 limited to, resources available to assist persons to choose alternatives to  
36 institutional care.

37 (h) Nursing facilities and medical care facilities shall make available  
38 information referenced in subsection (g) to each person seeking admission  
39 or upon discharge as appropriate. Any person licensed to practice the  
40 healing arts as defined in K.S.A. 65-2802, and amendments thereto, shall  
41 make the same resource information available to any person identified as  
42 seeking or needing long-term care. Each senior center and each area  
43 agency on aging shall make available such information.



1 (i) The secretary shall adopt rules and regulations to govern such  
2 matters as the secretary deems necessary for the administration of this act.

3 (j) (1) There is hereby established an eleven-member voluntary  
4 oversight council which shall meet monthly for the purpose of assisting the  
5 secretary ~~of aging~~ *for aging and disability services* in restructuring the  
6 assessment and referral program in a manner consistent with this act and  
7 shall meet quarterly thereafter for the purpose of monitoring and advising  
8 the secretary regarding the CARE program. The council shall be advisory  
9 only, except that the secretary ~~of aging~~ *for aging and disability services*  
10 shall file with the council each six months the secretary's response to  
11 council comments or recommendations.

12 (2) The secretary ~~of aging~~ *for aging and disability services* shall  
13 appoint two representatives of hospitals, two representatives of nursing  
14 facilities, two consumers and two representatives of providers of home and  
15 community-based services. The secretary of health and environment and  
16 the secretary ~~of social and rehabilitation services for children and families,~~  
17 or their designee, shall be members of the council in addition to the eight  
18 appointed members. The secretary ~~of aging~~ *for aging and disability*  
19 *services* shall serve as chairperson of the council. The appointive members  
20 of the council shall serve at the pleasure of their appointing authority.  
21 Members of the voluntary oversight council shall not be paid  
22 compensation, subsistence allowances, mileage or other expenses as  
23 otherwise may be authorized by law for attending meetings, or  
24 subcommittee meetings, of the council.

25 (k) The secretary ~~of aging~~ *for aging and disability services* shall  
26 report to the governor and to the legislature on or before December 31,  
27 1995, and each year thereafter on or before such date, an analysis of the  
28 information collected under this section. In addition, the secretary ~~of aging~~  
29 *for aging and disability services* shall provide data from the CARE data  
30 forms to the department of health and environment. Such data shall be  
31 provided in such a manner so as not to identify individuals.

32 Sec. 171. K.S.A. 2012 Supp. 39-969 is hereby amended to read as  
33 follows: 39-969. (a) The secretary ~~of health and environment~~ *for aging*  
34 *and disability services* shall upon request receive from the Kansas bureau  
35 of investigation, without charge, such criminal history record information  
36 relating to criminal convictions as necessary for the purpose of  
37 determining initial and continuing qualifications of an operator.

38 (b) This section shall be part of and supplemental to the adult care  
39 home licensure act.

40 Sec. 172. K.S.A. 2012 Supp. 39-970 is hereby amended to read as  
41 follows: 39-970. (a) (1) No person shall knowingly operate an adult care  
42 home if, in the adult care home, there works any person who has been  
43 convicted of or has been adjudicated a juvenile offender because of having

1 committed an act which if done by an adult would constitute the  
2 commission of capital murder, pursuant to K.S.A. 21-3439, prior to its  
3 repeal, or K.S.A. 2012 Supp. 21-5401, and amendments thereto, first  
4 degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A.  
5 2012 Supp. 21-5402, and amendments thereto, second degree murder,  
6 pursuant to subsection (a) of K.S.A. 21-3402, prior to its repeal, or  
7 subsection (a) of K.S.A. 2012 Supp. 21-5403, and amendments thereto,  
8 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or  
9 K.S.A. 2012 Supp. 21-5404, and amendments thereto, assisting suicide,  
10 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-  
11 5407, and amendments thereto, mistreatment of a dependent adult,  
12 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-  
13 5417, and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to  
14 its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto,  
15 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its  
16 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments  
17 thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-  
18 3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506,  
19 and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A.  
20 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-  
21 5504, and amendments thereto, indecent solicitation of a child, pursuant to  
22 K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp.  
23 21-5508, and amendments thereto, aggravated indecent solicitation of  
24 a child, pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of  
25 K.S.A. 2012 Supp. 21-5508, and amendments thereto, sexual exploitation  
26 of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012  
27 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to  
28 K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp.  
29 21-5505, and amendments thereto, or aggravated sexual battery, pursuant  
30 to K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012  
31 Supp. 21-5505, and amendments thereto, an attempt to commit any of the  
32 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to  
33 its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a  
34 conspiracy to commit any of the crimes listed in this subsection (a)(1),  
35 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-  
36 5302, and amendments thereto, or criminal solicitation of any of the  
37 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to  
38 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or  
39 similar statutes of other states or the federal government. The provisions of  
40 subsection (a)(2)(C) shall not apply to any person who is employed by an  
41 adult care home on July 1, 2010 and while continuously employed by the  
42 same adult care home.

43 (2) A person operating an adult care home may employ an applicant

1 who has been convicted of any of the following if five or more years have  
2 elapsed since the applicant satisfied the sentence imposed or was  
3 discharged from probation, a community correctional services program,  
4 parole, postrelease supervision, conditional release or a suspended  
5 sentence; or if five or more years have elapsed since the applicant has been  
6 finally discharged from the custody of the commissioner of juvenile justice  
7 or from probation or has been adjudicated a juvenile offender, whichever  
8 time is longer: A felony conviction for a crime which is described in: (A)  
9 Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their  
10 repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or  
11 K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and  
12 amendments thereto, except those crimes listed in subsection (a)(1); (B)  
13 articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to  
14 their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes  
15 Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-6421, and  
16 amendments thereto, except those crimes listed in subsection (a)(1) and  
17 K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606, and  
18 amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.  
19 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit  
20 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-  
21 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments  
22 thereto; (E) a conspiracy to commit any of the crimes listed in subsection  
23 (a)(2), pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012  
24 Supp. 21-5302, and amendments thereto; (F) criminal solicitation of any of  
25 the crimes listed in subsection (a)(2), pursuant to K.S.A. 21-3303, prior to  
26 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)  
27 similar statutes of other states or the federal government.

28 (b) No person shall operate an adult care home if such person has  
29 been found to be in need of a guardian or conservator, or both as provided  
30 in K.S.A. 59-3050 through 59-3095, and amendments thereto. The  
31 provisions of this subsection shall not apply to a minor found to be in need  
32 of a guardian or conservator for reasons other than impairment.

33 (c) ~~The secretary of health and environment~~ *for aging and disability*  
34 *services* shall have access to any criminal history record information in the  
35 possession of the Kansas bureau of investigation regarding any criminal  
36 history information, convictions under K.S.A. 21-3437, 21-3517 and 21-  
37 3701, prior to their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a)  
38 of 21-5505 and 21-5801, and amendments thereto, adjudications of a  
39 juvenile offender which if committed by an adult would have been a  
40 felony conviction, and adjudications of a juvenile offender for an offense  
41 described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal,  
42 or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801,  
43 and amendments thereto, concerning persons working in an adult care

1 home. The secretary shall have access to these records for the purpose of  
2 determining whether or not the adult care home meets the requirements of  
3 this section. The Kansas bureau of investigation may charge to the  
4 ~~department of health and environment~~ *Kansas department for aging and*  
5 *disability services* a reasonable fee for providing criminal history record  
6 information under this subsection.

7 (d) For the purpose of complying with this section, the operator of an  
8 adult care home shall request from the ~~department of health and~~  
9 ~~environment~~ *Kansas department for aging and disability services*  
10 information regarding any criminal history information, convictions under  
11 K.S.A. 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A.  
12 2012 Supp. 21-5417, subsection (a) of 21-5505 and 21-5801, and  
13 amendments thereto, adjudications of a juvenile offender which if  
14 committed by an adult would have been a felony conviction, and  
15 adjudications of a juvenile offender for an offense described in K.S.A. 21-  
16 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-  
17 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,  
18 and which relates to a person who works in the adult care home, or is  
19 being considered for employment by the adult care home, for the purpose  
20 of determining whether such person is subject to the provision of this  
21 section. For the purpose of complying with this section, the operator of an  
22 adult care home shall receive from any employment agency which  
23 provides employees to work in the adult care home written certification  
24 that such employees are not prohibited from working in the adult care  
25 home under this section. For the purpose of complying with this section,  
26 information relating to convictions and adjudications by the federal  
27 government or to convictions and adjudications in states other than Kansas  
28 shall not be required until such time as the secretary ~~of health and~~  
29 ~~environment~~ *for aging and disability services* determines the search for  
30 such information could reasonably be performed and the information  
31 obtained within a two-week period. For the purpose of complying with this  
32 section, a person who operates an adult care home may hire an applicant  
33 for employment on a conditional basis pending the results from the  
34 ~~department of health and environment~~ *Kansas department for aging and*  
35 *disability services* of a request for information under this subsection. No  
36 adult care home, the operator or employees of an adult care home or an  
37 employment agency, or the operator or employees of an employment  
38 agency, shall be liable for civil damages resulting from any decision to  
39 employ, to refuse to employ or to discharge from employment any person  
40 based on such adult care home's compliance with the provisions of this  
41 section if such adult care home or employment agency acts in good faith to  
42 comply with this section.

43 (e) The secretary ~~of health and environment~~ *for aging and disability*

1 *services* shall charge each person requesting information under this section  
2 a fee equal to cost, not to exceed \$10, for each name about which an  
3 information request has been submitted to the department under this  
4 section.

5 (f) (1) ~~The secretary of health and environment for aging and~~  
6 *disability services* shall provide each operator requesting information  
7 under this section with the criminal history record information concerning  
8 any criminal history information and convictions under K.S.A. 21-3437,  
9 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-5417,  
10 subsection (a) of 21-5505 and 21-5801, and amendments thereto, in  
11 writing and within three working days of receipt of such information from  
12 the Kansas bureau of investigation. The criminal history record  
13 information shall be provided regardless of whether the information  
14 discloses that the subject of the request has been convicted of an offense  
15 enumerated in subsection (a).

16 (2) When an offense enumerated in subsection (a) exists in the  
17 criminal history record information, and when further confirmation  
18 regarding criminal history record information is required from the  
19 appropriate court of jurisdiction or Kansas department of corrections, the  
20 secretary shall notify each operator that requests information under this  
21 section in writing and within three working days of receipt from the  
22 Kansas bureau of investigation that further confirmation is required. The  
23 secretary shall provide to the operator requesting information under this  
24 section information in writing and within three working days of receipt of  
25 such information from the appropriate court of jurisdiction or Kansas  
26 department of corrections regarding confirmation regarding the criminal  
27 history record information.

28 (3) Whenever the criminal history record information reveals that the  
29 subject of the request has no criminal history on record, the secretary shall  
30 provide notice to each operator requesting information under this section,  
31 in writing and within three working days after receipt of such information  
32 from the Kansas bureau of investigation.

33 (4) ~~The secretary of health and environment for aging and disability~~  
34 *services* shall not provide each operator requesting information under this  
35 section with the juvenile criminal history record information which relates  
36 to a person subject to a background check as is provided by K.S.A. 2012  
37 Supp. 38-2326, and amendments thereto, except for adjudications of a  
38 juvenile offender for an offense described in K.S.A. 21-3701, prior to its  
39 repeal, or K.S.A. 2012 Supp. 21-5801, and amendments thereto. The  
40 secretary shall notify the operator that requested the information, in  
41 writing and within three working days of receipt of such information from  
42 the Kansas bureau of investigation, whether juvenile criminal history  
43 record information received pursuant to this section reveals that the

1 operator would or would not be prohibited by this section from employing  
2 the subject of the request for information and whether such information  
3 contains adjudications of a juvenile offender for an offense described in  
4 K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012 Supp. 21-5801, and  
5 amendments thereto.

6 (5) An operator who receives criminal history record information  
7 under this subsection (f) shall keep such information confidential, except  
8 that the operator may disclose such information to the person who is the  
9 subject of the request for information. A violation of this paragraph (5)  
10 shall be an unclassified misdemeanor punishable by a fine of \$100.

11 (g) No person who works for an adult care home and who is currently  
12 licensed or registered by an agency of this state to provide professional  
13 services in the state and who provides such services as part of the work  
14 which such person performs for the adult care home shall be subject to the  
15 provisions of this section.

16 (h) A person who volunteers in an adult care home shall not be  
17 subject to the provisions of this section because of such volunteer activity.

18 (i) An operator may request from the ~~department of health and~~  
19 ~~environment~~ *Kansas department for aging and disability services* criminal  
20 history information on persons employed under subsections (g) and (h).

21 (j) No person who has been employed by the same adult care home  
22 since July 1, 1992, shall be subject to the provisions of this section while  
23 employed by such adult care home.

24 (k) The operator of an adult care home shall not be required under  
25 this section to conduct a background check on an applicant for  
26 employment with the adult care home if the applicant has been the subject  
27 of a background check under this act within one year prior to the  
28 application for employment with the adult care home. The operator of an  
29 adult care home where the applicant was the subject of such background  
30 check may release a copy of such background check to the operator of an  
31 adult care home where the applicant is currently applying.

32 (l) No person who is in the custody of the secretary of corrections and  
33 who provides services, under direct supervision in nonpatient areas, on the  
34 grounds or other areas designated by the superintendent of the Kansas  
35 soldiers' home or the Kansas veterans' home shall be subject to the  
36 provisions of this section while providing such services.

37 (m) For purposes of this section, the Kansas bureau of investigation  
38 shall report any criminal history information, convictions under K.S.A. 21-  
39 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-  
40 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,  
41 adjudications of a juvenile offender which if committed by an adult would  
42 have been a felony conviction, and adjudications of a juvenile offender for  
43 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to

1 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and  
2 21-5801, and amendments thereto, to the secretary ~~of health and~~  
3 ~~environment~~ *for aging and disability services* when a background check is  
4 requested.

5 (n) This section shall be part of and supplemental to the adult care  
6 home licensure act.

7 Sec. 173. K.S.A. 2012 Supp. 39-971 is hereby amended to read as  
8 follows: 39-971. (a) Notwithstanding any provision of law to the contrary,  
9 and within the limits of appropriations therefor, the secretary of ~~social and~~  
10 ~~rehabilitation services of health and environment~~ and the secretary ~~on~~  
11 ~~aging~~ *for aging and disability services* shall establish a quality  
12 enhancement wage pass-through program as part of the state medicaid  
13 plan to allow nursing facilities electing to participate in such program a  
14 payment option of not to exceed \$4 per resident day designed to increase  
15 salaries or benefits, or both, for those employees providing direct care and  
16 support services to residents of nursing facilities. The categories of  
17 employees eligible to receive the wage pass-through are the following:  
18 Nurse aides, medication aides, restorative-rehabilitation aides, licensed  
19 mental health technicians, plant operating and maintenance personnel,  
20 nonsupervisory dietary personnel, laundry personnel, housekeeping  
21 personnel and nonsupervisory activity staff. The program shall establish a  
22 pass-through wage payment system designed to reimburse facilities during  
23 the reimbursement period in which the pass-through wage payment costs  
24 are incurred.

25 (b) Nursing facilities shall have the option to elect to participate in the  
26 quality enhancement wage pass-through program. The wage pass-through  
27 moneys are to be paid to nursing facilities outside of cost center limits or  
28 occupancy penalties as a pass-through labor cost reimbursement. The pass-  
29 through cost shall be included in the cost report base.

30 (c) The quality enhancement wage pass-through program shall  
31 require quarterly wage audits for all nursing facilities participating in the  
32 program. The quarterly wage audits will require facilities to submit cost  
33 information within 45 days of the end of each quarter reporting on the use  
34 of the wage pass-through payment under the quality enhancement wage  
35 pass-through program. This quarterly wage audit process shall be used to  
36 assure that the wage pass-through payment was used to increase salaries  
37 and benefits to direct care and other support staff as specified in this  
38 subsection or to hire additional staff that fall into the eligible personnel  
39 categories specified in this subsection.

40 (d) No wage pass-through moneys shall be expended to increase  
41 management compensation or facility profits. A nursing facility  
42 participating in the quality enhancement wage pass-through program  
43 which fails to file quarterly enhancement audit reports shall be terminated

1 from the program and shall repay all amounts which the nursing facility  
2 has received under the quality enhancement wage pass-through program  
3 for that reporting period.

4 (e) All expenditures for the quality enhancement wage pass-through  
5 program shall be made only from moneys specifically appropriated  
6 therefor.

7 (f) As used in this section, "nursing facility" means a nursing facility  
8 as defined under K.S.A. 39-923, and amendments thereto, or an  
9 intermediate care facility for people with intellectual disability as defined  
10 under K.S.A. 39-923, and amendments thereto.

11 Sec. 174. K.S.A. 2012 Supp. 39-1002 is hereby amended to read as  
12 follows: 39-1002. The secretary ~~of social and rehabilitation services for~~  
13 *children and families* hereinafter referred to as the secretary is hereby  
14 designated as the official of this state authorized to accept and disburse  
15 funds made available to the secretary for grants-in-aid to eligible local  
16 community organizations for day care programs for children with  
17 intellectual or other disabilities. The secretary is authorized to accept any  
18 moneys made available to the state by the federal government or any  
19 agency thereof and to accept and account for state appropriations, gifts and  
20 donations from any other sources.

21 Sec. 175. K.S.A. 2012 Supp. 39-1202 is hereby amended to read as  
22 follows: 39-1202. The secretary ~~of social and rehabilitation for aging and~~  
23 *disability services*, hereinafter referred to as the secretary, is hereby  
24 designated as the official of this state authorized to accept and disburse  
25 funds made available to said secretary for grants in aid to eligible local  
26 community organizations for rehabilitation facilities and half-way houses  
27 for adults with intellectual and other disabilities. The secretary is  
28 authorized to accept any moneys made available to the state by the federal  
29 government or any agency thereof, and to accept and account for state  
30 appropriations, gifts and donations from any other sources.

31 Sec. 176. K.S.A. 39-1208 is hereby amended to read as follows: 39-  
32 1208. The secretary ~~of social and rehabilitation services for children and~~  
33 *families*, subject to appropriations made for such purposes by the  
34 legislature, is hereby authorized to enter into agreements with and to make  
35 grants-in-aid to organizations or institutions engaging in charitable and  
36 benevolent activities, with the purpose of developing employment for ~~the~~  
37 *physically handicapped persons with physical disabilities* in Kansas,  
38 including ~~severely handicapped cerebral palsied adults~~ *adults with severe*  
39 *cerebral palsy*. Contracts entered into by the secretary ~~of social and~~  
40 ~~rehabilitation services for children and families~~ may provide for the  
41 purchase of land, including improved property, construction or alteration  
42 of improvements thereon, and the purchase or lease of equipment required  
43 for operation of facilities for the use of disabled persons.



1       Sec. 177. K.S.A. 39-1209 is hereby amended to read as follows: 39-  
2 1209. If articles or products are purchased by a local governmental agency  
3 or a state agency from an institution or organization approved for a grant-  
4 in-aid under this act, the ~~secretary of social and rehabilitation services for~~  
5 *children and families* may request waiver of competitive bid requirements  
6 and in the case of state agencies the director of purchases is authorized to  
7 waive such conditions if he determines that it would be in the public  
8 interest to negotiate at current supply prices. All such purchases by state  
9 agencies shall be made through the division of purchases of the state  
10 department of administration.

11       Sec. 178. K.S.A. 39-1302 is hereby amended to read as follows: 39-  
12 1302. The ~~secretary of social and rehabilitation services for children and~~  
13 *families*, referred to in this act as secretary, is hereby designated as the  
14 official agency of this state authorized to accept and disburse funds made  
15 available to the secretary or the commissioner of juvenile justice for  
16 grants-in-aid to eligible local community organizations for community  
17 based group boarding homes for children and youth or to eligible local  
18 community based services for children and youth. The secretary may  
19 accept any moneys made available to the state by the federal government  
20 or any agency thereof and accept and account for state appropriations, gifts  
21 and donations from any other sources.

22       Sec. 179. K.S.A. 2012 Supp. 39-1402 is hereby amended to read as  
23 follows: 39-1402. (a) Any person who is licensed to practice any branch of  
24 the healing arts, a licensed psychologist, a licensed master level  
25 psychologist, a licensed clinical psychotherapist, a chief administrative  
26 officer of a medical care facility, an adult care home administrator or  
27 operator, a licensed social worker, a licensed professional nurse, a licensed  
28 practical nurse, a licensed marriage and family therapist, a licensed clinical  
29 marriage and family therapist, licensed professional counselor, licensed  
30 clinical professional counselor, registered alcohol and drug abuse  
31 counselor, a teacher, a bank trust officer and any other officers of financial  
32 institutions, a legal representative or a governmental assistance provider  
33 who has reasonable cause to believe that a resident is being or has been  
34 abused, neglected or exploited, or is in a condition which is the result of  
35 such abuse, neglect or exploitation or is in need of protective services,  
36 shall report immediately such information or cause a report of such  
37 information to be made in any reasonable manner to the ~~department on~~  
38 *aging Kansas department for aging and disability services* with respect to  
39 residents defined under subsection (a)(1) of K.S.A. 39-1401, and  
40 amendments thereto, to the department of health and environment with  
41 respect to residents defined under subsection (a)(2) of K.S.A. 39-1401, and  
42 amendments thereto, and to the ~~department of social and rehabilitation~~  
43 *services Kansas department for children and families* and appropriate law

1 enforcement agencies with respect to all other residents. Reports made to  
2 one department which are required by this subsection to be made to the  
3 other department shall be referred by the department to which the report is  
4 made to the appropriate department for that report, and any such report  
5 shall constitute compliance with this subsection. Reports shall be made  
6 during the normal working week days and hours of operation of such  
7 departments. Reports shall be made to law enforcement agencies during  
8 the time the departments are not open for business. Law enforcement  
9 agencies shall submit the report and appropriate information to the  
10 appropriate department on the first working day that such department is  
11 open for business. A report made pursuant to K.S.A. 65-4923 or 65-4924,  
12 and amendments thereto, shall be deemed a report under this section.

13 (b) The report made pursuant to subsection (a) shall contain the name  
14 and address of the person making the report and of the caretaker caring for  
15 the resident, the name and address of the involved resident, information  
16 regarding the nature and extent of the abuse, neglect or exploitation, the  
17 name of the next of kin of the resident, if known, and any other  
18 information which the person making the report believes might be helpful  
19 in an investigation of the case and the protection of the resident.

20 (c) Any other person, not listed in subsection (a), having reasonable  
21 cause to suspect or believe that a resident is being or has been abused,  
22 neglected or exploited, or is in a condition which is the result of such  
23 abuse, neglect or exploitation or is in need of protective services may  
24 report such information to the ~~department on aging~~ *Kansas department for*  
25 *aging and disability services* with respect to residents defined under  
26 subsection (a)(1) of K.S.A. 39-1401, and amendments thereto, to the  
27 department of health and environment with respect to residents defined  
28 under subsection (a)(2) of K.S.A. 39-1401, and amendments thereto, and  
29 to the ~~department of social and rehabilitation services~~ *Kansas department*  
30 *for children and families* with respect to all other residents. Reports made  
31 to one department which are to be made to the other department under this  
32 section shall be referred by the department to which the report is made to  
33 the appropriate department for that report.

34 (d) Notice of the requirements of this act and the department to which  
35 a report is to be made under this act shall be posted in a conspicuous  
36 public place in every adult care home and medical care facility in this  
37 state.

38 (e) Any person required to report information or cause a report of  
39 information to be made under subsection (a) who knowingly fails to make  
40 such report or cause such report to be made shall be guilty of a class B  
41 misdemeanor.

42 Sec. 180. K.S.A. 2012 Supp. 39-1404 is hereby amended to read as  
43 follows: 39-1404. (a) The department of health and environment or the

1 ~~department of social and rehabilitation services~~ *Kansas department for*  
2 *aging and disability services* upon receiving a report that a resident is  
3 being, or has been, abused, neglected or exploited, or is in a condition  
4 which is the result of such abuse, neglect or exploitation or is in need of  
5 protective services shall:

6 (1) When a criminal act has occurred or has appeared to have  
7 occurred, immediately notify, in writing, the appropriate law enforcement  
8 agency;

9 (2) make a personal visit with the involved resident:

10 (A) Within 24 hours when the information from the reporter indicates  
11 imminent danger to the health or welfare of the involved resident;

12 (B) within three working days for all reports of suspected abuse,  
13 when the information from the reporter indicates no imminent danger; or

14 (C) within five working days for all reports of neglect or exploitation  
15 when the information from the reporter indicates no imminent danger.

16 (3) Complete, within 30 working days of receiving a report, a  
17 thorough investigation and evaluation to determine the situation relative to  
18 the condition of the involved resident and what action and services, if any,  
19 are required. The investigation shall include, but not be limited to,  
20 consultation with those individuals having knowledge of the facts of the  
21 particular case; and

22 (4) prepare, upon a completion of the evaluation of each case, a  
23 written assessment which shall include an analysis of whether there is or  
24 has been abuse, neglect or exploitation; recommended action; a  
25 determination of whether protective services are needed; and any follow  
26 up.

27 (b) The department which investigates the report shall inform the  
28 complainant, upon request of the complainant, that an investigation has  
29 been made and, if the allegations of abuse, neglect or exploitation have  
30 been substantiated, that corrective measures will be taken if required upon  
31 completion of the investigation or sooner if such measures do not  
32 jeopardize the investigation.

33 ~~The department on aging~~ *Kansas department for aging and*  
34 *disability services* may inform the chief administrative officer of a facility  
35 as defined by K.S.A. 39-923, and amendments thereto, within 30 days of  
36 confirmed findings of resident abuse, neglect or exploitation.

37 Sec. 181. K.S.A. 2012 Supp. 39-1405 is hereby amended to read as  
38 follows: 39-1405. (a) The ~~secretary of aging~~ *secretary of aging and disability*  
39 *services* shall forward to the ~~secretary of social and rehabilitation services~~  
40 *Kansas department for children and families* any finding with respect to  
41 residents defined under (a)(1) of K.S.A. 39-1401, and amendments thereto,  
42 who may be in need of protective services. The secretary of health and  
43 environment shall forward to the ~~secretary of social and rehabilitation~~

1 ~~services~~ *Kansas department for children and families* any finding with  
2 respect to residents defined under (a)(2) of K.S.A. 39-1401, and  
3 amendments thereto, who may be in need of protective services. If the  
4 ~~secretary of social and rehabilitation services for children and families~~  
5 determines that a resident is in need of protective services, the secretary of  
6 ~~social and rehabilitation services for children and families~~ shall provide  
7 the necessary protective services, if a resident consents, or if the resident  
8 lacks capacity to consent, the secretary may obtain consent from such  
9 resident's legal representative. If a resident or such resident's legal  
10 representative, or both, fails to consent and the secretary of ~~social and~~  
11 ~~rehabilitation services for children and families~~ has reason to believe that  
12 such a resident lacks capacity to consent, the secretary of ~~social and~~  
13 ~~rehabilitation services for children and families~~ shall determine pursuant to  
14 K.S.A. 39-1408, and amendments thereto, whether a petition for  
15 appointment of a guardian or conservator, or both, should be filed.

16 (b) If the caretaker or legal representative, or both, of a resident who  
17 has consented to the receipt of reasonable and necessary protective  
18 services refuses to allow the provision of such services to such resident,  
19 the secretary of ~~social and rehabilitation services for children and families~~  
20 may seek to obtain an injunction enjoining the caretaker or legal  
21 representative, or both, from interfering with the provision of protective  
22 services to the resident. The petition in such action shall allege specific  
23 facts sufficient to show that the resident is in need of protective services  
24 and consents to their provision and that the caretaker or legal  
25 representative, or both, refuses to allow the provision of such services. If  
26 the judge, by clear and convincing evidence, finds that the resident is in  
27 need of protective services and has been prevented by the caretaker or  
28 legal representative, or both, from receiving such services, the judge shall  
29 issue an order enjoining the caretaker or legal representative, or both, from  
30 interfering with the provision of protective services to the resident. The  
31 court may appoint a new legal representative if the court deems that it is in  
32 the best interest of the resident.

33 Sec. 182. K.S.A. 2012 Supp. 39-1406 is hereby amended to read as  
34 follows: 39-1406. Any person, department or agency authorized to carry  
35 out the duties enumerated in this act, including investigating law  
36 enforcement agencies and the long-term care ombudsman shall have  
37 access to all relevant records. The authority of the secretary of ~~social and~~  
38 ~~rehabilitation services for children and families~~, the secretary of health and  
39 environment, and the secretary of ~~aging for aging and disability services~~  
40 under this act shall include, but not be limited to, the right to initiate or  
41 otherwise take those actions necessary to assure the health, safety and  
42 welfare of any resident, subject to any specific requirement for individual  
43 consent of the resident.

1 Sec. 183. K.S.A. 2012 Supp. 39-1407 is hereby amended to read as  
2 follows: 39-1407. If a resident does not consent to the receipt of  
3 reasonable and necessary protective services, or if such person withdraws  
4 the consent, such services shall not be provided or continued, except that if  
5 the secretary of ~~social and rehabilitation services~~ *for children and families*  
6 has reason to believe that such resident lacks capacity to consent, the  
7 secretary may seek court authorization to provide necessary services, as  
8 provided in K.S.A. 39-1408, and amendments thereto.

9 Sec. 184. K.S.A. 2012 Supp. 39-1408 is hereby amended to read as  
10 follows: 39-1408. (a) If the secretary of ~~social and rehabilitation services~~  
11 *for children and families* finds that a resident is being or has been abused,  
12 neglected or exploited or is in a condition which is the result of such  
13 abuse, neglect or exploitation and lacks capacity to consent to reasonable  
14 and necessary protective services, the secretary may petition the district  
15 court for appointment of a guardian or conservator, or both, for the  
16 resident pursuant to the provisions of the act for obtaining a guardian or  
17 conservator, or both, in order to obtain such consent.

18 (b) In any proceeding in district court pursuant to provisions of this  
19 act, the district court shall appoint an attorney to represent the resident if  
20 the resident is without other legal representation.

21 Sec. 185. K.S.A. 2012 Supp. 39-1409 is hereby amended to read as  
22 follows: 39-1409. In performing the duties set forth in this act, the  
23 secretary of ~~social and rehabilitation services~~ *for children and families*, the  
24 secretary of health and environment, the secretary of ~~aging~~ *for aging and*  
25 *disability services* or an appropriate law enforcement agency may request  
26 the assistance of the staffs and resources of all appropriate state  
27 departments, agencies and commissions and local health departments and  
28 may utilize any other public or private agency, group or individual who is  
29 appropriate and who may be available to assist such department or agency  
30 in the investigation and determination of whether a resident is being, or  
31 has been, abused, neglected or exploited or is in a condition which is a  
32 result of such abuse, neglect or exploitation, except that any internal  
33 investigation conducted by any caretaker under investigation shall be  
34 limited to the least serious category of report as specified by the secretary  
35 of health and environment, the secretary of ~~aging~~ *for aging and disability*  
36 *services* or the secretary of ~~social and rehabilitation services~~ *for children*  
37 *and families*, as applicable.

38 Sec. 186. K.S.A. 39-1410 is hereby amended to read as follows: 39-  
39 1410. Subsequent to the authorization for the provision of necessary  
40 protective services, the secretary of ~~social and rehabilitation services~~ *for*  
41 *children and families* shall initiate a review of each case within ~~forty-five~~  
42 (45) 45 days, to determine whether continuation of, or modification in, the  
43 services provided is warranted. A decision to continue the provision of

1 such services should be made in concert with appropriate personnel from  
2 other involved state and local groups, agencies and departments, and shall  
3 comply with the consent provisions of this act. Reevaluations of such case  
4 shall be made not less than every six months thereafter.

5 Sec. 187. K.S.A. 2012 Supp. 39-1411 is hereby amended to read as  
6 follows: 39-1411. (a) The secretary ~~of aging for aging and disability~~  
7 ~~services~~ shall maintain a register of the reports received and investigated  
8 by the ~~department on aging~~ *Kansas department for aging and disability*  
9 ~~services~~ under K.S.A. 39-1402 and 39-1403, and amendments to such  
10 sections, and the findings, evaluations and actions recommended by the  
11 ~~department on aging~~ *Kansas department for aging and disability services*  
12 with respect to such reports. The secretary of health and environment shall  
13 maintain a register of the reports received and investigated by the  
14 department of health and environment under K.S.A. 39-1402 and 39-1403,  
15 and amendments thereto, and the findings, evaluations and actions  
16 recommended by the department of health and environment with respect to  
17 such reports. The findings, evaluations and actions shall be subject to the  
18 Kansas administrative procedure act and any requirements of state or  
19 federal law relating thereto except that the secretary shall not be required  
20 to conduct a hearing in cases forwarded to the appropriate state authority  
21 under subsection (b). The register shall be available for inspection by  
22 personnel of the department of health and environment or the ~~department~~  
23 ~~on aging~~ *Kansas department for aging and disability services* as specified  
24 by the secretary of health and environment or the secretary ~~of aging for~~  
25 ~~aging and disability services~~ and to such other persons as may be required  
26 by federal law and designated by the secretary of health and environment  
27 or the secretary ~~of aging for aging and disability services~~ by rules and  
28 regulations. Information from the register shall be provided as specified in  
29 K.S.A. 65-6205, and amendments thereto.

30 (b) The secretary ~~of aging for aging and disability services~~ shall  
31 forward any finding of abuse, neglect or exploitation alleged to be  
32 committed by a provider of services licensed, registered or otherwise  
33 authorized to provide services in this state to the appropriate state authority  
34 which regulates such provider. The secretary of health and environment  
35 shall forward any finding of abuse, neglect or exploitation alleged to be  
36 committed by a provider of services licensed, registered or otherwise  
37 authorized to provide services in this state to the appropriate state authority  
38 which regulates such provider. The appropriate state regulatory authority,  
39 after notice to the alleged perpetrator and a hearing on such matter if  
40 requested by the alleged perpetrator, may consider the finding in any  
41 disciplinary action taken with respect to the provider of services under the  
42 jurisdiction of such authority. The secretary ~~of aging for aging and~~  
43 ~~disability services~~ may consider the finding of abuse, neglect or

1 exploitation in any licensing action taken with respect to any adult care  
2 home or medical care facility under the jurisdiction of the secretary of  
3 ~~aging for aging and disability services~~. The secretary of health and  
4 environment may consider the finding of abuse, neglect or exploitation in  
5 any licensing action taken with respect to any medical care facility under  
6 the jurisdiction of the secretary of health and environment.

7 (c) If the investigation of the department of health and environment  
8 or the ~~department on aging~~ *Kansas department for aging and disability*  
9 *services* indicates reason to believe that the resident is in need of  
10 protective services, that finding and all information relating to that finding  
11 shall be forwarded by the secretary of health and environment or the  
12 secretary of ~~aging for aging and disability services~~ to the secretary of  
13 ~~social and rehabilitation services for children and families~~.

14 (d) Except as otherwise provided in this section, the report received  
15 by the department of health and environment or the ~~department on aging~~  
16 *Kansas department for aging and disability services* and the written  
17 findings, evaluations and actions recommended shall be confidential and  
18 shall not be subject to the open records act. Except as otherwise provided  
19 in this section, the name of the person making the original report to the  
20 department of health and environment or the ~~department on aging~~ *Kansas*  
21 *department for aging and disability services* or any person mentioned in  
22 such report shall not be disclosed unless such person specifically requests  
23 or agrees in writing to such disclosure or unless a judicial or administrative  
24 proceeding results therefrom. In the event that an administrative or judicial  
25 action arises, no use of the information shall be made until the judge or  
26 presiding officer makes a specific finding, in writing, after a hearing, that  
27 under all the circumstances the need for the information outweighs the  
28 need for confidentiality. Except as otherwise provided in this section, no  
29 information contained in the register shall be made available to the public  
30 in such a manner as to identify individuals.

31 Sec. 188. K.S.A. 2012 Supp. 39-1430 is hereby amended to read as  
32 follows: 39-1430. As used in this act:

33 (a) "Adult" means an individual 18 years of age or older alleged to be  
34 unable to protect their own interest and who is harmed or threatened with  
35 harm, whether financial, mental or physical in nature, through action or  
36 inaction by either another individual or through their own action or  
37 inaction when (1) such person is residing in such person's own home, the  
38 home of a family member or the home of a friend, (2) such person resides  
39 in an adult family home as defined in K.S.A. 39-1501, and amendments  
40 thereto, or (3) such person is receiving services through a provider of  
41 community services and affiliates thereof operated or funded by the  
42 ~~department of social and rehabilitation services or the department on aging~~  
43 *Kansas department for children and families or the Kansas department for*

1 *aging and disability services* or a residential facility licensed pursuant to  
2 K.S.A. 75-3307b, and amendments thereto. Such term shall not include  
3 persons to whom K.S.A. 39-1401 et seq., and amendments thereto, apply.

4 (b) "Abuse" means any act or failure to act performed intentionally or  
5 recklessly that causes or is likely to cause harm to an adult, including:

6 (1) Infliction of physical or mental injury;

7 (2) any sexual act with an adult when the adult does not consent or  
8 when the other person knows or should know that the adult is incapable of  
9 resisting or declining consent to the sexual act due to mental deficiency or  
10 disease or due to fear of retribution or hardship;

11 (3) unreasonable use of a physical restraint, isolation or medication  
12 that harms or is likely to harm an adult;

13 (4) unreasonable use of a physical or chemical restraint, medication  
14 or isolation as punishment, for convenience, in conflict with a physician's  
15 orders or as a substitute for treatment, except where such conduct or  
16 physical restraint is in furtherance of the health and safety of the adult;

17 (5) a threat or menacing conduct directed toward an adult that results  
18 or might reasonably be expected to result in fear or emotional or mental  
19 distress to an adult;

20 (6) fiduciary abuse; or

21 (7) omission or deprivation by a caretaker or another person of goods  
22 or services which are necessary to avoid physical or mental harm or  
23 illness.

24 (c) "Neglect" means the failure or omission by one's self, caretaker or  
25 another person with a duty to supply or provide goods or services which  
26 are reasonably necessary to ensure safety and well-being and to avoid  
27 physical or mental harm or illness.

28 (d) "Exploitation" means misappropriation of an adult's property or  
29 intentionally taking unfair advantage of an adult's physical or financial  
30 resources for another individual's personal or financial advantage by the  
31 use of undue influence, coercion, harassment, duress, deception, false  
32 representation or false pretense by a caretaker or another person.

33 (e) "Fiduciary abuse" means a situation in which any person who is  
34 the caretaker of, or who stands in a position of trust to, an adult, takes,  
35 secretes, or appropriates their money or property, to any use or purpose not  
36 in the due and lawful execution of such person's trust or benefit.

37 (f) "In need of protective services" means that an adult is unable to  
38 provide for or obtain services which are necessary to maintain physical or  
39 mental health or both.

40 (g) "Services which are necessary to maintain physical or mental  
41 health or both" include, but are not limited to, the provision of medical  
42 care for physical and mental health needs, the relocation of an adult to a  
43 facility or institution able to offer such care, assistance in personal



1 hygiene, food, clothing, adequately heated and ventilated shelter,  
2 protection from health and safety hazards, protection from maltreatment  
3 the result of which includes, but is not limited to, malnutrition, deprivation  
4 of necessities or physical punishment and transportation necessary to  
5 secure any of the above stated needs, except that this term shall not include  
6 taking such person into custody without consent except as provided in this  
7 act.

8 (h) "Protective services" means services provided by the state or other  
9 governmental agency or by private organizations or individuals which are  
10 necessary to prevent abuse, neglect or exploitation. Such protective  
11 services shall include, but shall not be limited to, evaluation of the need for  
12 services, assistance in obtaining appropriate social services, and assistance  
13 in securing medical and legal services.

14 (i) "Caretaker" means a person who has assumed the responsibility,  
15 whether legally or not, for an adult's care or financial management or both.

16 (j) "Secretary" means the secretary ~~of social and rehabilitation~~  
17 ~~services for the Kansas department for children and families.~~

18 (k) "Report" means a description or accounting of an incident or  
19 incidents of abuse, neglect or exploitation under this act and for the  
20 purposes of this act shall not include any written assessment or findings.

21 (l) "Law enforcement" means the public office which is vested by law  
22 with the duty to maintain public order, make arrests for crimes, investigate  
23 criminal acts and file criminal charges, whether that duty extends to all  
24 crimes or is limited to specific crimes.

25 (m) "Involved adult" means the adult who is the subject of a report of  
26 abuse, neglect or exploitation under this act.

27 (n) "Legal representative," "financial institution" and "governmental  
28 assistance provider" shall have the meanings ascribed thereto in K.S.A.  
29 39-1401, and amendments thereto.

30 No person shall be considered to be abused, neglected or exploited or  
31 in need of protective services for the sole reason that such person relies  
32 upon spiritual means through prayer alone for treatment in accordance  
33 with the tenets and practices of a recognized church or religious  
34 denomination in lieu of medical treatment.

35 Sec. 189. K.S.A. 2012 Supp. 39-1431 is hereby amended to read as  
36 follows: 39-1431. (a) Any person who is licensed to practice any branch of  
37 the healing arts, a licensed psychologist, a licensed master level  
38 psychologist, a licensed clinical psychotherapist, the chief administrative  
39 officer of a medical care facility, a teacher, a licensed social worker, a  
40 licensed professional nurse, a licensed practical nurse, a licensed dentist, a  
41 licensed marriage and family therapist, a licensed clinical marriage and  
42 family therapist, licensed professional counselor, licensed clinical  
43 professional counselor, registered alcohol and drug abuse counselor, a law

1 enforcement officer, a case manager, a rehabilitation counselor, a bank  
2 trust officer or any other officers of financial institutions, a legal  
3 representative, a governmental assistance provider, an owner or operator of  
4 a residential care facility, an independent living counselor and the chief  
5 administrative officer of a licensed home health agency, the chief  
6 administrative officer of an adult family home and the chief administrative  
7 officer of a provider of community services and affiliates thereof operated  
8 or funded by the ~~department of social and rehabilitation services~~ *Kansas*  
9 *department for aging and disability services* or licensed under K.S.A. 75-  
10 3307b, and amendments thereto, who has reasonable cause to believe that  
11 an adult is being or has been abused, neglected or exploited or is in need of  
12 protective services shall report, immediately from receipt of the  
13 information, such information or cause a report of such information to be  
14 made in any reasonable manner. An employee of a domestic violence  
15 center shall not be required to report information or cause a report of  
16 information to be made under this subsection. Other state agencies  
17 receiving reports that are to be referred to the ~~department of social and~~  
18 ~~rehabilitation services~~ *Kansas department for children and families* and  
19 the appropriate law enforcement agency, shall submit the report to the  
20 department and agency within six hours, during normal work days, of  
21 receiving the information. Reports shall be made to the ~~department of~~  
22 ~~social and rehabilitation services~~ *Kansas department for children and*  
23 *families* during the normal working week days and hours of operation.  
24 Reports shall be made to law enforcement agencies during the time ~~social~~  
25 ~~and rehabilitation services~~ *are the Kansas department for children and*  
26 *families* is not in operation. Law enforcement shall submit the report and  
27 appropriate information to the ~~department of social and rehabilitation~~  
28 ~~services~~ *Kansas department for children and families* on the first working  
29 day that ~~social and rehabilitation services~~ *the Kansas department for*  
30 *children and families* is in operation after receipt of such information.

31 (b) The report made pursuant to subsection (a) shall contain the name  
32 and address of the person making the report and of the caretaker caring for  
33 the involved adult, the name and address of the involved adult, information  
34 regarding the nature and extent of the abuse, neglect or exploitation, the  
35 name of the next of kin of the involved adult, if known, and any other  
36 information which the person making the report believes might be helpful  
37 in the investigation of the case and the protection of the involved adult.

38 (c) Any other person, not listed in subsection (a), having reasonable  
39 cause to suspect or believe that an adult is being or has been abused,  
40 neglected or exploited or is in need of protective services may report such  
41 information to the ~~department of social and rehabilitation services~~ *Kansas*  
42 *department for children and families*. Reports shall be made to law  
43 enforcement agencies during the time ~~social and rehabilitation services~~ *are*

1 *the Kansas department for children and families* is not in operation.

2 (d) A person making a report under subsection (a) shall not be  
3 required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and  
4 amendments thereto.

5 (e) Any person required to report information or cause a report of  
6 information to be made under subsection (a) who knowingly fails to make  
7 such report or cause such report not to be made shall be guilty of a class B  
8 misdemeanor.

9 (f) Notice of the requirements of this act and the department to which  
10 a report is to be made under this act shall be posted in a conspicuous  
11 public place in every adult family home as defined in K.S.A. 39-1501, and  
12 amendments thereto, and every provider of community services and  
13 affiliates thereof operated or funded by the ~~department of social and~~  
14 ~~rehabilitation services~~ *Kansas department for aging and disability services*  
15 or other facility licensed under K.S.A. 75-3307b, and amendments thereto,  
16 and other institutions included in subsection (a).

17 Sec. 190. K.S.A. 2012 Supp. 39-1432 is hereby amended to read as  
18 follows: 39-1432. (a) Anyone participating in the making of any report  
19 pursuant to this act, or in any follow-up activity to the report, including  
20 providing records upon request of the ~~department of social and~~  
21 ~~rehabilitation services~~ *Kansas department for children and families*, or  
22 investigation of such report or who testifies in any administrative or  
23 judicial proceeding arising from such report shall not be subject to any  
24 civil liability on account of such report, investigation or testimony, unless  
25 such person acted in bad faith or with malicious purpose.

26 (b) No employer shall terminate the employment of, prevent or  
27 impair the practice or occupation of or impose any other sanction on any  
28 employee solely for the reason that such employee made or caused to be  
29 made a report, or cooperated with an investigation, under this act. A court,  
30 in addition to other damages and remedies, may assess reasonable attorney  
31 fees against an employer who has been found to have violated the  
32 provisions of this subsection.

33 Sec. 191. K.S.A. 2012 Supp. 39-1433 is hereby amended to read as  
34 follows: 39-1433. (a) The ~~department of social and rehabilitation services~~  
35 *Kansas department for children and families* upon receiving a report that  
36 an adult is being, or has been abused, neglected, or exploited or is in need  
37 of protective services, shall:

38 (1) When a criminal act has occurred or has appeared to have  
39 occurred, immediately notify, in writing, the appropriate law enforcement  
40 agency;

41 (2) make a personal visit with the involved adult:

42 (A) Within 24 hours when the information from the reporter indicates  
43 imminent danger to the health or welfare of the involved adult;

1 (B) within three working days for all reports of suspected abuse,  
2 when the information from the reporter indicates no imminent danger;

3 (C) within five working days for all reports of neglect or exploitation  
4 when the information from the reporter indicates no imminent danger.

5 (3) Complete, within 30 working days of receiving a report, a  
6 thorough investigation and evaluation to determine the situation relative to  
7 the condition of the involved adult and what action and services, if any, are  
8 required. The evaluation shall include, but not be limited to, consultation  
9 with those individuals having knowledge of the facts of the particular case.

10 If conducting the investigation within 30 working days would interfere  
11 with an ongoing criminal investigation, the time period for the  
12 investigation shall be extended, but the investigation and evaluation shall  
13 be completed within 90 working days. If a finding is made prior to the  
14 conclusion of the criminal investigation, the investigation and evaluation  
15 may be reopened and a new finding made based on any additional  
16 evidence provided as a result of the criminal investigation. If the alleged  
17 perpetrator is licensed, registered or otherwise regulated by a state agency,  
18 such state agency also shall be notified upon completion of the  
19 investigation or sooner if such notification does not compromise the  
20 investigation.

21 (4) Prepare, upon completion of the investigation of each case, a  
22 written assessment which shall include an analysis of whether there is or  
23 has been abuse, neglect or exploitation, recommended action, a  
24 determination of whether protective services are needed, and any follow-  
25 up.

26 (b) ~~The secretary of social and rehabilitation services~~ *Kansas*  
27 *department for children and families* shall forward any finding of abuse, neglect or exploitation  
28 alleged to have been committed by a provider of services licensed,  
29 registered or otherwise authorized to provide services in this state to the  
30 appropriate state authority which regulates such provider. The appropriate  
31 state regulatory authority may consider the finding in any disciplinary  
32 action taken with respect to the provider of services under the jurisdiction  
33 of such authority.

34 (c) ~~The department of social and rehabilitation services~~ *Kansas*  
35 *department for children and families* shall inform the complainant, upon  
36 request of the complainant, that an investigation has been made and if the  
37 allegations of abuse, neglect or exploitation have been substantiated, that  
38 corrective measures will be taken, upon completion of the investigation or  
39 sooner, if such measures do not jeopardize the investigation.

40 (d) ~~The department of social and rehabilitation services~~ *Kansas*  
41 *department for children and families* may inform the chief administrative  
42 officer of community facilities licensed pursuant to K.S.A. 75-3307b, and  
43 amendments thereto, of confirmed findings of resident abuse, neglect or

1 exploitation.

2 Sec. 192. K.S.A. 39-1434 is hereby amended to read as follows: 39-  
3 1434. (a) The secretary ~~of social and rehabilitation services for children~~  
4 *and families* shall maintain a statewide register of the reports, assessments  
5 received and the analyses, evaluations and the actions recommended. The  
6 register shall be available for inspection by personnel of the ~~department of~~  
7 ~~social and rehabilitation services~~ *Kansas department for children and*  
8 *families* and as provided in K.S.A. 2000 Supp. 65-6205, and amendments  
9 thereto.

10 (b) Neither the report, assessment or the written evaluation analysis  
11 shall be deemed a public record or be subject to the provisions of the open  
12 records act. The name of the person making the original report or any  
13 person mentioned in such report shall not be disclosed unless the person  
14 making the original report specifically requests or agrees in writing to such  
15 disclosure or unless a judicial proceeding results therefrom. No  
16 information contained in the statewide register shall be made available to  
17 the public in such a manner as to identify individuals.

18 Sec. 193. K.S.A. 39-1435 is hereby amended to read as follows: 39-  
19 1435. In performing the duties set forth in this act, the secretary ~~of social~~  
20 ~~and rehabilitation services for children and families~~ may request the  
21 assistance of all state departments, agencies and commissions and may  
22 utilize any other public or private agencies, groups or individuals who are  
23 appropriate and who may be available. Law enforcement shall be  
24 contacted to assist the ~~department of social and rehabilitation services~~  
25 *Kansas department for children and families* when the information  
26 received on the report indicates that an adult, residing in such adult's own  
27 home or the home of another individual, an adult family home, a  
28 community development disabilities facility or residential facility is in a  
29 life threatening situation.

30 Sec. 194. K.S.A. 2012 Supp. 39-1436 is hereby amended to read as  
31 follows: 39-1436. (a) As provided in this section, any person or agency  
32 which maintains records relating to the involved adult which are relevant  
33 to any investigation conducted by the ~~department of social and~~  
34 ~~rehabilitation services~~ *Kansas department for children and families* or a  
35 law enforcement agency under this act shall provide the ~~department of~~  
36 ~~social and rehabilitation services~~ *Kansas department for children and*  
37 *families* or a law enforcement agency with the necessary records to assist  
38 in investigations. In order to provide such records, the person or agency  
39 maintaining the records shall receive from the ~~department of social and~~  
40 ~~rehabilitation services~~ *Kansas department for children and families*:

41 (1) A written request for information;

42 (2) a written notice that an investigation is being conducted by the  
43 department; and

1 (3) certification or confirmation that the department has sent written  
2 notice to the involved adult or the involved adult's guardian. Any such  
3 information shall be subject to the confidentiality requirements of K.S.A.  
4 39-1434, and amendments thereto.

5 ~~(b) The department of social and rehabilitation services~~ *Kansas*  
6 *department for children and families* or a law enforcement agency shall  
7 have access to all relevant records in accordance with the provisions of  
8 subsection (a).

9 Sec. 195. K.S.A. 2012 Supp. 39-1443 is hereby amended to read as  
10 follows: 39-1443. (a) *Investigation of adult abuse.* ~~The state department of~~  
11 ~~social and rehabilitation services~~ *Kansas department for children and*  
12 *families* and law enforcement officers shall have the duty to receive and  
13 investigate reports of adult abuse, neglect, exploitation or fiduciary abuse  
14 for the purpose of determining whether the report is valid and whether  
15 action is required to protect the adult from further abuse or neglect. If the  
16 department and such officers determine that no action is necessary to  
17 protect the adult but that a criminal prosecution should be considered, the  
18 department and such law enforcement officers shall make a report of the  
19 case to the appropriate law enforcement agency.

20 (b) *Joint investigations.* When a report of adult neglect, adult abuse,  
21 exploitation or fiduciary abuse indicates: (1) That there is serious physical  
22 injury to or serious deterioration or sexual abuse or exploitation of the  
23 adult; and (2) that action may be required to protect the adult, the  
24 investigation may be conducted as a joint effort between ~~the department of~~  
25 ~~social and rehabilitation services~~ *Kansas department for children and*  
26 *families* and the appropriate law enforcement agency or agencies, with a  
27 free exchange of information between such agencies. Upon completion of  
28 the investigation by the law enforcement agency, a full report shall be  
29 provided to ~~the department of social and rehabilitation services~~ *Kansas*  
30 *department for children and families.*

31 (c) *Coordination of investigations by county or district attorney.* If a  
32 dispute develops between agencies investigating a reported case of adult  
33 abuse, neglect, exploitation or fiduciary abuse, the appropriate county or  
34 district attorney shall take charge of, direct and coordinate the  
35 investigation.

36 (d) *Investigations concerning certain facilities.* Any investigation by  
37 a law enforcement agency involving a facility subject to licensing or  
38 regulation by the secretary of health and environment shall be reported  
39 promptly to the state secretary of health and environment, upon conclusion  
40 of the investigation or sooner if such report does not compromise the  
41 investigation.

42 (e) *Cooperation between agencies.* Law enforcement agencies and  
43 ~~the department of social and rehabilitation services~~ *Kansas department for*

1 *children and families* shall assist each other in taking action which is  
2 necessary to protect the adult regardless of which party conducted the  
3 initial investigation.

4 Sec. 196. K.S.A. 39-1501 is hereby amended to read as follows: 39-  
5 1501. As used in this act:

6 (a) "Adult family home" means a private residence in which care is  
7 provided for not less than 24 hours in any week for one or two adult clients  
8 who: (1) Are not related within the third degree of relationship to the  
9 owner or provider by blood or marriage; *and* (2) by reason of aging,  
10 illness, disease or physical or mental infirmity are unable to live  
11 independently but are essentially capable of managing their own care and  
12 affairs. The home does not furnish skilled nursing care, supervised nursing  
13 care or personal care. Adult family home does not mean adult care home.

14 (b) "Skilled nursing care," "supervised nursing care" and "personal  
15 care" have the meanings respectively ascribed thereto in K.S.A. 39-923,  
16 and amendments thereto.

17 (c) "Physician" means any person licensed by the state board of  
18 healing arts to practice medicine and surgery.

19 (d) "Secretary" means the secretary ~~of social and rehabilitation for~~  
20 *aging and disability* services.

21 Sec. 197. K.S.A. 39-1602 is hereby amended to read as follows: 39-  
22 1602. As used in K.S.A. 39-1601 through 39-1612, and amendments  
23 thereto:

24 (a) "Targeted population" means the population group designated by  
25 rules and regulations of the secretary as most in need of mental health  
26 services which are funded, in whole or in part, by state or other public  
27 funding sources, which group shall include adults with severe and  
28 persistent mental illness, severely emotionally disturbed children and  
29 adolescents, and other individuals at risk of requiring institutional care.

30 (b) "Community based mental health services" includes, but is not  
31 limited to, evaluation and diagnosis, case management services, mental  
32 health inpatient and outpatient services, prescription and management of  
33 psychotropic medication, prevention, education, consultation, treatment  
34 and rehabilitation services, twenty-four-hour emergency services, and any  
35 facilities required therefor, which are provided within one or more local  
36 communities in order to provide a continuum of care and support services  
37 to enable mentally ill persons, including targeted population members, to  
38 function outside of inpatient institutions to the extent of their capabilities.  
39 Community based mental health services also include assistance in  
40 securing employment services, housing services, medical and dental care,  
41 and other support services.

42 (c) "Mental health center" means any community mental health  
43 center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015,

1 inclusive, and amendments thereto, or mental health clinic organized  
2 pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and  
3 amendments thereto, and licensed in accordance with the provisions of  
4 K.S.A. 75-3307b, and amendments thereto.

5 (d) "Secretary" means the secretary ~~of social and rehabilitation for~~  
6 *aging and disability* services.

7 (e) "Department" means the ~~department of social and rehabilitation~~  
8 *Kansas department for aging and disability* services.

9 (f) "State psychiatric hospital" means Osawatomie state hospital,  
10 Rainbow mental health facility, ~~Topeka state hospital~~ or Larned state  
11 hospital.

12 (g) "Mental health reform phased program" means the program in  
13 three phases for the implementation of mental health reform in Kansas as  
14 follows:

15 (1) The first phase covers the counties in the Osawatomie state  
16 hospital catchment area and is to commence on July 1, 1990, and is to be  
17 completed by June 30, 1994;

18 (2) the second phase covers the counties in the Topeka state hospital  
19 catchment area and is to commence on July 1, 1992, and is to be  
20 completed by June 30, 1996; and

21 (3) the third phase covers the counties in the Larned state hospital  
22 catchment area and is to commence on July 1, 1993, and is to be  
23 completed by June 30, 1997.

24 (h) "Screening" means the process performed by a participating  
25 community mental health center, pursuant to a contract entered into with  
26 the secretary under K.S.A. 39-1610, and amendments thereto, to determine  
27 whether a person, under either voluntary or involuntary procedures, can be  
28 evaluated or treated, or can be both evaluated and treated, in the  
29 community or should be referred to the appropriate state psychiatric  
30 hospital for such treatment or evaluation or for both treatment and  
31 evaluation.

32 (i) "Osawatomie state hospital catchment area" means, except as  
33 otherwise defined by rules and regulations of the secretary adopted  
34 pursuant to K.S.A. 39-1613, and amendments thereto, the area composed  
35 of the following counties: Allen, Anderson, Atchison, Bourbon, *Brown*,  
36 Butler, *Chase*, Chautauqua, Cherokee, *Clay*, *Coffey*, Cowley, Crawford,  
37 *Doniphan*, *Douglas*, Elk, Franklin, *Geary*, *Greenwood*, *Jackson*, Jefferson,  
38 *Jewell*, Johnson, Labette, Leavenworth, Linn, *Lyon*, *Marshall*, Miami,  
39 *Mitchell*, Montgomery, *Morris*, *Nemaha*, Neosho, *Osage*, *Pottawatomie*,  
40 *Republic*, *Riley*, *Sedgwick*, *Shawnee*, *Wabaunsee*, *Washington*, Wilson,  
41 Woodson and Wyandotte.

42 (j) ~~"Topeka state hospital catchment area" means, except as otherwise~~  
43 ~~defined by rules and regulations of the secretary adopted pursuant to~~



1 ~~K.S.A. 39-1613 and amendments thereto, the area composed of the~~  
 2 ~~following counties: Brown, Chase, Clay, Cloud, Coffey, Dickinson,~~  
 3 ~~Doniphan, Douglas, Ellsworth, Geary, Greenwood, Harvey, Jackson,~~  
 4 ~~Jewell, Lincoln, Lyon, Marion, Marshall, McPherson, Mitchell, Morris,~~  
 5 ~~Nemaha, Osage, Ottawa, Pottawatomic, Republic, Riley, Saline,~~  
 6 ~~Sedgwick, Shawnee, Wabaunsee and Washington.~~

7 (k) "Larned state hospital catchment area" means, except as otherwise  
 8 defined by rules and regulations of the secretary adopted pursuant to  
 9 K.S.A. 39-1613, and amendments thereto, the area composed of the  
 10 following counties: Barber, Barton, Cheyenne, Clark, Comanche,  
 11 Decatur, *Dickinson*, Edwards, Ellis, *Ellsworth* Finney, Ford, Gove,  
 12 Graham, Grant, Gray, Greeley, Hamilton, Harper, *Harvey*, Haskell,  
 13 Hodgeman, Kearny, Kingman, Kiowa, Lane, *Lincoln*, Logan, *Marion*,  
 14 *McPherson*, Meade, Morton, Ness, Norton, Osborne, Pawnee, Phillips,  
 15 Pratt, Rawlins, Reno, Rice, Rooks, Rush, Russell, *Saline*, Scott, Seward,  
 16 Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas,  
 17 Trego, Wallace and Wichita.

18 (⊕) (k) "Catchment area" means the Osawatomie state hospital  
 19 catchment area, ~~the Topeka state hospital catchment area~~ or the Larned  
 20 state hospital catchment area.

21 (⊕) (l) "Participating mental health center" means a mental health  
 22 center which has entered into a contract with the secretary ~~of social and~~  
 23 ~~rehabilitation for aging and disability~~ services to provide screening,  
 24 treatment and evaluation, court ordered evaluation and other treatment  
 25 services pursuant to the care and treatment act for mentally ill persons, in  
 26 keeping with the phased concept of the mental health reform act.

27 Sec. 198. K.S.A. 39-1603 is hereby amended to read as follows: 39-  
 28 1603. In addition to powers and duties otherwise provided by law, the  
 29 secretary shall have the following powers and duties:

30 (a) To function as the sole state agency to develop a comprehensive  
 31 plan to meet the needs of persons who have mental illness;

32 (b) to evaluate and coordinate all programs, services and facilities for  
 33 persons who have mental illness presently provided by agencies receiving  
 34 state and federal funds and to make appropriate recommendations  
 35 regarding such services, programs and facilities to the governor and the  
 36 legislature;

37 (c) to evaluate all programs, services and facilities within the state for  
 38 persons who have mental illness and determine the extent to which present  
 39 public or private programs, services and facilities meet the needs of such  
 40 persons;

41 (d) to solicit, accept, hold and administer on behalf of the state any  
 42 grants, devises or bequests of money, securities or property to the state of  
 43 Kansas for services to persons who have mental illness or purposes related

1 thereto;

2 (e) to provide consultation and assistance to communities and groups  
3 developing local and area services for persons who have mental illness;

4 (f) to assist in the provision of services for persons who are mentally  
5 ill in local communities whenever possible, with primary control and  
6 responsibility for the provision of services with mental health centers, and  
7 to assure that such services are provided in the least restrictive  
8 environment;

9 (g) to adopt rules and regulations for targeted population members  
10 which provide that, within the limits of appropriations therefor, no person  
11 shall be inappropriately denied necessary mental health services from any  
12 mental health center or state psychiatric hospital and that each targeted  
13 population member shall be provided such services in the least restrictive  
14 manner;

15 (h) to establish and implement policies and procedures within the  
16 programs and activities of the ~~department of social and rehabilitation~~  
17 *Kansas department for aging and disability* services so that funds from the  
18 state shall follow persons who are mentally ill from state facilities into  
19 community programs;

20 (i) to provide the least restrictive treatment and most appropriate  
21 community based care as well as rehabilitation for Kansas residents who  
22 are mentally ill persons through coordinated utilization of the existing  
23 network of mental health centers and state psychiatric hospitals;

24 (j) to establish standards for the provision of community support  
25 services and for other community based mental health services provided  
26 by mental health centers in consultation with representatives of mental  
27 health centers, consumers of mental health services and family members of  
28 consumers of mental health services;

29 (k) to assure the establishment of specialized programs within each  
30 mental health center throughout the state in order to provide appropriate  
31 care for designated targeted population members;

32 (l) to establish service requirements for programs within mental  
33 health centers which will ensure that targeted population members receive  
34 the most effective community treatment possible;

35 (m) to ensure the development and continuation of high quality  
36 community based mental health services, including programs for targeted  
37 population members, in each mental health center service delivery area  
38 through the provision of technical assistance, consultation and funding;

39 (n) to establish standards for the provision of community based  
40 mental health programs through community programs in consultation with  
41 representatives of mental health centers, private and public service  
42 providers, families and consumer advocates;

43 (o) to monitor the establishment and the continuing operation of all

1 state funded community based mental health services to ensure that  
2 programs providing these services comply with established standards;

3 (p) to review and approve the annual coordinated services plan of  
4 each mental health center during each fiscal year ending after June 30,  
5 1991, and to withhold state funds from any mental health center which is  
6 not being administered substantially in accordance with the provisions of  
7 the annual coordinated services plan and budget submitted to the secretary  
8 by the mental health center;

9 (q) to establish state policies for the disbursement of federal funds  
10 within the state and for state administration of federal programs providing  
11 services or other assistance to persons who have mental illness consistent  
12 with relevant federal law, rules and regulations, policies and procedures;

13 (r) to adopt rules and regulations to ensure the protection of persons  
14 receiving mental health services, which shall include an appeal procedure  
15 at the state and local levels;

16 (s) to establish procedures and systems to evaluate the results and  
17 outcomes pursuant to K.S.A. 39-1610, and amendments thereto, and as  
18 otherwise provided for under this act; and

19 (t) to adopt such rules and regulations as may be necessary to  
20 administer the provisions of K.S.A. 39-1601 through 39-1612, and  
21 amendments thereto, which are consistent with appropriations available for  
22 the administration of such provisions.

23 Sec. 199. K.S.A. 39-1604 is hereby amended to read as follows: 39-  
24 1604. (a) On or before October 1, 1991, and in accordance with rules and  
25 regulations adopted under K.S.A. 39-1603, and amendments thereto, the  
26 secretary shall develop and adopt a state assessment of needs and a plan to  
27 develop and operate a state system to provide mental health services for  
28 persons who are residents of Kansas, including all targeted population  
29 members designated by rules and regulations adopted by the secretary. The  
30 plan for the state system shall include coordinating and assisting in the  
31 provision of community based mental health services in the service  
32 delivery areas of mental health centers, including the services provided by  
33 state psychiatric hospitals and the provision of state financial assistance.  
34 On or before March 1, 1992, the secretary shall adopt a state plan for an  
35 integrated system to coordinate and assist in the provision of community  
36 based mental health services within Kansas. The assessment of needs and  
37 plan for the state shall be reviewed and updated by the secretary on an  
38 annual basis.

39 (b) The secretary shall assist and coordinate the development by each  
40 mental health center of a community assessment of needs and a plan for  
41 the community system to provide community based mental health services  
42 for persons who reside in the service delivery area of the mental health  
43 center, including all targeted population members. The secretary shall

1 review and approve, or return, with recommendations for revision and  
2 resubmittal, all such assessments of needs and plans in accordance with  
3 criteria prescribed by rules and regulations adopted under K.S.A. 39-1603,  
4 and amendments thereto. If necessary services for a service delivery area  
5 cannot be provided by the mental health center or in order to ensure that a  
6 continuum of services will be provided in a service delivery area, the  
7 secretary may require the provision of services for a service delivery area  
8 through contracts between two or more mental health centers.

9 (c) Each mental health center shall annually review and update such  
10 assessment of needs and plan for the service delivery area. If the  
11 assessment of needs or the plan for the community system to provide  
12 community based mental health services are not in compliance with the  
13 criteria prescribed by rules and regulations under K.S.A. 39-1603, and  
14 amendments thereto, the secretary shall withhold all or part of the state  
15 financial assistance provided to the mental health center.

16 (d) On or before October 1, 1991, and annually on or before such date  
17 thereafter, each mental health center shall submit a coordinated services  
18 plan addressing the service needs of the targeted population to the  
19 ~~secretary of social and rehabilitation~~ *for aging and disability* services for  
20 review and approval. The annual coordinated services plan shall be  
21 developed according to the standards established by rules and regulations  
22 adopted by the ~~secretary of social and rehabilitation~~ *for aging and*  
23 *disability* services.

24 Sec. 200. K.S.A. 2012 Supp. 39-1605 is hereby amended to read as  
25 follows: 39-1605. (a) There is hereby established the governor's mental  
26 health services planning council. The council shall consist of 25 members.

27 (b) So the composition of the council is in compliance with the  
28 requirements of public law 102-321 and supplementary federal acts,  
29 persons appointed to the council will be in accordance with the following:

30 (1) Nine members shall be state agency representatives who shall  
31 include:

32 (A) The commissioner of mental health and developmental  
33 disabilities;

34 (B) ~~the secretary of social and rehabilitation services for children and~~  
35 *families* shall appoint one member for ~~each~~ of the following areas:  
36 Vocational rehabilitation, ~~alcohol and drug abuse services, medical~~  
37 ~~services~~ and children and family services;

38 (C) *the secretary for aging and disability services shall appoint one*  
39 *member for each of the following areas: Alcohol and drug abuse services*  
40 *and medical services;*

41 (D) the commissioner of juvenile justice;

42 ~~(D)~~ (E) the commissioner of education;

43 ~~(E)~~ (F) the secretary of corrections; and

1       ~~(F)~~ (G) the secretary of commerce. If a commissioner or secretary is  
2 unable to participate, the commissioner or secretary shall appoint a  
3 designee as the official member of the council.

4       (2) The governor shall appoint the following persons to the council:

5       (A) One member shall be a person licensed to practice medicine and  
6 surgery with board certification in psychiatry;

7       (B) two members shall be executive directors of mental health  
8 centers; and

9       (C) 13 members shall be individuals who are not state employees or  
10 providers of mental health services. Of the 13 members, four members  
11 shall be adult consumers with serious and persistent mental illness; three  
12 members shall be immediate family members of adult consumers with  
13 serious and persistent mental illnesses; four members shall be family  
14 members of minor children or youth with severe emotional disturbances;  
15 and two members shall be members of the general public.

16       (c) The terms of members who are currently serving on the council  
17 shall expire on the effective date of this act. At that time, appointees of the  
18 governor under subsection (b)(2) shall be appointed to the council by the  
19 governor with  $\frac{1}{2}$  appointed for a term of two years and the other  $\frac{1}{2}$  for a  
20 term of four years as specified by the governor. Thereafter, each member  
21 appointed to the council by the governor shall be appointed for a term of  
22 four years.

23       (d) Each member of the council shall serve until a successor is  
24 appointed and qualified. In the case of a vacancy on the council, a  
25 successor of like qualifications shall be appointed or designated to fill the  
26 unexpired term in accordance with subsections (b)(1) and (2).

27       (e) The governor shall designate the chairperson of the council. The  
28 members of the council shall elect a vice-chairperson.

29       (f) Members of the governor's mental health services planning  
30 council attending meetings of the council, or attending a subcommittee  
31 meeting thereof authorized by the council, shall be paid amounts provided  
32 in subsection (e) of K.S.A. 75-3223, and amendments thereto.

33       Sec. 201. K.S.A. 39-1612 is hereby amended to read as follows: 39-  
34 1612. Nothing in the mental health reform act shall authorize the secretary  
35 or the ~~department of social and rehabilitation~~ *Kansas department for aging*  
36 *and disability* services to require that mental health centers make  
37 expenditures other than expenditures approved for the mental health center  
38 by the governing board of the center.

39       Sec. 202. K.S.A. 39-1613 is hereby amended to read as follows: 39-  
40 1613. (a) The secretary of ~~social and rehabilitation~~ *for aging and disability*  
41 services is hereby authorized to adopt rules and regulations to define and  
42 redefine the Osawatomie state hospital catchment area, ~~Topeka state~~  
43 ~~hospital catchment area~~ and Larned state hospital catchment area as may

1 be necessary in the opinion of the secretary ~~of social and rehabilitation~~ *for*  
2 *aging and disability* services to accommodate shifts in populations in need  
3 of mental health services within available community mental health  
4 facility and state institution capacities and resources and in accordance  
5 with the following:

6 (1) Each such catchment area shall be defined by contiguous counties  
7 that are designated by name;

8 (2) no county shall be included in more than one such catchment area;

9 (3) each county shall be included in the Osawatomete state hospital  
10 catchment area, ~~Topeka state hospital catchment area~~ or Larned state  
11 hospital catchment area; and

12 (4) No designated community mental health center shall be included  
13 in more than one such catchment area.

14 (b) Each rule and regulation adopted, amended or revived under this  
15 section shall be published in its entirety in the Kansas register in the first  
16 issue published after such adoption, amendment or revival.

17 Sec. 203. K.S.A. 39-1703 is hereby amended to read as follows: 39-  
18 1703. There is hereby established a system of regional interagency  
19 councils to coordinate or assure delivery of services for children and  
20 adolescents who require multiple levels and kinds of specialized services  
21 which are beyond the capability of one agency. The secretary ~~of social and~~  
22 ~~rehabilitation~~ *for aging and disability* services shall adopt rules and  
23 regulations to implement the provisions of this act.

24 Sec. 204. K.S.A. 39-1704 is hereby amended to read as follows: 39-  
25 1704. (a) Subject to the provisions of subsection (b), the director, or an  
26 appointed designee of the director, of each area office of the ~~department of~~  
27 ~~social and rehabilitation services~~ *Kansas department for children and*  
28 *families* shall convene a regional interagency council to coordinate or  
29 assure delivery of services at such area office to children and adolescents  
30 who require multiple levels and kinds of specialized services which are  
31 beyond the capability of one agency. The director, or the appointed  
32 designee of the director, shall serve as chairperson of the council convened  
33 by such director or designee.

34 (b) In those areas where the secretary ~~of social and rehabilitation~~  
35 ~~services~~ *for children and families* determines that councils or committees  
36 already exist for the purpose of enhancing interagency cooperation and  
37 collaboration of service delivery, a regional interagency council as  
38 described in subsection (a) need not be convened.

39 (c) Each regional interagency council shall consist of: (1) Authorized  
40 decision makers who are representative of agencies; (2) parents; (3)  
41 community business representatives; and (4) such other persons as  
42 directors of area offices of the ~~department of social and rehabilitation~~  
43 ~~services~~ *Kansas department for children and families* may determine.

1 (d) Each regional interagency council shall establish its own internal  
2 procedures and shall meet as often as needed to:

3 (1) Review all cases referred to them by one of the agencies  
4 represented or by a family member;

5 (2) develop a plan, negotiated with a family member and, where  
6 appropriate, the child or adolescent, for the provision of services to the  
7 child or adolescent and family whose case has been referred. This plan  
8 shall include a description of each needed service and shall specify the  
9 agency responsible for providing the service within the timeline specified  
10 by the council;

11 (3) maintain information sufficient to assess the effectiveness of the  
12 interagency council in meeting the service needs of children and  
13 adolescents and their families;

14 (4) make an annual report to the joint committee on children and  
15 families and to the Kansas commission on children, youth and families  
16 regarding the local assessment;

17 (5) determine what service needs are not being met in their region and  
18 develop and plan to meet these service needs;

19 (6) make an annual report to the joint committee on children and  
20 families and to the Kansas commission on children, youth and families  
21 regarding the service needs which are not being met and the plan to meet  
22 these service needs;

23 (7) establish interagency agreements as necessary for coordination of  
24 services to children and adolescents and their families who are served by  
25 more than one agency;

26 (8) refer any problems with service coordination to the joint  
27 committee on children and families and to the Kansas commission on  
28 children, youth and families; and

29 (9) ensure that members of the council receive training in  
30 collaborative teaming as needed.

31 (e) Each regional interagency council and its members are  
32 responsible for maintaining confidentiality by securing appropriate  
33 authorizations from a parent or person acting as parent of a child or  
34 adolescent for release of confidential information received by the council.

35 Sec. 205. K.S.A. 2012 Supp. 39-1803 is hereby amended to read as  
36 follows: 39-1803. As used in the developmental disabilities reform act:

37 (a) "Adaptive behavior" means the effectiveness or degree with which  
38 an individual meets the standards of personal independence and social  
39 responsibility expected of that person's age, cultural group and community.

40 (b) "Affiliate" means an entity or person that meets standards set out  
41 in rules and regulations adopted by the secretary relating to the provision  
42 of services and that contracts with a community developmental disabilities  
43 organization.

1 (c) "Community services" means services provided to meet the needs  
2 of persons with developmental disabilities relating to work, living in the  
3 community, and individualized supports and services.

4 (d) "Community developmental disability organization" means any  
5 community facility for people with intellectual disability that is organized  
6 pursuant to K.S.A. 19-4001 through 19-4015, and amendments thereto.

7 (e) "Community service provider" means a community  
8 developmental disability organization or affiliate thereof.

9 (f) "Developmental disability" means:

10 (1) Intellectual disability; or

11 (2) a severe, chronic disability, which:

12 (A) Is attributable to a mental or physical impairment, a combination  
13 of mental and physical impairments or a condition which has received a  
14 dual diagnosis of intellectual disability and mental illness;

15 (B) is manifest before 22 years of age;

16 (C) is likely to continue indefinitely;

17 (D) results, in the case of a person five years of age or older, in a  
18 substantial limitation in three or more of the following areas of major life  
19 functioning: Self-care, receptive and expressive language development and  
20 use, learning and adapting, mobility, self-direction, capacity for  
21 independent living and economic self-sufficiency;

22 (E) reflects a need for a combination and sequence of special  
23 interdisciplinary or generic care, treatment or other services which are  
24 lifelong, or extended in duration and are individually planned and  
25 coordinated; and

26 (F) does not include individuals who are solely and severely  
27 emotionally disturbed or seriously or persistently mentally ill or have  
28 disabilities solely as a result of the infirmities of aging.

29 (g) "Institution" means state institution for people with intellectual  
30 disability as defined by subsection (c) of K.S.A. 76-12b01, and  
31 amendments thereto, or intermediate care facility for people with  
32 intellectual disabilities of nine beds or more as defined by subsection (a)  
33 (4) of K.S.A. 39-923, and amendments thereto.

34 (h) "Intellectual disability" means substantial limitations in present  
35 functioning that is manifested during the period from birth to age 18 years  
36 and is characterized by significantly subaverage intellectual functioning  
37 existing concurrently with deficits in adaptive behavior including related  
38 limitations in two or more of the following applicable adaptive skill areas:  
39 Communication, self-care, home living, social skills, community use, self-  
40 direction, health and safety, functional academics, leisure and work.

41 (i) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
42 *aging and disability* services.

43 Sec. 206. K.S.A. 39-1804 is hereby amended to read as follows: 39-



1 1804. (a) Except as otherwise specifically provided in this act and subject  
2 to appropriations of federal and state funds, the secretary, after  
3 consultation with representatives of community developmental disability  
4 organizations, community service providers, families and consumer  
5 advocates, shall implement and administer the provisions of the  
6 developmental disabilities reform act in accordance with the following  
7 policies. Persons with developmental disabilities shall:

8 (1) Be provided assistance to obtain food, housing, clothing and  
9 medical care; protection from abuse, neglect and exploitation; and a range  
10 of services and supports which assist in the determination of individual  
11 needs; and

12 (2) receive assistance in determining their needs; be provided  
13 information about all service options available to meet those needs; have  
14 coordination of services delivered; be assisted and supported in living with  
15 their families, or independently; be assisted in finding transportation to  
16 support access to the community; and receive individually planned  
17 habilitation, education, training, employment and recreation subject to  
18 supports and services available in the community of their choice.

19 (b) To accomplish the policies set forth in subsection (a), the  
20 secretary, subject to the provisions of appropriation acts, shall annually  
21 propose and implement a plan including, but not limited to, financing  
22 thereof which shall: (1) Provide for an organized network of community  
23 services for persons with developmental disabilities; (2) maximize the  
24 availability of federal resources to supplement state and local funding for  
25 such systems; and (3) reduce reliance on separate, segregated settings in  
26 institutions or the community for persons with developmental disabilities.

27 (c) The secretary shall report to the legislature the number of persons  
28 with developmental disabilities eligible to receive community services and  
29 shall make a progress report on the implementation of the annual plans and  
30 the progress made to accomplish a comprehensive community services  
31 system for persons with developmental disabilities.

32 (d) The secretary shall prepare and submit budget estimates for the  
33 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
34 *disability* services to the division of the budget and the legislature and  
35 shall establish and implement policies and procedures within the programs  
36 and activities of the department so that funds for state-level programs and  
37 activities for persons who are developmentally disabled are allocated  
38 between services delivered in institutions and community services.

39 (e) Subject to the provisions of this act and appropriation acts, the  
40 secretary shall administer and disburse funds to each community  
41 developmental disability organization for the coordination and provision of  
42 community services.

43 (f) The secretary shall establish procedures and systems to evaluate

1 the results and outcomes of the implementation of this act to assure the  
2 attainment of maximum quality and efficient delivery of community  
3 services.

4 Sec. 207. K.S.A. 2012 Supp. 40-2,111 is hereby amended to read as  
5 follows: 40-2,111. As used in K.S.A. 40-2,111 through 40-2,113, and  
6 amendments thereto: (a) "Adverse underwriting decision" means: Any of  
7 the following actions with respect to insurance transactions involving  
8 insurance coverage which is individually underwritten:

9 (1) A declination of insurance coverage;  
10 (2) a termination of insurance coverage;  
11 (3) an offer to insure at higher than standard rates, with respect to life,  
12 health or disability insurance coverage; or  
13 (4) the charging of a higher rate on the basis of information which  
14 differs from that which the applicant or policyholder furnished, with  
15 respect to property or casualty insurance coverage.

16 (b) "Declination of insurance coverage" means a denial, in whole or  
17 in part, by an insurance company or agent of requested insurance  
18 coverage.

19 (c) "Health care institution" means any medical care facility, adult  
20 care home, drug abuse and alcoholic treatment facility, home-health  
21 agency certified for federal reimbursement, mental health center or mental  
22 health clinic licensed by the secretary of ~~social and rehabilitation~~ *for aging*  
23 *and disability* services, kidney disease treatment center, county, city-  
24 county or multicounty health departments and health-maintenance  
25 organization.

26 (d) "Health care provider" means any person licensed to practice any  
27 branch of the healing arts, licensed dentist, licensed professional nurse,  
28 licensed practical nurse, licensed advanced practice registered nurse,  
29 licensed optometrist, licensed physical therapist, licensed social worker,  
30 licensed physician assistant, licensed podiatrist or licensed psychologist.

31 (e) "Institutional source" means any natural person, corporation,  
32 association, partnership or governmental or other legal entity that provides  
33 information about an individual to an agent or insurance company, other  
34 than:

35 (1) An agent;  
36 (2) the individual who is the subject of the information; or  
37 (3) a natural person acting in a personal capacity rather than a  
38 business or professional capacity.

39 (f) "Insurance transaction" means any transaction involving  
40 insurance, but not including group insurance coverage, primarily for  
41 personal, family or household needs rather than business or professional  
42 needs.

43 (g) "Medical-record information" means personal information which:

1 (1) Relates to an individual's physical or mental condition, medical  
2 history or medical treatment; and

3 (2) is obtained from a health care provider or health care institution,  
4 from the individual, or from the individual's spouse, parent or legal  
5 guardian.

6 (h) "Termination of insurance coverage" or "termination of an  
7 insurance policy" means either a cancellation, nonrenewal or lapse of an  
8 insurance policy, in whole or in part, for any reason other than:

9 (1) The failure to pay a premium as required by the policy; or

10 (2) at the request or direction of the insured.

11 Sec. 208. K.S.A. 40-2d02 is hereby amended to read as follows: 40-  
12 2d02. (a) Except as provided in paragraph (b), every domestic health  
13 organization shall prepare and submit to the commissioner, on or before  
14 March 1, a report of its RBC levels as of the end of the calendar year just  
15 ended in a form and containing such information as is required by the RBC  
16 instructions. In addition, every domestic health organization shall file its  
17 RBC report:

18 (1) With the NAIC in accordance with the RBC instructions; and

19 (2) with the insurance commissioner in any state in which the health  
20 organization is authorized to do business, if such insurance commissioner  
21 has notified the health organization of its request in writing, in which case,  
22 the health organization shall file its RBC report not later than the later of:

23 (A) 15 days from the receipt of notice to file its RBC report with that  
24 state; or

25 (B) the filing date otherwise specified in this subsection.

26 (b) The risk-based capital requirements of this section shall not apply  
27 to any health organization contracting with the Kansas department of  
28 ~~social and rehabilitation services for children and families~~ to provide  
29 services provided under title XIX and title XXI of the social security act or  
30 any other public benefits, provided the public benefit contracts represent at  
31 least 90% of the premium volume of the health organization.

32 Sec. 209. K.S.A. 2012 Supp. 40-2134 is hereby amended to read as  
33 follows: 40-2134. (a) Subject to the provisions of subsection (e), the  
34 department of health and environment in conjunction with the Kansas  
35 department of insurance shall establish a long-term care partnership  
36 program in Kansas to provide for the financing of long-term care through a  
37 combination of private insurance and medical assistance. The long-term  
38 care partnership program shall:

39 (1) Provide incentives for individuals to insure against the costs of  
40 providing for their long-term care needs;

41 (2) provide a mechanism for individuals to qualify for coverage under  
42 medical assistance while having certain assets disregarded for eligibility  
43 determinations and recovery; and

1 (3) reduce the financial burden on the state's medical assistance  
2 program by encouraging the pursuit of private initiatives using qualified  
3 long-term care partnership insurance policies.

4 (b) An individual who is a beneficiary of a Kansas long-term care  
5 partnership program policy shall be eligible for assistance under the state's  
6 medical assistance program using the asset disregard as provided under  
7 subsection (e).

8 (c) The department of health and environment shall pursue reciprocal  
9 agreements with other states to extend the asset disregard to Kansas  
10 residents who purchased long-term care partnership policies in other states  
11 that are compliant with title VI, section 6021 of the federal deficit  
12 reduction act of 2005, public law 109-171, and any applicable federal  
13 regulations or guidelines.

14 (d) As provided under subsection (e), certain assets of an individual  
15 who has received benefits from a qualified long-term care partnership  
16 policy shall not be considered when determining:

17 (1) The individual's medical assistance eligibility; and

18 (2) any subsequent recovery by the state for a payment for medical  
19 services or long-term care services made by the medical assistance  
20 program on behalf of the individual.

21 (e) Under the individual's long-term care insurance policy if the  
22 individual is a beneficiary of a qualified long-term care partnership  
23 program policy at the time the individual applies for benefits under the  
24 Kansas medical assistance program, the assets an individual may own and  
25 retain under Kansas medical assistance program and still qualify for  
26 benefits under the program shall be increased dollar-for-dollar for each  
27 dollar paid out after the effective date of the state plan amendment, or after  
28 the issue date of a policy exchanged, whichever is later.

29 (f) If the long-term care partnership program established by this act is  
30 discontinued, any individual who purchased a Kansas long-term care  
31 partnership program policy before the date the program was discontinued  
32 shall be eligible to receive asset disregard if allowed as provided by title  
33 VI, section 6021 of the federal deficit reduction act of 2005, public law  
34 109-171.

35 (g) The department of health and environment, the ~~department of~~  
36 ~~social and rehabilitation services~~ *Kansas department for children and*  
37 *families*, the ~~department on aging~~ *Kansas department for aging and*  
38 *disability services* and the department of insurance shall post, on their  
39 respective websites, information on how to access the national  
40 clearinghouse established under the federal deficit reduction act of 2005,  
41 public law 109-171, when the national clearinghouse becomes available to  
42 consumers.

43 Sec. 210. K.S.A. 40-2256 is hereby amended to read as follows: 40-

1 2256. (a) The provisions of this section and the income withholding act  
2 shall apply to all health benefit plans, as defined in this section, which are  
3 administered in this state, including, but not limited to, all health benefit  
4 plans governed by the federal employee retirement income security act (29  
5 U.S.C. § 1161 et seq.), except to the extent specifically preempted by  
6 federal law, and to all employers, sponsors and other administrators of  
7 health benefit plans doing business in this state.

8 (b) As used in this section:

9 (1) "Health benefit plan" means any benefit plan, other than public  
10 assistance, which is able to provide hospital, surgical, medical, dental or  
11 any other health care or benefits for a child, whether through insurance or  
12 otherwise, and which is available through a parent's employment or other  
13 group plan.

14 (2) "Participating parent" means a parent who is eligible for single  
15 coverage under a health benefit plan as defined in this section, regardless  
16 of the type of coverage actually in effect, if any.

17 (3) "Nonparticipating parent" means, if one parent is a participating  
18 parent as defined in this section, the other parent.

19 (c) No employer, sponsor or other administrator of a health benefit  
20 plan shall deny enrollment of a child under the health coverage of the  
21 child's parent on the basis that: (1) The child was born out of wedlock; (2)  
22 the child is not claimed as a dependent on the parent's federal income tax  
23 return; (3) the child does not reside with the parent or in the plan's service  
24 area; or (4) the child is receiving, is eligible for or may become eligible for  
25 medical assistance.

26 (d) (1) A health benefit plan, in determining or making any payment  
27 for benefits of a child who is a participant or beneficiary under the plan,  
28 shall not take into account the fact that the child is receiving, is eligible for  
29 or may become eligible for medical assistance pursuant to Title XIX of the  
30 federal social security act.

31 (2) A health benefit plan shall pay for benefits with respect to a child  
32 who is a participant or beneficiary under the plan in accordance with any  
33 assignment of rights made by or on behalf of the child as required by  
34 K.S.A. 39-709, and amendments thereto, or by another state's plan for  
35 medical assistance pursuant to Title XIX of the federal social security act.

36 (3) A health benefit plan shall not impose requirements on an agency  
37 or official, assigned the rights of a child eligible for medical assistance  
38 under Title XIX of the federal social security act and covered by the health  
39 benefit plan, that are different from requirements applicable to an agent or  
40 assignee of any other individual covered by the health benefit plan.

41 (4) If payment has been made by the secretary ~~of social and~~  
42 ~~rehabilitation~~ for aging and disability services for medical assistance and a  
43 health benefit plan is liable to pay for any item or service constituting any

1 part of the medical assistance, the health benefit plan shall make payment  
2 for benefits under the plan to the secretary ~~of social and rehabilitation~~ *for*  
3 *aging and disability* services to the extent of the secretary's rights pursuant  
4 to K.S.A. 39-719a, and amendments thereto.

5 (e) In addition to other duties specified in a health benefit plan, when  
6 a child is covered by the health benefit plan of a participating parent the  
7 employer, sponsor or other administrator of the health benefit plan: (1)  
8 Shall provide information necessary for the child to obtain benefits to the  
9 nonparticipating parent or, upon request, to the nonparticipating parent's  
10 assignee or to a representative designated in a medical withholding order;  
11 (2) shall permit the nonparticipating parent, the nonparticipating parent's  
12 assignee, or a provider properly authorized by the nonparticipating parent  
13 or assignee to submit claims for covered services without the approval of  
14 the participating parent; and (3) shall make payment on claims submitted  
15 in accordance with subsection (e)(2) directly to the nonparticipating  
16 parent, assignee or provider.

17 (f) Nothing in this section or the income withholding act and  
18 amendments thereto shall limit alteration of a health benefit plan's  
19 coverage or terms, so long as the resulting plan meets the requirements of  
20 this section or the income withholding act and amendments thereto.

21 (g) Any amendment to a health benefit plan required to conform to  
22 the requirements of this section or the income withholding act and  
23 amendments thereto shall not be required to be effective before the first  
24 plan year beginning on or after July 1, 1994, if: (1) During the period from  
25 July 1, 1994, until the beginning of the first plan year, the plan is operated  
26 in accordance with the requirements of this section or the income  
27 withholding act and amendments thereto; and (2) the plan amendment  
28 applies retroactively to July 1, 1994, as well as prospectively. A plan shall  
29 not be treated as failing to be operated in accordance with the provisions of  
30 the plan merely because it operates in accordance with this subsection.

31 (h) This section shall be part of and supplemental to chapter 40 of the  
32 Kansas Statutes Annotated, *and amendments thereto*.

33 Sec. 211. K.S.A. 40-22a05 is hereby amended to read as follows: 40-  
34 22a05. (a) There is hereby created an advisory committee which shall  
35 assist the commissioner in the adoption of rules and regulations to  
36 implement the provisions of this act. The advisory committee shall consist  
37 of 13 persons appointed by the commissioner as follows:

38 (1) The commissioner, or the designee of the commissioner, who  
39 shall be the chairperson;

40 (2) one member appointed from the public at large;

41 (3) four members who are representatives of utilization review  
42 organizations; and

43 (4) seven members who are representatives of health care providers,

1 one of which shall be a representative of a Kansas hospital, and two of  
2 which shall be persons licensed to practice medicine and surgery in  
3 Kansas.

4 (b) Members of the advisory committee shall be appointed for a term  
5 of three years, except that the first term of office of two members  
6 representing utilization review organizations and two members  
7 representing health care providers shall be for a term of two years, and the  
8 first term for two members representing health care providers and one  
9 member representing utilization review organizations shall be for a term of  
10 one year.

11 (c) The advisory committee shall be attached to the insurance  
12 department, and all administrative functions of the advisory committee  
13 shall be under the direction and supervision of the commissioner. Within  
14 available appropriations therefor, members of the advisory committee shall  
15 be paid subsistence allowances, mileage and other expenses as provided in  
16 subsection (e) of K.S.A. 75-3223, and amendments thereto.

17 (d) Before adopting rules and regulations to carry out the provisions  
18 of this act, the commissioner with the advice of the advisory committee  
19 shall:

20 (1) Establish utilization review standards which provide for  
21 uniformity in the procedures for interaction between utilization review  
22 organizations and health care providers, payors and consumers of health  
23 care;

24 (2) establish utilization review procedures that prevent unnecessary  
25 and inappropriate disruption to the health care delivery system;

26 (3) strive to achieve an efficient process for the certification of  
27 utilization review organizations; and

28 (4) specify the kinds of insurance or types of insurance products to  
29 which the standards apply and the scope of such application.

30 (e) This act shall not apply to:

31 (1) Utilization review of health care services provided to patients  
32 under the authority of the Kansas workers compensation act~~(, K.S.A. 44-~~  
33 ~~501 et seq., and amendments thereto);~~

34 (2) reviews conducted by any insurance company, health maintenance  
35 organization, prepaid service plan, group-funded self-insured plan or  
36 similar entity solely for the purpose of determining compliance with the  
37 specific terms and conditions of an insurance policy, agreement or contract  
38 as a part of the normal claim settlement process; or

39 ~~(3) any medical programs operated by the secretary of social and~~  
40 ~~rehabilitation for aging and disability services or any entity to the extent it~~  
41 ~~is acting under contract with the secretary.~~

42 Sec. 212. K.S.A. 40-3227 is hereby amended to read as follows: 40-  
43 3227. (a) Except as provided in paragraph (e), before issuing any

1 certificate of authority, the commissioner shall require that the health  
2 maintenance organization have an initial net worth of \$1,500,000 and shall  
3 thereafter maintain the minimum net worth required under subsection (b).

4 (b) Except as provided in subsections (c) and (d) of this section, every  
5 health maintenance organization shall maintain a minimum net worth  
6 equal to the greater of:

7 (1) \$1,000,000; or

8 (2) two percent of annual premium revenues as reported on the most  
9 recent annual financial statement filed with the commissioner on the first  
10 \$150,000,000 of premium and 1% of annual premium on the premium in  
11 excess of \$150,000,000; or

12 (3) an amount equal to the sum of three months uncovered health care  
13 expenditures as reported on the most recent financial statement filed with  
14 the commissioner; or

15 (4) an amount equal to the sum of:

16 (A) Eight percent of annual health care expenditures except those  
17 paid on a capitated basis or managed hospital payment basis as reported on  
18 the most recent financial statement filed with the commissioner; and

19 (B) four percent of annual hospital expenditures paid on a managed  
20 hospital payment basis as reported on the most recent financial statement  
21 filed with the commissioner.

22 (c) A health maintenance organization licensed on or before the day  
23 preceding the effective date of this section must maintain a minimum net  
24 worth of:

25 (1) Twenty-five percent of the amount required by subsection (b) by  
26 December 31, 2000;

27 (2) 50% of the amount required by subsection (b) by December 31,  
28 2001;

29 (3) 75% of the amount required by subsection (b) by December 31,  
30 2002; and

31 (4) 100% of the amount required by subsection (b) by December 31,  
32 2003.

33 (d) In determining net worth, no debt shall be considered fully  
34 subordinated unless the subordination clause is in a form acceptable to the  
35 commissioner. An interest obligation relating to the repayment of any  
36 subordinated debt shall be similarly subordinated. The interest expenses  
37 relating to the repayment of a fully subordinated debt shall be considered  
38 covered expenses. A debt incurred by a note meeting the requirements of  
39 this section, and otherwise acceptable to the commissioner, shall not be  
40 considered a liability and shall be recorded as equity.

41 (e) The net worth requirements of subsections (a) through (d) shall  
42 not apply to any health organization contracting with the Kansas  
43 department of ~~social and rehabilitation services~~ *health and environment to*



1 provide services provided under title XIX and title XXI of the social  
2 security act or any other public benefits, provided the public benefit  
3 contracts represent at least 90% of the premium volume of the health  
4 organization.

5 (f) Unless otherwise provided below, each health maintenance  
6 organization doing business in this state shall deposit with any  
7 organization or trustee acceptable to the commissioner through which a  
8 custodial or controlled account is utilized, cash, securities or any  
9 combination of these or other measures, for the benefit of all of the  
10 enrollees of the health maintenance organization, that are acceptable in the  
11 amount of \$150,000 for a medical group or staff model health maintenance  
12 organization or \$300,000 for an individual practice association.

13 (g) The commissioner may waive any of the deposit requirements set  
14 forth in subsection (f) whenever satisfied that: (1) The organization has  
15 sufficient net worth and an adequate history of generating net income to  
16 assure its financial viability for the next year; or (2) the organization's  
17 performance and obligations are guaranteed by an organization with  
18 sufficient net worth and an adequate history of generating net income; or  
19 (3) the assets of the organization or its contracts with insurers, hospital or  
20 medical service corporations, governments or other organizations are  
21 reasonably sufficient to assure the performance of its obligations.

22 (h) The deposit requirements imposed by this act shall not apply to  
23 health maintenance organizations not organized under the laws of this state  
24 to the extent an amount equal to or exceeding that required by this act has  
25 been deposited with the commissioner or an organization or trustee  
26 acceptable to the department of insurance of its state of domicile for the  
27 benefit of Kansas enrollees.

28 (i) All income from deposits shall belong to the depositing  
29 organization and shall be paid to it as it becomes available. A health  
30 maintenance organization that has made a securities deposit may withdraw  
31 that deposit or any part thereof after making a substitute deposit of cash,  
32 securities or any combination of these or other measures of equal amount  
33 and value. Any securities shall be approved by the commissioner before  
34 being substituted.

35 (j) Every health maintenance organization, when determining  
36 liability, shall include an amount estimated in the aggregate to provide for  
37 any unearned premium and for the payment of all claims for health care  
38 expenditures that have been incurred, whether reported or unreported, that  
39 are unpaid and for which the organization is or may be liable, and to  
40 provide for the expense of adjustment or settlement of those claims.

41 (k) The commissioner shall require that each health maintenance  
42 organization have a plan for handling insolvency which allows for  
43 continuation of benefits for the duration of the contract period for which

1 premiums have been paid and continuation of benefits to members who are  
2 confined on the date of insolvency in an inpatient facility until their  
3 discharge or expiration of benefits. In considering such a plan, the  
4 commissioner may require:

5 (1) Insurance to cover the expenses to be paid for continued benefits  
6 after an insolvency;

7 (2) provisions in provider contracts that obligate the provider to  
8 provide services for the duration of the period after the health maintenance  
9 organization's insolvency for which premium payment has been made and  
10 until the enrollees' discharge from inpatient facilities;

11 (3) insolvency reserves;

12 (4) acceptable letters of credit; or

13 (5) any other arrangements to assure that benefits are continued as  
14 specified in this subsection (k).

15 Sec. 213. K.S.A. 2012 Supp. 40-3401 is hereby amended to read as  
16 follows: 40-3401. As used in this act the following terms shall have the  
17 meanings respectively ascribed to them herein.

18 (a) "Applicant" means any health care provider.

19 (b) "Basic coverage" means a policy of professional liability  
20 insurance required to be maintained by each health care provider pursuant  
21 to the provisions of subsection (a) or (b) of K.S.A. 40-3402, and  
22 amendments thereto.

23 (c) "Commissioner" means the commissioner of insurance.

24 (d) "Fiscal year" means the year commencing on the effective date of  
25 this act and each year, commencing on the first day of that month,  
26 thereafter.

27 (e) "Fund" means the health care stabilization fund established  
28 pursuant to subsection (a) of K.S.A. 40-3403, and amendments thereto.

29 (f) "Health care provider" means a person licensed to practice any  
30 branch of the healing arts by the state board of healing arts with the  
31 exception of physician assistants, a person who holds a temporary permit  
32 to practice any branch of the healing arts issued by the state board of  
33 healing arts, a person engaged in a postgraduate training program  
34 approved by the state board of healing arts, a medical care facility licensed  
35 by the department of health and environment, a health maintenance  
36 organization issued a certificate of authority by the commissioner of  
37 insurance, a podiatrist licensed by the state board of healing arts, an  
38 optometrist licensed by the board of examiners in optometry, a pharmacist  
39 licensed by the state board of pharmacy, a licensed professional nurse who  
40 is authorized to practice as a registered nurse anesthetist, a licensed  
41 professional nurse who has been granted a temporary authorization to  
42 practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto,  
43 a professional corporation organized pursuant to the professional

1 corporation law of Kansas by persons who are authorized by such law to  
2 form such a corporation and who are health care providers as defined by  
3 this subsection, a Kansas limited liability company organized for the  
4 purpose of rendering professional services by its members who are health  
5 care providers as defined by this subsection and who are legally authorized  
6 to render the professional services for which the limited liability company  
7 is organized, a partnership of persons who are health care providers under  
8 this subsection, a Kansas not-for-profit corporation organized for the  
9 purpose of rendering professional services by persons who are health care  
10 providers as defined by this subsection, a nonprofit corporation organized  
11 to administer the graduate medical education programs of community  
12 hospitals or medical care facilities affiliated with the university of Kansas  
13 school of medicine, a dentist certified by the state board of healing arts to  
14 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a  
15 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments  
16 thereto, or a mental health center or mental health clinic licensed by the  
17 ~~secretary of social and rehabilitation~~ *for aging and disability* services,  
18 except that health care provider does not include: (1) Any state institution  
19 for people with intellectual disability; (2) any state psychiatric hospital; (3)  
20 any person holding an exempt license issued by the state board of healing  
21 arts; or (4) any person holding a visiting clinical professor license from the  
22 state board of healing arts.

23 (g) "Inactive health care provider" means a person or other entity who  
24 purchased basic coverage or qualified as a self-insurer on or subsequent to  
25 the effective date of this act but who, at the time a claim is made for  
26 personal injury or death arising out of the rendering of or the failure to  
27 render professional services by such health care provider, does not have  
28 basic coverage or self-insurance in effect solely because such person is no  
29 longer engaged in rendering professional service as a health care provider.

30 (h) "Insurer" means any corporation, association, reciprocal  
31 exchange, inter-insurer and any other legal entity authorized to write  
32 bodily injury or property damage liability insurance in this state, including  
33 workers compensation and automobile liability insurance, pursuant to the  
34 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of  
35 Kansas Statutes Annotated, *and amendments thereto*.

36 (i) "Plan" means the operating and administrative rules and  
37 procedures developed by insurers and rating organizations or the  
38 commissioner to make professional liability insurance available to health  
39 care providers.

40 (j) "Professional liability insurance" means insurance providing  
41 coverage for legal liability arising out of the performance of professional  
42 services rendered or which should have been rendered by a health care  
43 provider.

1 (k) "Rating organization" means a corporation, an unincorporated  
2 association, a partnership or an individual licensed pursuant to K.S.A. 40-  
3 956, and amendments thereto, to make rates for professional liability  
4 insurance.

5 (l) "Self-insurer" means a health care provider who qualifies as a self-  
6 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

7 (m) "Medical care facility" means the same when used in the health  
8 care provider insurance availability act as the meaning ascribed to that  
9 term in K.S.A. 65-425, and amendments thereto, except that as used in the  
10 health care provider insurance availability act such term, as it relates to  
11 insurance coverage under the health care provider insurance availability  
12 act, also includes any director, trustee, officer or administrator of a medical  
13 care facility.

14 (n) "Mental health center" means a mental health center licensed by  
15 the secretary of ~~social and rehabilitation~~ *for aging and disability* services  
16 under K.S.A. 75-3307b, and amendments thereto, except that as used in  
17 the health care provider insurance availability act such term, as it relates to  
18 insurance coverage under the health care provider insurance availability  
19 act, also includes any director, trustee, officer or administrator of a mental  
20 health center.

21 (o) "Mental health clinic" means a mental health clinic licensed by  
22 the secretary of ~~social and rehabilitation~~ *for aging and disability* services  
23 under K.S.A. 75-3307b, and amendments thereto, except that as used in  
24 the health care provider insurance availability act such term, as it relates to  
25 insurance coverage under the health care provider insurance availability  
26 act, also includes any director, trustee, officer or administrator of a mental  
27 health clinic.

28 (p) "State institution for people with intellectual disability" means  
29 ~~Winfield state hospital and training center~~, Parsons state hospital and  
30 training center and the Kansas neurological institute.

31 (q) "State psychiatric hospital" means Larned state hospital,  
32 Osawatomie state hospital and Rainbow mental health facility.

33 (r) "Person engaged in residency training" means:

34 (1) A person engaged in a postgraduate training program approved by  
35 the state board of healing arts who is employed by and is studying at the  
36 university of Kansas medical center only when such person is engaged in  
37 medical activities which do not include extracurricular, extra-institutional  
38 medical service for which such person receives extra compensation and  
39 which have not been approved by the dean of the school of medicine and  
40 the executive vice-chancellor of the university of Kansas medical center.  
41 Persons engaged in residency training shall be considered resident health  
42 care providers for purposes of K.S.A. 40-3401 et seq., and amendments  
43 thereto; and

1 (2) a person engaged in a postgraduate training program approved by  
2 the state board of healing arts who is employed by a nonprofit corporation  
3 organized to administer the graduate medical education programs of  
4 community hospitals or medical care facilities affiliated with the university  
5 of Kansas school of medicine or who is employed by an affiliate of the  
6 university of Kansas school of medicine as defined in K.S.A. 76-367, and  
7 amendments thereto, only when such person is engaged in medical  
8 activities which do not include extracurricular, extra-institutional medical  
9 service for which such person receives extra compensation and which have  
10 not been approved by the chief operating officer of the nonprofit  
11 corporation or the chief operating officer of the affiliate and the executive  
12 vice-chancellor of the university of Kansas medical center.

13 (s) "Full-time physician faculty employed by the university of Kansas  
14 medical center" means a person licensed to practice medicine and surgery  
15 who holds a full-time appointment at the university of Kansas medical  
16 center when such person is providing health care.

17 (t) "Sexual act" or "sexual activity" means that sexual conduct which  
18 constitutes a criminal or tortious act under the laws of the state of Kansas.

19 Sec. 214. K.S.A. 2012 Supp. 40-4704 is hereby amended to read as  
20 follows: 40-4704. The health partnership shall develop and offer two or  
21 more health benefit plans to small employers. In any health benefit plan  
22 developed under this act, any carrier may contract for coverage within the  
23 scope of this act notwithstanding any mandated coverages otherwise  
24 required by state law. Except for preventative and health screening  
25 services, the provisions of K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114  
26 and subsection (i) of 40-2209 and 40-2229 and 40-2230, and 40-2,163, 40-  
27 2,164, 40-2,165 and 40-2,166, and amendments thereto, shall not be  
28 mandatory with respect to any health benefit plan developed under this act.  
29 In performing these duties, the health partnership shall:

30 (a) Develop and offer two or more lower-cost benefit plans such that:

31 (1) Each health benefit plan is consistent with any criteria established  
32 by the health partnership;

33 (2) each health benefit plan shall be offered by all participating  
34 carriers except that no participating carrier shall be required to offer any  
35 health benefit plan, or portion thereof, which such participating carrier is  
36 not licensed or authorized to offer in this state;

37 (3) no participating carrier shall offer any health benefit plan  
38 developed under this act to any small employer unless such small  
39 employer is covered through the health partnership.

40 (b) Develop and make available one or more supplemental health  
41 benefit plans or one or more other benefit options so that the total package  
42 of health benefits available to all children eligible for the state children's  
43 health insurance program established pursuant to K.S.A. 68-2001 et seq.,

1 and amendments thereto, meets, at a minimum, standards established by  
2 the federal health insurance program.

3 (c) Offer coverage to any qualifying small employer.

4 (d) Offer eligible employees of participating small employers a  
5 choice of participating carriers where feasible.

6 (e) (1) Include centralized and consolidated enrollment, billing and  
7 customer service functions;

8 (2) use one standard enrollment form for all participating carriers; and

9 (3) submit one consolidated bill to the small employer.

10 (f) Issue or cause to be issued a request for proposals and contract  
11 with a qualified vendor for any administrative or other service not  
12 performed by the health committee or provided to the health committee  
13 under subsection (b) of K.S.A. 40-4702, and amendments thereto.

14 (g) Issue a request for proposals and selectively contract with carriers.

15 (h) Establish conditions of participation for small employers that  
16 conform with K.S.A. 40-2209b et seq., and amendments thereto, and the  
17 health insurance portability and accountability act of 1996 (Public Law  
18 104-191).

19 (i) Enroll small employers and their eligible employees and  
20 dependents in health benefit plans developed under this act.

21 (j) Bill and collect premiums from participating small employers  
22 including any share of the premium paid by such small employer's enrolled  
23 employees.

24 (k) Remit funds collected under subsection (h) to the appropriate  
25 contracted carriers.

26 (l) Provide that each low-or-modest wage employee shall be  
27 permitted to enroll in such employee's choice of participating carrier where  
28 available.

29 (m) Develop premium rating policies for small employers.

30 (1) In consultation with the health committee, the health partnership  
31 shall ensure, to the maximum extent possible, that the combined effect of  
32 the premium rating and subsidy policies is that subsidized eligible  
33 employees and the dependents of such subsidized eligible employees can  
34 afford coverage.

35 (2) Any rating policy developed under this subsection may vary with  
36 respect to subsidy status of eligible employees and the dependents of such  
37 eligible employees.

38 (n) Be authorized to contract for additional group vision, dental and  
39 life insurance plans, and other limited insurance products.

40 (o) Take whatever action is necessary to assure that any eligible  
41 employee or dependent of such eligible employee who receives health  
42 benefit coverage through the health partnership and who is eligible for the  
43 state medical assistance program shall remain eligible to participate in the

1 state health insurance premium payment program.

2 (p) Coordinate with the ~~department of social and rehabilitation~~  
3 *Kansas department for aging and disability* services to assure that any  
4 funds available for the coverage of infants and pregnant women under the  
5 state medical assistance program are also available for the benefit of  
6 eligible infants and pregnant women who receive health benefit coverage  
7 through the health partnership as an eligible employee or dependent of  
8 such eligible employee.

9 (q) Work with the ~~department of social and rehabilitation~~ *Kansas*  
10 *department for aging and disability* services office of medical policy and  
11 medicaid to develop a single employee application that may be used by the  
12 health plan and the medicaid and state children's health insurance program  
13 to determine eligibility.

14 (r) Screen employee applications for subsidy eligibility and  
15 dependent children for medicaid and state children's health insurance  
16 program premium support eligibility.

17 Sec. 215. K.S.A. 41-1126 is hereby amended to read as follows: 41-  
18 1126. (a) In addition to other purposes for which expenditures may be  
19 made from the other state fees fund of the ~~department of social and~~  
20 ~~rehabilitation~~ *Kansas department for aging and disability* services, moneys  
21 in the other state fees fund of the ~~department of social and rehabilitation~~  
22 *Kansas department for aging and disability* services shall be used by the  
23 secretary ~~of social and rehabilitation~~ *for aging and disability* services to  
24 provide financial assistance to community-based alcoholism and  
25 intoxication treatment programs for the following purposes: (1) Matching  
26 money under title XX of the federal social security act to purchase  
27 treatment services from approved treatment facilities; (2) providing start-  
28 up or expansion grants for halfway houses or rehabilitation centers for  
29 alcoholics; (3) purchasing services from approved treatment facilities for  
30 persons who are needy but who are not eligible for assistance under either  
31 title XIX or title XX of the federal social security act, and administrative  
32 costs of the alcohol and drug abuse section which shall not exceed 10% of  
33 the total moneys in the community alcoholism and intoxication programs  
34 fund; and (4) assisting to develop programs for prevention, education,  
35 early identification and facility assistance and review team.

36 (b) No state alcohol treatment program at ~~Topeka state hospital,~~  
37 Osawatomie state hospital, Rainbow mental health facility or Larned state  
38 hospital shall receive any moneys under the provisions of subsection (a) of  
39 this section.

40 Sec. 216. K.S.A. 2012 Supp. 41-2622 is hereby amended to read as  
41 follows: 41-2622. (a) At the time application is made to the director for a  
42 license pursuant to the club and drinking establishment act, the applicant  
43 shall pay the following license fee in the manner provided by K.S.A. 41-

1 2606, and amendments thereto:

- 2 (1) For a class A club which is a bona fide nonprofit fraternal or war  
3 veterans' club, as defined by rules and regulations of the secretary, \$500;
- 4 (2) for a class A club which is a bona fide nonprofit social club, as  
5 defined by rules and regulations of the secretary, and which has not more  
6 than 500 members, \$1,000;
- 7 (3) for a class A club which is a bona fide nonprofit social club, as  
8 defined by rules and regulations of the secretary, and which has more than  
9 500 members, \$2,000;
- 10 (4) for a class B club, \$2,000;
- 11 (5) for a caterer, \$1,000;
- 12 (6) for a drinking establishment, \$2,000;
- 13 (7) for a hotel of which the entire premises are licensed as a drinking  
14 establishment, \$6,000;
- 15 (8) for a drinking establishment/caterer, \$3,000;
- 16 (9) for a drinking establishment/caterer, if the drinking establishment  
17 is a hotel of which the entire premises are licensed as a drinking  
18 establishment, \$7,000;
- 19 (10) for a public venue with a maximum capacity of not more than  
20 10,000 persons, \$5,000;
- 21 (11) for a public venue with a maximum capacity of not more than  
22 25,000 persons, \$7,500; and
- 23 (12) for a public venue with a maximum capacity exceeding 25,000  
24 persons, \$10,000.
- 25 (b) In addition to the fee provided by subsection (a), any city where  
26 the licensed premises of a club or drinking establishment are located or,  
27 if such licensed premises are not located in a city, the board of county  
28 commissioners of the county where the licensed premises are located may  
29 levy and collect a biennial occupation or license tax from the licensee in an  
30 amount equal to not less than \$200 nor more than \$500.
- 31 (c) In addition to the fee provided by subsection (a), any city where  
32 the licensed premises of a public venue is located or, if such licensed  
33 premises is not located in a city, the board of county commissioners of the  
34 county where the licensed premises is located may levy and collect a  
35 biennial occupation or license tax from the licensee in an amount not more  
36 than \$1,000.
- 37 (d) No occupational or excise tax or license fee other than that  
38 authorized by subsection (b) or (c) shall be levied by any city or county  
39 against or collected from a licensed public venue, club or drinking  
40 establishment.
- 41 (e) The director shall remit all moneys received under this section to  
42 the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
43 and amendments thereto. Upon receipt of each such remittance, the state



1 treasurer shall deposit the entire amount in the state treasury. Of each such  
2 deposit, 50% shall be credited to the state general fund, and the remaining  
3 50% shall be credited to the other state fees fund of the ~~department of~~  
4 ~~social and rehabilitation~~ *Kansas department for aging and disability*  
5 services. In addition to other purposes for which expenditures may be  
6 made from the other state fees fund of the ~~department of social and~~  
7 ~~rehabilitation~~ *Kansas department for aging and disability* services,  
8 expenditures may be made by the secretary ~~of social and rehabilitation~~ *for*  
9 *aging and disability* services for the purpose of implementing the powers  
10 and duties of the secretary under the provisions of K.S.A. 65-4006 and 65-  
11 4007, and amendments thereto.

12 Sec. 217. K.S.A. 2012 Supp. 44-508 is hereby amended to read as  
13 follows: 44-508. As used in the workers compensation act:

14 (a) "Employer" includes: (1) Any person or body of persons,  
15 corporate or unincorporated, and the legal representative of a deceased  
16 employer or the receiver or trustee of a person, corporation, association or  
17 partnership; (2) the state or any department, agency or authority of the  
18 state, any city, county, school district or other political subdivision or  
19 municipality or public corporation and any instrumentality thereof; and (3)  
20 for the purposes of community service work, the entity for which the  
21 community service work is being performed and the governmental agency  
22 which assigned the community service work, if any, if either such entity or  
23 such governmental agency has filed a written statement of election with  
24 the director to accept the provisions under the workers compensation act  
25 for persons performing community service work and in such case such  
26 entity and such governmental agency shall be deemed to be the joint  
27 employer of the person performing the community service work and both  
28 shall have the rights, liabilities and immunities provided under the workers  
29 compensation act for an employer with regard to the community service  
30 work, except that the liability for providing benefits shall be imposed only  
31 on the party which filed such election with the director, or on both if both  
32 parties have filed such election with the director; for purposes of  
33 community service work, "governmental agency" shall not include any  
34 court or any officer or employee thereof and any case where there is  
35 deemed to be a "joint employer" shall not be construed to be a case of dual  
36 or multiple employment.

37 (b) "Workman" or "employee" or "worker" means any person who  
38 has entered into the employment of or works under any contract of service  
39 or apprenticeship with an employer. Such terms shall include but not be  
40 limited to: Executive officers of corporations; professional athletes;  
41 persons serving on a volunteer basis as duly authorized law enforcement  
42 officers, attendants, as defined in subsection ~~(d)~~ (f) of K.S.A. 65-6112, and  
43 amendments thereto, drivers of ambulances as defined in subsection ~~(b)~~

1 (d) of K.S.A. 65-6112, and amendments thereto, firefighters, but only to  
2 the extent and during such periods as they are so serving in such  
3 capacities; persons employed by educational, religious and charitable  
4 organizations, but only to the extent and during the periods that they are  
5 paid wages by such organizations; persons in the service of the state, or  
6 any department, agency or authority of the state, any city, school district,  
7 or other political subdivision or municipality or public corporation and any  
8 instrumentality thereof, under any contract of service, express or implied,  
9 and every official or officer thereof, whether elected or appointed, while  
10 performing official duties; persons in the service of the state as volunteer  
11 members of the Kansas department of civil air patrol, but only to the  
12 extent and during such periods as they are officially engaged in the  
13 performance of functions specified in K.S.A. 48-3302, and amendments  
14 thereto; volunteers in any employment, if the employer has filed an  
15 election to extend coverage to such volunteers; minors, whether such  
16 minors are legally or illegally employed; and persons performing  
17 community service work, but only to the extent and during such periods as  
18 they are performing community service work and if an election has been  
19 filed ~~an election~~ to extend coverage to such persons. Any reference to an  
20 employee who has been injured shall, where the employee is dead, include  
21 a reference to the employee's dependents, to the employee's legal  
22 representatives, or, if the employee is a minor or an incapacitated person,  
23 to the employee's guardian or conservator. Unless there is a valid election  
24 in effect which has been filed as provided in K.S.A. 44-542a, and  
25 amendments thereto, such terms shall not include individual employers,  
26 limited liability company members, partners or self-employed persons.

27 (c) (1) "Dependents" means such members of the employee's family  
28 as were wholly or in part dependent upon the employee at the time of the  
29 accident or injury.

30 (2) "Members of a family" means only surviving legal spouse and  
31 children; or if no surviving legal spouse or children, then parents or  
32 grandparents; or if no parents or grandparents, then grandchildren; or if no  
33 grandchildren, then brothers and sisters. In the meaning of this section,  
34 parents include stepparents, children include stepchildren, grandchildren  
35 include stepgrandchildren, brothers and sisters include stepbrothers and  
36 stepsisters, and children and parents include that relation by legal  
37 adoption. In the meaning of this section, a surviving spouse shall not be  
38 regarded as a dependent of a deceased employee or as a member of the  
39 family, if the surviving spouse shall have for more than six months  
40 willfully or voluntarily deserted or abandoned the employee prior to the  
41 date of the employee's death.

42 (3) "Wholly dependent child or children" means:

43 (A) A birth child or adopted child of the employee except such a child

1 whose relationship to the employee has been severed by adoption;

2 (B) a stepchild of the employee who lives in the employee's  
3 household;

4 (C) any other child who is actually dependent in whole or in part on  
5 the employee and who is related to the employee by marriage or  
6 consanguinity; or

7 (D) any child as defined in subsection (c)(3)(A), (3)(B) or (3)(C) who  
8 is less than 23 years of age and who is not physically or mentally capable  
9 of earning wages in any type of substantial and gainful employment or  
10 who is a full-time student attending an accredited institution of higher  
11 education or vocational education.

12 (d) "Accident" means an undesigned, sudden and unexpected  
13 traumatic event, usually of an afflictive or unfortunate nature and often,  
14 but not necessarily, accompanied by a manifestation of force. An accident  
15 shall be identifiable by time and place of occurrence, produce at the time  
16 symptoms of an injury, and occur during a single work shift. The accident  
17 must be the prevailing factor in causing the injury. "Accident" shall in no  
18 case be construed to include repetitive trauma in any form.

19 (e) "Repetitive trauma" refers to cases where an injury occurs as a  
20 result of repetitive use, cumulative traumas or microtraumas. The  
21 repetitive nature of the injury must be demonstrated by diagnostic or  
22 clinical tests. The repetitive trauma must be the prevailing factor in  
23 causing the injury. "Repetitive trauma" shall in no case be construed to  
24 include occupational disease, as defined in K.S.A. 44-5a01, and  
25 amendments thereto.

26 In the case of injury by repetitive trauma, the date of injury shall be the  
27 earliest of:

28 (1) The date the employee, while employed for the employer against  
29 whom benefits are sought, is taken off work by a physician due to the  
30 diagnosed repetitive trauma;

31 (2) the date the employee, while employed for the employer against  
32 whom benefits are sought, is placed on modified or restricted duty by a  
33 physician due to the diagnosed repetitive trauma;

34 (3) the date the employee, while employed for the employer against  
35 whom benefits are sought, is advised by a physician that the condition is  
36 work-related; or

37 (4) the last day worked, if the employee no longer works for the  
38 employer against whom benefits are sought.

39 In no case shall the date of accident be later than the last date worked.

40 (f) (1) "Personal injury" and "injury" mean any lesion or change in  
41 the physical structure of the body, causing damage or harm thereto.  
42 Personal injury or injury may occur only by accident, repetitive trauma or  
43 occupational disease as those terms are defined.

1 (2) An injury is compensable only if it arises out of and in the course  
2 of employment. An injury is not compensable because work was a  
3 triggering or precipitating factor. An injury is not compensable solely  
4 because it aggravates, accelerates or exacerbates a preexisting condition or  
5 renders a preexisting condition symptomatic.

6 (A) An injury by repetitive trauma shall be deemed to arise out of  
7 employment only if:

8 (i) The employment exposed the worker to an increased risk or  
9 hazard which the worker would not have been exposed in normal non-  
10 employment life;

11 (ii) the increased risk or hazard to which the employment exposed the  
12 worker is the prevailing factor in causing the repetitive trauma; and

13 (iii) the repetitive trauma is the prevailing factor in causing both the  
14 medical condition and resulting disability or impairment.

15 (B) An injury by accident shall be deemed to arise out of employment  
16 only if:

17 (i) There is a causal connection between the conditions under which  
18 the work is required to be performed and the resulting accident; and

19 (ii) the accident is the prevailing factor causing the injury, medical  
20 condition, and resulting disability or impairment.

21 (3) (A) The words "arising out of and in the course of employment"  
22 as used in the workers compensation act shall not be construed to include:

23 (i) Injury which occurred as a result of the natural aging process or by  
24 the normal activities of day-to-day living;

25 (ii) accident or injury which arose out of a neutral risk with no  
26 particular employment or personal character;

27 (iii) accident or injury which arose out of a risk personal to the  
28 worker; or

29 (iv) accident or injury which arose either directly or indirectly from  
30 idiopathic causes.

31 (B) The words "arising out of and in the course of employment" as  
32 used in the workers compensation act shall not be construed to include  
33 injuries to the employee occurring while the employee is on the way to  
34 assume the duties of employment or after leaving such duties, the  
35 proximate cause of which injury is not the employer's negligence. An  
36 employee shall not be construed as being on the way to assume the duties  
37 of employment or having left such duties at a time when the worker is on  
38 the premises owned or under the exclusive control of the employer or on  
39 the only available route to or from work which is a route involving a  
40 special risk or hazard connected with the nature of the employment that is  
41 not a risk or hazard to which the general public is exposed and which is a  
42 route not used by the public except in dealings with the employer. An  
43 employee shall not be construed as being on the way to assume the duties

1 of employment, if the employee is a provider of emergency services  
2 responding to an emergency.

3 (C) The words, "arising out of and in the course of employment" as  
4 used in the workers compensation act shall not be construed to include  
5 injuries to employees while engaged in recreational or social events under  
6 circumstances where the employee was under no duty to attend and where  
7 the injury did not result from the performance of tasks related to the  
8 employee's normal job duties or as specifically instructed to be performed  
9 by the employer.

10 (g) "Prevailing" as it relates to the term "factor" means the primary  
11 factor, in relation to any other factor. In determining what constitutes the  
12 "prevailing factor" in a given case, the administrative law judge shall  
13 consider all relevant evidence submitted by the parties.

14 (h) "Burden of proof" means the burden of a party to persuade the  
15 trier of facts by a preponderance of the credible evidence that such party's  
16 position on an issue is more probably true than not true on the basis of the  
17 whole record unless a higher burden of proof is specifically required by  
18 this act.

19 (i) "Director" means the director of workers compensation as  
20 provided for in K.S.A. 75-5708, and amendments thereto.

21 (j) "Health care provider" means any person licensed, by the proper  
22 licensing authority of this state, another state or the District of Columbia,  
23 to practice medicine and surgery, osteopathy, chiropractic, dentistry,  
24 optometry, podiatry, audiology or psychology.

25 (k) "Secretary" means the secretary of labor.

26 (l) "Construction design professional" means any person who is an  
27 architect, professional engineer, landscape architect or land surveyor who  
28 has been issued a license by the state board of technical professions to  
29 practice such technical profession in Kansas or any corporation organized  
30 to render professional services through the practice of one or more of such  
31 technical professions in Kansas under the professional corporation law of  
32 Kansas or any corporation issued a certificate of authorization under  
33 K.S.A. 74-7036, and amendments thereto, to practice one or more of such  
34 technical professions in Kansas.

35 (m) "Community service work" means: (1) Public or community  
36 service performed as a result of a contract of diversion or of assignment to  
37 a community corrections program or conservation camp or suspension of  
38 sentence or as a condition of probation or in lieu of a fine imposed by  
39 court order; or (2) public or community service or other work performed  
40 as a requirement for receipt of any kind of public assistance in accordance  
41 with any program administered by the secretary of social and rehabilitation  
42 services for children and families.

43 (n) "Utilization review" means the initial evaluation of

1 appropriateness in terms of both the level and the quality of health care  
2 and health services provided a patient, based on accepted standards of the  
3 health care profession involved. Such evaluation is accomplished by  
4 means of a system which identifies the utilization of health care services  
5 above the usual range of utilization for such services, which is based on  
6 accepted standards of the health care profession involved, and which refers  
7 instances of possible inappropriate utilization to the director for referral to  
8 a peer review committee.

9 (o) "Peer review" means an evaluation by a peer review committee of  
10 the appropriateness, quality and cost of health care and health services  
11 provided a patient, which is based on accepted standards of the health care  
12 profession involved and which is conducted in conjunction with utilization  
13 review.

14 (p) "Peer review committee" means a committee composed of health  
15 care providers licensed to practice the same health care profession as the  
16 health care provider who rendered the health care services being reviewed.

17 (q) "Group-funded self-insurance plan" includes each group-funded  
18 workers compensation pool, which is authorized to operate in this state  
19 under K.S.A. 44-581 through 44-592, and amendments thereto, each  
20 municipal group-funded pool under the Kansas municipal group-funded  
21 pool act which is covering liabilities under the workers compensation act,  
22 and any other similar group-funded or pooled plan or arrangement that  
23 provides coverage for employer liabilities under the workers compensation  
24 act and is authorized by law.

25 (r) On and after the effective date of this act, "workers compensation  
26 board" or "board" means the workers compensation board established  
27 under K.S.A. 44-555c, and amendments thereto.

28 (s) "Usual charge" means the amount most commonly charged by  
29 health care providers for the same or similar services.

30 (t) "Customary charge" means the usual rates or range of fees charged  
31 by health care providers in a given locale or area.

32 (u) "Functional impairment" means the extent, expressed as a  
33 percentage, of the loss of a portion of the total physiological capabilities of  
34 the human body as established by competent medical evidence and based  
35 on the fourth edition of the American medical association guides to the  
36 evaluation of impairment, if the impairment is contained therein.

37 (v) "Authorized treating physician" means a licensed physician or  
38 other health care provider authorized by the employer or insurance carrier  
39 or both, or appointed pursuant to court-order to provide those medical  
40 services deemed necessary to diagnose and treat an injury arising out of  
41 and in the course of employment.

42 (w) "Mail" means the use of the United States postal service or other  
43 land based delivery service or transmission by electronic means, including

1 delivery by fax, e-mail or other electronic delivery method designated by  
2 the director of workers compensation.

3 Sec. 218. K.S.A. 2012 Supp. 44-575 is hereby amended to read as  
4 follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and  
5 amendments thereto, "state agency" means the state, or any department or  
6 agency of the state, but not including the Kansas turnpike authority, the  
7 university of Kansas hospital authority, any political subdivision of the  
8 state or the district court with regard to district court officers or employees  
9 whose total salary is payable by counties.

10 (b) For the purposes of providing for the payment of compensation  
11 for claims arising on and after July 1, 1974, and all other amounts required  
12 to be paid by any state agency as a self-insured employer under the  
13 workers compensation act and any amendments or additions thereto, there  
14 is hereby established the state workers compensation self-insurance fund  
15 in the state treasury. The name of the state workmen's compensation self-  
16 insurance fund is hereby changed to the state workers compensation self-  
17 insurance fund. Whenever the state workmen's compensation self-  
18 insurance fund is referred to or designated by any statute, contract or other  
19 document, such reference or designation shall be deemed to apply to the  
20 state workers compensation self-insurance fund.

21 (c) The state workers compensation self-insurance fund shall be liable  
22 to pay: (1) All compensation for claims arising on and after July 1, 1974,  
23 and all other amounts required to be paid by any state agency as a self-  
24 insured employer under the workers compensation act and any  
25 amendments or additions thereto; (2) the amount that all state agencies are  
26 liable to pay of the "carrier's share of expense" of the administration of the  
27 office of the director of workers' compensation as provided in K.S.A. 74-  
28 712 through 74-719, and amendments thereto, for each fiscal year; (3) all  
29 compensation for claims remaining from the self-insurance program which  
30 existed prior to July 1, 1974, for institutional employees of the ~~division of~~  
31 ~~mental health and retardation services~~ *commission of community services*  
32 *and programs* of the ~~department of social and rehabilitation~~ *Kansas*  
33 *department for aging and disability* services; (4) the cost of administering  
34 the state workers compensation self-insurance fund including the defense  
35 of such fund and any costs assessed to such fund in any proceeding to  
36 which it is a party; and (5) the cost of establishing and operating the state  
37 workplace health and safety program under subsection (f). For the  
38 purposes of K.S.A. 44-575 through 44-580, and amendments thereto, all  
39 state agencies are hereby deemed to be a single employer whose liabilities  
40 specified in this section are hereby imposed solely upon the state workers  
41 compensation self-insurance fund and such employer is hereby declared to  
42 be a fully authorized and qualified self-insurer under K.S.A. 44-532, and  
43 amendments thereto, but such employer shall not be required to make any

1 reports thereunder.

2 (d) The secretary of administration shall administer the state workers  
3 compensation self-insurance fund and all payments from such fund shall  
4 be upon warrants of the director of accounts and reports issued pursuant to  
5 vouchers approved by the secretary of administration or a person or  
6 persons designated by the secretary. The director of accounts and reports  
7 may issue warrants pursuant to vouchers approved by the secretary for  
8 payments from the state workers compensation self-insurance fund  
9 notwithstanding the fact that claims for such payments were not submitted  
10 or processed for payment from money appropriated for the fiscal year in  
11 which the state workers compensation self-insurance fund first became  
12 liable to make such payments.

13 (e) The secretary of administration shall remit all moneys received by  
14 or for the secretary in the capacity as administrator of the state workers  
15 compensation self-insurance fund, to the state treasurer in accordance with  
16 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
17 of each such remittance, the state treasurer shall deposit the entire amount  
18 in the state treasury to the credit of the state workers compensation self-  
19 insurance fund.

20 (f) There is hereby established the state workplace health and safety  
21 program within the state workers compensation self-insurance program of  
22 the department of administration. The secretary of administration shall  
23 implement and administer the state workplace health and safety program  
24 for state agencies. The state workplace health and safety program shall  
25 include, but not be limited to:

26 (1) Workplace health and safety hazard surveys in all state agencies,  
27 including onsite interviews with employees;

28 (2) workplace health and safety hazard prevention services, including  
29 inspection and consultation services;

30 (3) procedures for identifying and controlling workplace hazards;

31 (4) development and dissemination of health and safety informational  
32 materials, plans, rules and work procedures; and

33 (5) training for supervisors and employees in healthful and safe work  
34 practices.

35 Sec. 219. K.S.A. 2012 Supp. 44-577 is hereby amended to read as  
36 follows: 44-577. (a) All claims for compensation under the workers  
37 compensation act against any state agency for claims arising on and after  
38 July 1, 1974, and claims for compensation remaining from the self-  
39 insurance program which existed prior to July 1, 1974, for institutional  
40 employees of the ~~division of mental health and retardation services~~  
41 *commission of community services and programs* of the ~~department of~~  
42 ~~social and rehabilitation~~ *Kansas department for aging and disability*  
43 services shall be made against the state workers compensation self-



1 insurance fund. Such claims shall be served upon the secretary of  
2 administration in the secretary's capacity as administrator of the state  
3 workers compensation self-insurance fund in the manner provided for  
4 claims against other employers under the workers compensation act. The  
5 chief attorney for the department of administration, or another attorney of  
6 the department of administration designated by the chief attorney, shall  
7 represent and defend the state workers compensation self-insurance fund  
8 in all proceedings under the workers compensation act.

9 (b) The secretary of administration shall investigate, or cause to be  
10 investigated, each claim for compensation against the state workers  
11 compensation self-insurance fund. For the purposes of such investigations,  
12 the secretary of administration is authorized to obtain expert medical  
13 advice regarding the injuries, occupational diseases and disabilities  
14 involved in such claims. If, based upon such investigation and any other  
15 available information, the secretary of administration finds that there is no  
16 material dispute as to any issue involved in the claim, that the claim is  
17 valid and that the claim should be settled by agreement, the secretary of  
18 administration may proceed to enter into such an agreement with the  
19 claimant, for the state workers compensation self-insurance fund. Any  
20 such agreement may provide for lump-sum settlements subject to approval  
21 by the director and all such agreements shall be filed in the office of the  
22 director for approval as provided in K.S.A. 44-527, and amendments  
23 thereto. All other claims for compensation against such fund shall be paid  
24 in accordance with the workers compensation act pursuant to final awards  
25 or orders of an administrative law judge or the board or pursuant to orders  
26 and findings of the director under the workers compensation act.

27 (c) For purposes of the workers compensation act, a volunteer  
28 member of a regional emergency medical response team as provided in  
29 K.S.A. 48-928, and amendments thereto, shall be considered a person in  
30 the service of the state in connection with authorized training and upon  
31 activation for emergency response, except when such duties arise in the  
32 course of employment or as a volunteer for an employer other than the  
33 state.

34 Sec. 220. K.S.A. 2012 Supp. 46-922 is hereby amended to read as  
35 follows: 46-922. (a) As used in this section and in K.S.A. 46-923, and  
36 amendments thereto, the term "state agency" shall have the meaning  
37 ascribed thereto in K.S.A. 75-3701, and amendments thereto.

38 (b) The head of any state agency is authorized to make payment to  
39 the officers or employees of such state agency for property damage or loss  
40 occurring while that officer or employee is acting within the scope of such  
41 office or employment if such property loss or damage, in the opinion of the  
42 state agency head, did not occur as a result of negligence of the claimant.

43 (c) Except as otherwise provided by this section, the head of any state

1 agency is authorized to make payment to any other person for personal  
2 injury or property damage or loss occurring under circumstances which  
3 establish, in the state agency head's opinion, that such damage or loss was  
4 caused by the negligence of the state or any agency, officer or employee  
5 thereof. The secretary of ~~social and rehabilitation services~~ *for children and*  
6 *families* is authorized to make payment from funds appropriated to the  
7 secretary for the homemaker program to any person for personal injury or  
8 property damage or loss caused by an act of a homemaker employed by  
9 the secretary.

10 (d) Except as otherwise provided by this section, no payment shall be  
11 made under this section on any claim for an amount in excess of \$1,000 or  
12 in any amount on a claim by a person who is an insurer and who is making  
13 the claim as a subrogee for all or part of any amount paid to such person's  
14 insured.

15 (e) The vice-chancellor of the university of Kansas medical center is  
16 authorized to make payment in an amount of not more than \$2,500 to any  
17 other person for a claim made against the hospital of the university of  
18 Kansas medical center for personal injury or property damage or loss  
19 occurring under circumstances which establish, in the vice-chancellor's  
20 opinion, that ~~(1)~~ such damage or loss was caused by the negligence of the  
21 hospital of the university of Kansas medical center or any officer or  
22 employee thereof or ~~(2)~~ that such damage or loss occurred at the hospital  
23 of the university of Kansas medical center and it is in the best interests of  
24 such hospital to make such payment. No payment shall be made under this  
25 subsection in any amount on a claim by a person who is an insurer and  
26 who is making the claim as a subrogee for all or part of any amount paid to  
27 such person's insured.

28 (f) No payment shall be made under this section for any loss  
29 sustained to a state employee's personal conveyance, or any related  
30 expense, when the conveyance was used on official state business.

31 (g) The superintendent of the Kansas highway patrol is authorized to  
32 make payment in an amount of not more than \$2,500 to any other person  
33 for a claim made against the Kansas highway patrol for personal injury or  
34 property damage or loss occurring under circumstances which establish, in  
35 the superintendent's opinion, that such damage or loss occurred during law  
36 enforcement efforts by the Kansas highway patrol to persons who were not  
37 negligent during such effort. No information filed pursuant to this  
38 subsection, testimony or evidence presented to the Kansas highway patrol,  
39 or determination, finding or recommendation of the superintendent shall  
40 be admissible in any subsequent civil or criminal proceeding. The Kansas  
41 highway patrol is authorized to adopt rules and regulations to implement  
42 this subsection.

43 Sec. 221. K.S.A. 2012 Supp. 46-1208e is hereby amended to read as

1 follows: 46-1208e. (a) The legislative educational planning committee in  
2 collaboration with the 2010 commission shall study and make  
3 recommendations relating to early childhood education. The committee  
4 and commission shall:

5 (1) Develop a coordinated, comprehensive system for the delivery of  
6 early childhood education services;

7 (2) identify priorities for early childhood education services;

8 (3) identify barriers to service and gaps in service due to strict  
9 definition of boundaries between departments and agencies;

10 (4) facilitate interagency and interdepartmental cooperation toward  
11 the common goal of serving children;

12 (5) investigate and identify methodologies for the combining of funds  
13 across departmental boundaries to better serve children;

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

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

18 (8) determine whether a centralized internet-based reporting system  
19 would provide a more efficient and effective system to comply with  
20 reporting requirements imposed by law;

21 (9) make recommendations relating to the design of a universal  
22 application form and single point of access for families in need of early  
23 childhood education services;

24 (10) evaluate and report on the performance and cost effectiveness of  
25 early childhood education services and make recommendations necessary  
26 to ensure that private entities and public agencies are accountable for the  
27 progress of children and that such services produce high quality  
28 opportunities for children;

29 (11) make recommendations to improve communication with local  
30 agencies which provide early childhood education services in order to  
31 keep such local agencies informed of the availability of state and federal  
32 moneys for early childhood education services and make  
33 recommendations to assist such local agencies in obtaining such state and  
34 federal moneys and the utilization of such moneys so as to avoid waste and  
35 abuse;

36 (12) conduct hearings to receive a wide variety of input from  
37 individuals and groups affected by and concerned with the quality,  
38 efficiency and cost of early childhood education services; and

39 (13) prepare a plan which recommends the establishment by January  
40 1, 2009, of the office of early childhood education and the manner in  
41 which such office should be structured.

42 (b) For the purposes of conducting the study required by subsection  
43 (a), the commissioner of education, the secretary of the Kansas department

1 of health and environment, the secretary of the state department of social  
2 and rehabilitation services for children and families and the executive  
3 director of the Kansas children's cabinet shall be ex officio members of the  
4 legislative educational planning committee and the 2010 commission.

5 (c) On or before December 31, 2007, the legislative educational  
6 planning committee shall submit a report of its activities to the governor  
7 and the legislature. Such report shall include the recommendations adopted  
8 by the committee and the 2010 commission and a copy of the plan adopted  
9 pursuant to paragraph (13) of subsection (a). The report shall include  
10 recommendations for changes in the law which are necessary to implement  
11 such recommendations and plan.

12 Sec. 222. K.S.A. 2012 Supp. 46-2801 is hereby amended to read as  
13 follows: 46-2801. (a) There is hereby created the joint committee on  
14 corrections and juvenile justice oversight which shall be within the  
15 legislative branch of state government and which shall be composed of no  
16 more than seven members of the senate and seven members of the house  
17 of representatives.

18 (b) The senate members shall be appointed by the president and the  
19 minority leader. The two major political parties shall have proportional  
20 representation on such committee. In the event application of the  
21 preceding sentence results in a fraction, the party having a fraction  
22 exceeding .5 shall receive representation as though such fraction were a  
23 whole number.

24 (c) The seven representative members shall be appointed as follows:

25 (1) Two members shall be members of the majority party who are  
26 members of the house committee on appropriations and shall be appointed  
27 by the speaker;

28 (2) two members shall be members of the majority party who are  
29 members of the house committee on judiciary and shall be appointed by  
30 the speaker; and

31 (3) three members shall be members of the minority party who are  
32 members of the house committee on appropriations or the house  
33 committee on judiciary and shall be appointed by the minority leader.

34 (d) Any vacancy in the membership of the joint committee on  
35 corrections and juvenile justice oversight shall be filled by appointment in  
36 the manner prescribed by this section for the original appointment.

37 (e) All members of the joint committee on corrections and juvenile  
38 justice oversight shall serve for terms ending on the first day of the regular  
39 legislative session in odd-numbered years. The joint committee shall  
40 organize annually and elect a chairperson and vice-chairperson in  
41 accordance with this subsection. During odd-numbered years, the  
42 chairperson shall be one of the representative members of the joint  
43 committee elected by the members of the joint committee and the vice-

1 chairperson shall be one of the senate members elected by the members of  
2 the joint committee. During even-numbered years, the chairperson shall be  
3 one of the senate members of the joint committee elected by the members  
4 of the joint committee and the vice-chairperson shall be one of the  
5 representative members of the joint committee elected by the members of  
6 the joint committee. The vice-chairperson shall exercise all of the powers  
7 of the chairperson in the absence of the chairperson. If a vacancy occurs in  
8 the office of chairperson or vice-chairperson, a member of the joint  
9 committee, who is a member of the same house as the member who  
10 vacated the office, shall be elected by the members of the joint committee  
11 to fill such vacancy. Within 30 days after the effective date of this act, the  
12 joint committee shall organize and elect a chairperson and a vice-  
13 chairperson in accordance with the provisions of this act.

14 (f) A quorum of the joint committee on corrections and juvenile  
15 justice oversight shall be eight. All actions of the joint committee shall be  
16 by motion adopted by a majority of those present when there is a quorum.

17 (g) The joint committee on corrections and juvenile justice oversight  
18 may meet at any time and at any place within the state on the call of the  
19 chairperson, vice-chairperson and ranking minority member of the house  
20 of representatives when the chairperson is a representative or of the senate  
21 when the chairperson is a senator.

22 (h) The provisions of the acts contained in article 12 of chapter 46 of  
23 the Kansas Statutes Annotated, and amendments thereto, applicable to  
24 special committees shall apply to the joint committee on corrections and  
25 juvenile justice oversight to the extent that the same do not conflict with  
26 the specific provisions of this act applicable to the joint committee.

27 (i) In accordance with K.S.A. 46-1204, and amendments thereto, the  
28 legislative coordinating council may provide for such professional services  
29 as may be requested by the joint committee on corrections and juvenile  
30 justice oversight.

31 (j) The joint committee on corrections and juvenile justice oversight  
32 may introduce such legislation as it deems necessary in performing its  
33 functions.

34 (k) In addition to other powers and duties authorized or prescribed by  
35 law or by the legislative coordinating council, the joint committee on  
36 corrections and juvenile justice oversight shall:

37 (1) Monitor the inmate population and review and study the  
38 programs, activities and plans of the department of corrections regarding  
39 the duties of the department of corrections that are prescribed by statute,  
40 including the implementation of expansion projects, the operation of  
41 correctional, food service and other programs for inmates, community  
42 corrections, parole and the condition and operation of the correctional  
43 institutions and other facilities under the control and supervision of the

1 department of corrections;

2 (2) monitor the establishment of the juvenile justice authority and  
3 review and study the programs, activities and plans of the juvenile justice  
4 authority regarding the duties of the juvenile justice authority that are  
5 prescribed by statute, including the responsibility for the care, custody,  
6 control and rehabilitation of juvenile offenders and the condition and  
7 operation of the state juvenile correctional facilities under the control and  
8 supervision of the juvenile justice authority;

9 (3) review and study the adult correctional programs and activities  
10 and facilities of counties, cities and other local governmental entities,  
11 including the programs and activities of private entities operating  
12 community correctional programs and facilities and the condition and  
13 operation of jails and other local governmental facilities for the  
14 incarceration of adult offenders;

15 (4) review and study the juvenile offender programs and activities  
16 and facilities of counties, cities, school districts and other local  
17 governmental entities, including programs for the reduction and prevention  
18 of juvenile crime and delinquency, the programs and activities of private  
19 entities operating community juvenile programs and facilities and the  
20 condition and operation of local governmental residential or custodial  
21 facilities for the care, treatment or training of juvenile offenders;

22 (5) study the progress and results of the transition of powers, duties  
23 and functions from the ~~department of social and rehabilitation services~~  
24 *Kansas department for children and families*, office of judicial  
25 administration and department of corrections to the juvenile justice  
26 authority; and

27 (6) make an annual report to the legislative coordinating council as  
28 provided in K.S.A. 46-1207, and amendments thereto, and such special  
29 reports to committees of the house of representatives and senate as are  
30 deemed appropriate by the joint committee.

31 Sec. 223. K.S.A. 59-2006 is hereby amended to read as follows: 59-  
32 2006. (a) A person's spouse and the parents of a person who is a minor  
33 shall be bound by law to support the person if the person is committed to,  
34 admitted to, transferred to or received as a patient at a state institution.  
35 Payment for the maintenance, care and treatment of any patient in a state  
36 institution irrespective of the manner of such patient's admission shall be  
37 paid by the patient, by the conservator of such patient's estate or by any  
38 person bound by law to support such patient. The ~~secretary of social and~~  
39 ~~rehabilitation for aging and disability~~ services may recover the basic  
40 maximum charge established as provided for in subsection (a) of K.S.A.  
41 59-2006b, and amendments thereto, or the actual per patient costs  
42 established as provided in subsection (b) of K.S.A. 59-2006b, and  
43 amendments thereto, as compensation for the maintenance, care and

1 treatment of a patient from such patient when no legal disability exists, or  
2 from the estate of such patient or from any person bound by law to support  
3 such patient.

4 ~~(b) The secretary of social and rehabilitation~~ *for aging and disability*  
5 services shall periodically and not less than once during each fiscal year  
6 make written demand upon the patient or person liable for the amount  
7 claimed by the secretary to have accrued since the last demand was made,  
8 and no action shall be commenced by the secretary against such patient or  
9 such patient's responsible relatives for the recovery thereof unless such  
10 action is commenced within three years after the date of such written  
11 demand. When any part of the amount claimed to be due has been paid or  
12 any acknowledgment of an existing liability, debt or claim, or any promise  
13 to pay the same has been made by the obligor, an action may be brought in  
14 such case within three years after such payment, acknowledgment or  
15 promise, but such acknowledgment or promise must be in writing signed  
16 by the party to be charged thereby. If there are two or more joint debtors,  
17 no one of whom is entitled to act as the agent of the others, no such joint  
18 debtor shall lose the benefit of the statute of limitations so as to be  
19 chargeable by reason of any acknowledgment, promise or payment made  
20 by any other or others of them, unless done with the knowledge and  
21 consent of, or ratified by, the joint debtor sought to be charged. The  
22 secretary may accept voluntary payments from patients or relatives or  
23 from any source, even though the payments are in excess of required  
24 amounts and shall deposit the same as provided by law.

25 ~~(c) The secretary of social and rehabilitation~~ *for aging and disability*  
26 services shall have the power to compromise and settle any claim due or  
27 claimed to be due from such patient or such patient's relatives who are  
28 liable for the patient's care, maintenance and treatment and upon payment  
29 of a valuable consideration by the patient or the persons bound by law to  
30 support such patient, may discharge and release the patient or relative of  
31 any or all past liability herein. Whenever the secretary shall negotiate a  
32 compromise agreement to settle any claim due or claimed to be due from a  
33 patient or such patient's relatives responsible under this act to support the  
34 patient, no action shall thereafter be brought or claim made for any  
35 amounts due for the care, maintenance and treatment of such patient  
36 incurred prior to the effective date of the agreement entered into, except  
37 for the amounts provided for in the agreement if the provisions of such  
38 compromise agreement are faithfully performed. In the event the terms and  
39 conditions of such compromise agreement are not complied with, such  
40 failure to comply shall serve to revive and reinstate the original amount of  
41 the claim due before negotiation of such compromise agreement, less  
42 amounts paid on the claim.

43 ~~(d) The secretary of social and rehabilitation~~ *for aging and disability*

1 services may contract with an attorney admitted to practice in this state or  
2 with any debt collection agency doing business within or without this state  
3 to assist in the collection of amounts claimed to be due under the  
4 provisions of this section. The fee for services of such attorney or debt  
5 collection agency shall be based on the amount of moneys actually  
6 collected. No fee shall be in excess of 50% of the total amount of moneys  
7 actually collected. All funds collected less the fee for services as provided  
8 in the contract shall be remitted to the secretary of ~~social and rehabilitation~~  
9 *for aging and disability* services within 45 days from the date of  
10 collection.

11 Contracts entered pursuant to this section may be negotiated by the  
12 secretary of ~~social and rehabilitation~~ *for aging and disability* services and  
13 shall not be subject to the competitive bid requirements of K.S.A. 75-3739  
14 through 75-3741, and amendments thereto.

15 (e) Before entering into a contract with a debt collection agency  
16 under subsection (d), the secretary of ~~social and rehabilitation~~ *for aging*  
17 *and disability* services shall require a bond from the debt collection agency  
18 in an amount not in excess of \$100,000 guaranteeing compliance with the  
19 terms of the contract.

20 (f) A debt collection agency entering into a contract with the secretary  
21 of ~~social and rehabilitation~~ *for aging and disability* services for the  
22 collection of amounts claimed to be due under this section shall agree that  
23 it is receiving income from sources within the state or doing business in  
24 the state for purposes of the Kansas income tax act.

25 (g) As used in this section, "state institution" has the meaning  
26 provided by K.S.A. 59-2006b, and amendments thereto.

27 (h) When a minor becomes a patient of a state institution, an  
28 assignment of all past, present and future support rights of the minor which  
29 are possessed by either parent or any other person entitled to receive  
30 support payments for the minor is conveyed by operation of law to the  
31 secretary of ~~social and rehabilitation~~ *for aging and disability* services. The  
32 assignment of support rights shall be effective upon the minor's admission  
33 as a patient of any state institution, regardless of the manner of admission,  
34 without the requirement that any written assignment or similar document  
35 be signed by the parent or other person entitled to receive support  
36 payments for the minor. When a minor becomes a patient of a state  
37 institution, the parent or other person entitled to receive support payments  
38 for the minor is also deemed to have appointed the secretary of ~~social and~~  
39 ~~rehabilitation~~ *for aging and disability* services or the secretary's designee,  
40 as attorney in fact to perform the specific act of negotiating and endorsing  
41 all drafts, checks, money orders or other negotiable instruments  
42 representing support payments on behalf of the minor. This limited power  
43 of attorney shall remain in effect until the assignment of support rights has



1 been terminated in full. For any minor who is a patient of a state institution  
2 on the effective date of this act and whose past, present and future support  
3 rights are not assigned to the secretary ~~of social and rehabilitation for~~  
4 *aging and disability* services, the assignment of support rights and limited  
5 power of attorney shall be effective on the effective date of this act if  
6 notice of the assignment is sent to the person otherwise entitled to receive  
7 support payments for the minor.

8 The assignment of support rights provided in this section shall remain  
9 in full force and effect until the minor is no longer a patient of a state  
10 institution. When the minor is no longer a patient of a state institution, the  
11 assignment shall remain in effect as to unpaid support obligations due and  
12 owing as of the last day of the month in which the minor ceases to be a  
13 patient, until the claim of the secretary ~~of social and rehabilitation for~~  
14 *aging and disability* services for the maintenance, care and treatment of  
15 the minor is satisfied. Nothing in this section shall affect or limit the rights  
16 of the secretary ~~of social and rehabilitation for aging and disability~~  
17 services under any assignment pursuant to K.S.A. 39-709, and  
18 amendments thereto.

19 Sec. 224. K.S.A. 59-2006b is hereby amended to read as follows: 59-  
20 2006b. (a) At least annually, the secretary ~~of social and rehabilitation for~~  
21 *aging and disability* services shall establish the basic maximum rate of  
22 charge for treatment of patients in each state institution, except that such  
23 rates shall not exceed projected hospital costs of the state institution,  
24 including the allocated costs of services by other state agencies, as  
25 determined by application of generally acceptable hospital accounting  
26 principles. In determining these rates, the secretary shall compute the  
27 average daily projected operating cost of treatment of all patients in each  
28 state institution and shall set a basic maximum rate of charge for each and  
29 every patient in each state institution and each such patient's responsible  
30 relatives at the average daily projected operating cost of each institution so  
31 computed. When established pursuant to this section, each such rate shall  
32 be published in the Kansas register by the secretary and thereafter, until a  
33 subsequent rate is published as provided in this section, the rates last  
34 published shall be the legal rate of charge. All courts in this state shall  
35 recognize and take judicial notice of the procedure and the rates  
36 established under this section.

37 (b) In lieu of the procedure for computing the basic maximum rate of  
38 charge established under subsection (a), the secretary ~~of social and~~  
39 ~~rehabilitation for aging and disability~~ services may authorize any state  
40 institution to compute an individual patient charge on the basis of rates for  
41 services based on cost incurred by such state institution as determined by  
42 application of generally acceptable hospital accounting principles.

43 (c) As used in this section, "state institution" means the ~~Topoka state~~

1 ~~hospital~~; Osawatomie state hospital, Rainbow mental health facility,  
2 Larned state hospital, including the state security hospital, ~~Norton state~~  
3 ~~hospital, Winfield state hospital and training center~~, Parsons state hospital  
4 and training center and the Kansas neurological institute.

5 Sec. 225. K.S.A. 59-2006c is hereby amended to read as follows: 59-  
6 2006c. Any patient or his or her relative liable for his or her support under  
7 this act may appeal to the secretary ~~of social and rehabilitation for aging~~  
8 ~~and disability~~ services pursuant to K.S.A. 75-3306, ~~and amendments~~  
9 ~~thereto~~, from any decision of the state hospital or employee of the *Kansas*  
10 ~~department of social and rehabilitation for aging and disability~~ services in  
11 compromising or refusing to compromise a claim against said patient or  
12 relative for the cost of treatment of such patient.

13 Sec. 226. K.S.A. 2012 Supp. 59-2122 is hereby amended to read as  
14 follows: 59-2122. (a) The files and records of the court in adoption  
15 proceedings shall not be open to inspection or copy by persons other than  
16 the parties in interest and their attorneys, representatives of the ~~state~~  
17 ~~department of social and rehabilitation services~~ *Kansas department for*  
18 *children and families*, and the commission on judicial performance in the  
19 discharge of the commission's duties pursuant to article 32 of chapter 20 of  
20 the Kansas Statutes Annotated, and amendments thereto, except upon an  
21 order of the court expressly permitting the same. As used in this section,  
22 "parties in interest" shall not include genetic parents once a decree of  
23 adoption is entered.

24 (b) ~~The department of social and rehabilitation services~~ *Kansas*  
25 *department for children and families* may contact the adoptive parents of  
26 the minor child or the adopted adult at the request of the genetic parents in  
27 the event of a health or medical need. ~~The department of social and~~  
28 ~~rehabilitation services~~ *Kansas department for children and families* may  
29 contact the adopted adult at the request of the genetic parents for any  
30 reason. Identifying information shall not be shared with the genetic parents  
31 without the permission of the adoptive parents of the minor child or the  
32 adopted adult. ~~The department of social and rehabilitation services~~ *Kansas*  
33 *department for children and families* may contact the genetic parents at the  
34 request of the adoptive parents of the minor child or the adopted adult in  
35 the event of a health or medical need. ~~The department of social and~~  
36 ~~rehabilitation services~~ *Kansas department for children and families* may  
37 contact the genetic parents at the request of the adopted adult for any  
38 reason.

39 Sec. 227. K.S.A. 2012 Supp. 59-2123 is hereby amended to read as  
40 follows: 59-2123. (a) Except as otherwise provided in this section:

41 (1) Any person who advertises that such person will adopt, find an  
42 adoptive home for a child or otherwise place a child for adoption shall  
43 state in such advertisement whether or not such person is licensed and if

1 licensed, under what authority such license is issued and in what  
2 profession;

3 (2) no person shall offer to adopt, find a home for or otherwise place  
4 a child as an inducement to a woman to come to such person's maternity  
5 center during pregnancy or after delivery; and

6 (3) no person shall offer to adopt, find a home for or otherwise place  
7 a child as an inducement to any parent, guardian or custodian of a child to  
8 place such child in such person's home, institution or establishment.

9 (b) The provisions of subsection (a)(1) shall not apply to the  
10 ~~department of social and rehabilitation services~~ *Kansas department for*  
11 *children and families* or to an individual seeking to adopt a child.

12 (c) As used in this section:

13 (1) "Advertise" means to communicate by newspaper, radio,  
14 television, handbills, placards or other print, broadcast, telephone directory  
15 or electronic medium.

16 (2) "Person" means an individual, firm, partnership, corporation, joint  
17 venture or other association or entity.

18 (3) "Maternity center" means the same as provided in K.S.A. 65-502,  
19 and amendments thereto.

20 (d) Any person who violates the provisions of this section shall be  
21 guilty of an unclassified misdemeanor and shall be fined not more than  
22 \$1,000 for each violation.

23 Sec. 228. K.S.A. 59-2130 is hereby amended to read as follows: 59-  
24 2130. (a) The following information shall be filed with the petition in an  
25 independent or agency adoption: (1) A complete written genetic, medical  
26 and social history of the child and the parents;

27 (2) the names, dates of birth, addresses, telephone numbers, and  
28 social security numbers of each of the child's parents, if known;

29 (3) any hospital records pertaining to the child or a properly executed  
30 authorization for release of those records; and

31 (4) the child's birth verification, which shall include the date, time  
32 and place of birth and the name of the attending physician.

33 (b) The genetic, medical and social history required by this section  
34 shall be in conformity with the rules and regulations adopted by the  
35 ~~secretary of social and rehabilitation services~~ *for children and families* and  
36 on forms provided by the secretary.

37 (c) If any information required to be filed under this section is not  
38 available, an affidavit explaining the reasons why it is not available shall  
39 be filed with the petition for adoption.

40 (d) The ~~secretary of social and rehabilitation services~~ *for children*  
41 *and families* shall adopt rules and regulations establishing procedures for  
42 updating a child's genetic, medical and social history if new information  
43 becomes known at a later date. The agency or person conducting the

1 investigation under K.S.A. 59-2132, *and amendments thereto*, shall advise  
2 in writing each of the child's biological parents, if known, of those  
3 procedures.

4 (e) Any employee or agent of the ~~department of social and~~  
5 ~~rehabilitation services~~ *Kansas department for children and families*, a  
6 child-placing agency or a district court who intentionally destroys any  
7 information required to be filed under this section is guilty of a class C  
8 misdemeanor.

9 Sec. 229. K.S.A. 2012 Supp. 59-2132 is hereby amended to read as  
10 follows: 59-2132. (a) Except as provided in subsection (h), in independent  
11 and agency adoptions, the court shall require the petitioner to obtain an  
12 assessment of the advisability of the adoption by a court approved:

13 (1) (A) Licensed social worker, licensed specialist social worker,  
14 licensed specialist clinical social worker, licensed masters social worker,  
15 licensed baccalaureate social worker or licensed associate social worker  
16 licensed by the behavioral sciences regulatory board;

17 (B) licensed clinical marriage and family therapist as defined in  
18 K.S.A. 65-6402, and amendments thereto;

19 (C) licensed marriage and family therapist as defined in K.S.A. 65-  
20 6402, and amendments thereto;

21 (D) licensed clinical professional counselor as defined in K.S.A. 65-  
22 5802, and amendments thereto;

23 (E) licensed professional counselor as defined in K.S.A. 65-5802, and  
24 amendments thereto;

25 (F) licensed psychologist as defined in K.S.A. 65-6319, and  
26 amendments thereto;

27 (G) licensed masters level psychologist as defined in K.S.A. 74-5362,  
28 and amendments thereto;

29 (H) licensed clinical psychotherapist as defined in K.S.A. 74-5363,  
30 and amendments thereto; or

31 (I) a licensed child-placing agency.

32 (2) Any person performing an assessment pursuant to this subsection  
33 shall:

34 (A) Possess a minimum of two years experience in adoption services  
35 or be supervised by a person with such experience; or

36 (B) if licensed by the behavioral sciences regulatory board to  
37 diagnose and treat mental disorders in independent practice, possess a  
38 minimum of one year of experience in adoption services or be supervised  
39 by a person with such experience.

40 (b) The petitioner shall file with the court, not less than 10 days  
41 before the hearing on the petition, a report of the assessment and, if  
42 necessary, confirmation or clarification of the information filed under  
43 K.S.A. 59-2130, and amendments thereto.

1 (c) If there is no one authorized pursuant to this section available to  
2 make the assessment and report to the court, the court may use the  
3 ~~department of social and rehabilitation services~~ *Kansas department for*  
4 *children and families* for that purpose.

5 (d) The costs of making the assessment and report may be assessed as  
6 court costs in the case as provided in article 20 of chapter 60 of the Kansas  
7 Statutes Annotated, and amendments thereto.

8 (e) In making the assessment, the person authorized pursuant to this  
9 section or ~~department of social and rehabilitation services~~ *Kansas*  
10 *department for children and families* is authorized to observe the child in  
11 the petitioner's home, verify financial information of the petitioner, shall  
12 clear the name of the petitioner with the child abuse and neglect registry  
13 through the ~~department of social and rehabilitation services~~ *Kansas*  
14 *department for children and families* and, when appropriate, with a similar  
15 registry in another state or nation, shall determine whether the petitioner  
16 has been convicted of a felony for any act described in articles 34, 35 or 36  
17 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or  
18 articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or  
19 K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-  
20 6421, and amendments thereto, or, within the last five years been  
21 convicted of a felony violation of K.S.A. 2010 Supp. 21-36a01 through  
22 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas  
23 Statutes Annotated, and amendments thereto, or any felony violation of  
24 any provision of the uniform controlled substances act prior to July 1,  
25 2009, and, when appropriate, any similar conviction in another  
26 jurisdiction, and to contact the agency or individuals consenting to the  
27 adoption and confirm and, if necessary, clarify any genetic and medical  
28 history filed with the petition. This information shall be made a part of the  
29 report to the court. The report to the court by any person authorized  
30 pursuant to this section to perform this assessment shall include the results  
31 of the investigation of the petitioner, the petitioner's home and the ability  
32 of the petitioner to care for the child.

33 (f) In the case of a nonresident who is filing a petition to adopt a child  
34 in Kansas, the assessment and report required by this section must be  
35 completed in the petitioner's state of residence by a person authorized in  
36 that state to conduct such assessments. Such report shall be filed with the  
37 court not less than 10 days before the hearing on the petition.

38 (g) The assessment and report required by this section shall comply  
39 with any applicable rules and regulations of the department of health and  
40 environment and shall have been completed not more than one year prior  
41 to the filing of the petition for adoption.

42 (h) The assessment and report required by this section may be waived  
43 by the court upon: (1) Review of a petition requesting such waiver by a

1 relative of the child; or

2 (2) the court's own motion.

3 Sec. 230. K.S.A. 59-2135 is hereby amended to read as follows: 59-  
4 2135. The clerk of each district court shall provide a copy of the decree of  
5 adoption, a copy of the report of adoption required in K.S.A. 59-2119, *and*  
6 *amendments thereto*, and a copy of the information required in K.S.A. 59-  
7 2130, *and amendments thereto*, pertaining to any adoption of a minor to  
8 the secretary ~~of social and rehabilitation services for children and families~~.  
9 All information pertaining to adoptions of minors required to be provided  
10 to the secretary ~~of social and rehabilitation services for children and~~  
11 ~~families~~ shall be maintained by the secretary and shall be subject to  
12 disclosure to the same extent as files and records of the court under K.S.A.  
13 59-2122, *and amendments thereto*.

14 Sec. 231. K.S.A. 59-2801 is hereby amended to read as follows: 59-  
15 2801. If any otherwise qualified applicant for, or recipient of old age  
16 assistance, aid to the blind, aid to the permanently and totally disabled, or  
17 general assistance or payee in the case of aid to dependent children, is or  
18 shall become unable to manage the assistance payments, or otherwise fails  
19 so to manage, to the extent that deprivation or hazard to himself or herself  
20 or others results, or, in the case of aid to dependent children, the payment  
21 is not being used for the children, a petition may be filed by the secretary  
22 ~~of social and rehabilitation services for children and families~~ wherein  
23 the applicant or recipient has residence before the district court of that county  
24 in the form of a verified written application for the appointment of a  
25 personal representative not an employee of the ~~department of social and~~  
26 ~~rehabilitation services~~ *Kansas department for children and families*, for the  
27 purpose of receiving and managing public assistance payments for any  
28 such recipient or payee, which verified application shall allege one or  
29 more of the above grounds for the legal appointment of such  
30 representative.

31 Sec. 232. K.S.A. 59-2803 is hereby amended to read as follows: 59-  
32 2803. If the court shall find that the applicant, recipient, or payee is unable  
33 to manage the assistance payments, or otherwise fails so to manage, to the  
34 extent that deprivation or hazard to himself or herself or others results, or,  
35 in case of aid to dependent children, the payment is not being used for the  
36 children, the court may thereupon enter an order embracing said findings  
37 and appointing some responsible person not an employee of the secretary  
38 ~~of social and rehabilitation services for children and families~~, as personal  
39 representative of the applicant, recipient or payee for the purpose set forth  
40 herein. The appointment shall not have the effect of adjudication that the  
41 applicant, recipient or payee is an incapacitated person.

42 Sec. 233. K.S.A. 2012 Supp. 59-2946 is hereby amended to read as  
43 follows: 59-2946. When used in the care and treatment act for mentally ill

1 persons:

2 (a) "Discharge" means the final and complete release from treatment,  
3 by either the head of a treatment facility acting pursuant to K.S.A. 59-  
4 2950, and amendments thereto, or by an order of a court issued pursuant to  
5 K.S.A. 59-2973, and amendments thereto.

6 (b) "Head of a treatment facility" means the administrative director of  
7 a treatment facility or such person's designee.

8 (c) "Law enforcement officer" shall have the meaning ascribed to it in  
9 K.S.A. 22-2202, and amendments thereto.

10 (d) (1) "Mental health center" means any community mental health  
11 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-  
12 4015, and amendments thereto, or mental health clinic organized pursuant  
13 to the provisions of K.S.A. 65-211 through 65-215, and amendments  
14 thereto, or a mental health clinic organized as a not-for-profit or a for-  
15 profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and  
16 amendments thereto, or K.S.A. 17-6001 through 17-6010, and  
17 amendments thereto, and licensed in accordance with the provisions of  
18 K.S.A. 75-3307b, and amendments thereto.

19 (2) "Participating mental health center" means a mental health center  
20 which has entered into a contract with the secretary ~~of social and~~  
21 ~~rehabilitation for aging and disability~~ services pursuant to the provisions  
22 of K.S.A. 39-1601 through 39-1612, and amendments thereto.

23 (e) "Mentally ill person" means any person who is suffering from a  
24 mental disorder which is manifested by a clinically significant behavioral  
25 or psychological syndrome or pattern and associated with either a painful  
26 symptom or an impairment in one or more important areas of functioning,  
27 and involving substantial behavioral, psychological or biological  
28 dysfunction, to the extent that the person is in need of treatment.

29 (f) (1) "Mentally ill person subject to involuntary commitment for  
30 care and treatment" means a mentally ill person, as defined in subsection  
31 (e), who also lacks capacity to make an informed decision concerning  
32 treatment, is likely to cause harm to self or others, and whose diagnosis is  
33 not solely one of the following mental disorders: Alcohol or chemical  
34 substance abuse; antisocial personality disorder; intellectual disability;  
35 organic personality syndrome; or an organic mental disorder.

36 (2) "Lacks capacity to make an informed decision concerning  
37 treatment" means that the person, by reason of the person's mental  
38 disorder, is unable, despite conscientious efforts at explanation, to  
39 understand basically the nature and effects of hospitalization or treatment  
40 or is unable to engage in a rational decision-making process regarding  
41 hospitalization or treatment, as evidenced by an inability to weigh the  
42 possible risks and benefits.

43 (3) "Likely to cause harm to self or others" means that the person, by

1 reason of the person's mental disorder: (A) Is likely, in the reasonably  
2 foreseeable future, to cause substantial physical injury or physical abuse to  
3 self or others or substantial damage to another's property, as evidenced by  
4 behavior threatening, attempting or causing such injury, abuse or damage;  
5 except that if the harm threatened, attempted or caused is only harm to the  
6 property of another, the harm must be of such a value and extent that the  
7 state's interest in protecting the property from such harm outweighs the  
8 person's interest in personal liberty; or (B) is substantially unable, except  
9 for reason of indigency, to provide for any of the person's basic needs,  
10 such as food, clothing, shelter, health or safety, causing a substantial  
11 deterioration of the person's ability to function on the person's own.

12 No person who is being treated by prayer in the practice of the religion  
13 of any church which teaches reliance on spiritual means alone through  
14 prayer for healing shall be determined to be a mentally ill person subject to  
15 involuntary commitment for care and treatment under this act unless  
16 substantial evidence is produced upon which the district court finds that  
17 the proposed patient is likely in the reasonably foreseeable future to cause  
18 substantial physical injury or physical abuse to self or others or substantial  
19 damage to another's property, as evidenced by behavior threatening,  
20 attempting or causing such injury, abuse or damage; except that if the harm  
21 threatened, attempted or caused is only harm to the property of another, the  
22 harm must be of such a value and extent that the state's interest in  
23 protecting the property from such harm outweighs the person's interest in  
24 personal liberty.

25 (g) "Patient" means a person who is a voluntary patient, a proposed  
26 patient or an involuntary patient.

27 (1) "Voluntary patient" means a person who is receiving treatment at  
28 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

29 (2) "Proposed patient" means a person for whom a petition pursuant  
30 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

31 (3) "Involuntary patient" means a person who is receiving treatment  
32 under order of a court or a person admitted and detained by a treatment  
33 facility pursuant to an application filed pursuant to subsection (b) or (c) of  
34 K.S.A. 59-2954, and amendments thereto.

35 (h) "Physician" means a person licensed to practice medicine and  
36 surgery as provided for in the Kansas healing arts act or a person who is  
37 employed by a state psychiatric hospital or by an agency of the United  
38 States and who is authorized by law to practice medicine and surgery  
39 within that hospital or agency.

40 (i) "Psychologist" means a licensed psychologist, as defined by  
41 K.S.A. 74-5302, and amendments thereto.

42 (j) "Qualified mental health professional" means a physician or  
43 psychologist who is employed by a participating mental health center or



1 who is providing services as a physician or psychologist under a contract  
2 with a participating mental health center, a licensed masters level  
3 psychologist, a licensed clinical psychotherapist, a licensed marriage and  
4 family therapist, a licensed clinical marriage and family therapist, a  
5 licensed professional counselor, a licensed clinical professional counselor,  
6 a licensed specialist social worker or a licensed master social worker or a  
7 registered nurse who has a specialty in psychiatric nursing, who is  
8 employed by a participating mental health center and who is acting under  
9 the direction of a physician or psychologist who is employed by, or under  
10 contract with, a participating mental health center.

11 (1) "Direction" means monitoring and oversight including regular,  
12 periodic evaluation of services.

13 (2) "Licensed master social worker" means a person licensed as a  
14 master social worker by the behavioral sciences regulatory board under  
15 K.S.A. 65-6301 through 65-6318, and amendments thereto.

16 (3) "Licensed specialist social worker" means a person licensed in a  
17 social work practice specialty by the behavioral sciences regulatory board  
18 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

19 (4) "Licensed masters level psychologist" means a person licensed as  
20 a licensed masters level psychologist by the behavioral sciences regulatory  
21 board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

22 (5) "Registered nurse" means a person licensed as a registered  
23 professional nurse by the board of nursing under K.S.A. 65-1113 through  
24 65-1164, and amendments thereto.

25 (k) "Secretary" means the secretary ~~of social and rehabilitation for~~  
26 *aging and disability services.*

27 (l) "State psychiatric hospital" means Larned state hospital,  
28 Osawatomie state hospital; *or* Rainbow mental health facility ~~or Topeka~~  
29 ~~state hospital.~~

30 (m) "Treatment" means any service intended to promote the mental  
31 health of the patient and rendered by a qualified professional, licensed or  
32 certified by the state to provide such service as an independent practitioner  
33 or under the supervision of such practitioner.

34 (n) "Treatment facility" means any mental health center or clinic,  
35 psychiatric unit of a medical care facility, state psychiatric hospital,  
36 psychologist, physician or other institution or person authorized or  
37 licensed by law to provide either inpatient or outpatient treatment to any  
38 patient.

39 (o) The terms defined in K.S.A. 59-3051, and amendments thereto,  
40 shall have the meanings provided by that section.

41 Sec. 234. K.S.A. 59-2963 is hereby amended to read as follows: 59-  
42 2963. (a) Notice as required by subsection (a)(6) of K.S.A. 59-2960, and  
43 amendments thereto, shall be given to the proposed patient named in the

1 petition, the proposed patient's legal guardian if there is one, the attorney  
2 appointed to represent the proposed patient, the proposed patient's spouse  
3 or nearest relative and to such other persons as the court directs. The notice  
4 shall also be given to the participating mental health center for the county  
5 where the proposed patient resides.

6 (b) The notice shall state:

7 (1) That a petition has been filed, alleging that the proposed patient is  
8 a mentally ill person subject to involuntary commitment for care and  
9 treatment under the act and requesting that the court order treatment;

10 (2) the date, time and place of the trial;

11 (3) the name of the attorney appointed to represent the proposed  
12 patient and the time and place where the proposed patient shall have the  
13 opportunity to consult with this attorney;

14 (4) that the proposed patient has a right to a jury trial if a written  
15 demand for such is filed with the court at least four days prior to the time  
16 set for trial; and

17 (5) that if the proposed patient demands a jury trial, the trial date may  
18 have to be continued by the court for a reasonable time in order to empanel  
19 a jury, but that this continuance will not exceed 30 days from the date of  
20 the filing of the demand.

21 (c) The court may order any of the following persons to serve the  
22 notice upon the proposed patient:

23 (1) The physician or psychologist currently administering to the  
24 proposed patient, if the physician or psychologist consents to doing so;

25 (2) the head of the participating mental health center or the designee  
26 thereof;

27 (3) the local health officer or such officer's designee;

28 (4) ~~the secretary of social and rehabilitation~~ *for aging and disability*  
29 services or the secretary's designee if the proposed patient is being  
30 detained at a state psychiatric hospital;

31 (5) any law enforcement officer; or

32 (6) the attorney of the proposed patient.

33 (d) The notice shall be served personally on the proposed patient as  
34 soon as possible, but not less than six days prior to the date of the trial, and  
35 immediate return thereof shall be made to the court by the person serving  
36 notice. Unless otherwise ordered by the court, notice shall be served on the  
37 proposed patient by a nonuniformed person.

38 (e) Notice to all other persons may be made by mail or in such other  
39 manner as directed by the court.

40 Sec. 235. K.S.A. 59-2968 is hereby amended to read as follows: 59-  
41 2968. (a) All admissions to a state psychiatric hospital upon any order of a  
42 court shall be to the state psychiatric hospital designated by the secretary  
43 ~~of social and rehabilitation~~ *for aging and disability* services. The time and

1 manner of the admission shall be arranged by the participating mental  
2 health center authorizing such admission and coordinated with the hospital  
3 and the official or agent who shall transport the person.

4 (b) No patient shall be admitted to a state psychiatric hospital  
5 pursuant to any of the provisions of this act, including any court-ordered  
6 admissions, if the secretary has notified the supreme court of the state of  
7 Kansas and each district court which has jurisdiction over all or part of the  
8 catchment area served by a state psychiatric hospital, that the census of a  
9 particular treatment program of that state psychiatric hospital has reached  
10 capacity and that no more patients may be admitted. Following notification  
11 that a state psychiatric hospital program has reached its capacity and no  
12 more patients may be admitted, any district court which has jurisdiction  
13 over all or part of the catchment area served by that state psychiatric  
14 hospital, and any participating mental health center which serves all or part  
15 of that same catchment area, may request that patients needing that  
16 treatment program be placed on a waiting list maintained by that state  
17 psychiatric hospital.

18 (c) In each such case, as a vacancy at that state psychiatric hospital  
19 occurs, the district court and participating mental health center shall be  
20 notified, in the order of their previous requests for placing a patient on the  
21 waiting list, that a patient may be admitted to the state psychiatric hospital.  
22 As soon as the state psychiatric hospital is able to admit patients on a  
23 regular basis to a treatment program for which notice has been previously  
24 given under this section, the superintendent of the state psychiatric hospital  
25 shall inform the supreme court and each affected district court that the  
26 moratorium on admissions is no longer in effect.

27 Sec. 236. K.S.A. 2012 Supp. 59-2972 is hereby amended to read as  
28 follows: 59-2972. (a) The secretary ~~of social and rehabilitation~~ *for aging*  
29 *and disability* services or the secretary's designee may transfer any patient  
30 from any state psychiatric hospital under the secretary's control to any  
31 other state psychiatric hospital whenever the secretary or the secretary's  
32 designee considers it to be in the best interests of the patient. Except in the  
33 case of an emergency, the patient's spouse or nearest relative or legal  
34 guardian, if one has been appointed, shall be notified of the transfer, and  
35 notice shall be sent to the committing court not less than 14 days before  
36 the proposed transfer. The notice shall name the hospital to which the  
37 patient is proposed to be transferred to and state that, upon request of the  
38 spouse or nearest relative or legal guardian, an opportunity for a hearing  
39 on the proposed transfer will be provided by the secretary ~~of social and~~  
40 ~~rehabilitation~~ *for aging and disability* services prior to such transfer.

41 (b) The secretary ~~of social and rehabilitation~~ *for aging and disability*  
42 services or the designee of the secretary may transfer any involuntary  
43 patient from any state psychiatric hospital to any state institution for

1 people with intellectual disability whenever the secretary ~~of social and~~  
2 ~~rehabilitation for aging and disability~~ services or the designee of the  
3 secretary considers it to be in the best interests of the patient. Any patient  
4 transferred as provided for in this subsection shall remain subject to the  
5 same statutory provisions as were applicable at the psychiatric hospital  
6 from which the patient was transferred and in addition thereto shall abide  
7 by and be subject to all the rules and regulations of the institution for  
8 people with intellectual disability to which the patient has been transferred.  
9 Except in the case of an emergency, the patient's spouse or nearest relative  
10 or legal guardian, if one has been appointed, shall be notified of the  
11 transfer, and notice shall be sent to the committing court not less than 14  
12 days before the proposed transfer. The notice shall name the institution to  
13 which the patient is proposed to be transferred to and state that, upon  
14 request of the spouse or nearest relative or legal guardian, an opportunity  
15 for a hearing on the proposed transfer will be provided by the secretary ~~of~~  
16 ~~social and rehabilitation for aging and disability~~ services prior to such  
17 transfer. No patient shall be transferred from a state psychiatric hospital to  
18 a state institution for people with intellectual disability unless the  
19 superintendent of the receiving institution has found, pursuant to K.S.A.  
20 76-12b01 through 76-12b11, and amendments thereto, that the patient is a  
21 person with intellectual disability and in need of care and training and that  
22 placement in the institution is the least restrictive alternative available.  
23 Nothing in this subsection shall prevent the secretary ~~of social and~~  
24 ~~rehabilitation for aging and disability~~ services or the designee of the  
25 secretary from allowing a patient at a state psychiatric hospital to be  
26 admitted as a voluntary resident to a state institution for people with  
27 intellectual disability, or from then discharging such person from the state  
28 psychiatric hospital pursuant to K.S.A. 59-2973, and amendments thereto,  
29 as may be appropriate.

30 Sec. 237. K.S.A. 2012 Supp. 59-2978 is hereby amended to read as  
31 follows: 59-2978. (a) Every patient being treated in any treatment facility,  
32 in addition to all other rights preserved by the provisions of this act, shall  
33 have the following rights:

34 (1) To wear the patient's own clothes, keep and use the patient's own  
35 personal possessions including toilet articles and keep and be allowed to  
36 spend the patient's own money;

37 (2) to communicate by all reasonable means with a reasonable  
38 number of persons at reasonable hours of the day and night, including both  
39 to make and receive confidential telephone calls, and by letter, both to mail  
40 and receive unopened correspondence, except that if the head of the  
41 treatment facility should deny a patient's right to mail or to receive  
42 unopened correspondence under the provisions of subsection (b), such  
43 correspondence shall be opened and examined in the presence of the

1 patient;

2 (3) to conjugal visits if facilities are available for such visits;

3 (4) to receive visitors in reasonable numbers and at reasonable times  
4 each day;

5 (5) to refuse involuntary labor other than the housekeeping of the  
6 patient's own bedroom and bathroom, provided that nothing herein shall be  
7 construed so as to prohibit a patient from performing labor as a part of a  
8 therapeutic program to which the patient has given their written consent  
9 and for which the patient receives reasonable compensation;

10 (6) not to be subject to such procedures as psychosurgery,  
11 electroshock therapy, experimental medication, aversion therapy or  
12 hazardous treatment procedures without the written consent of the patient  
13 or the written consent of a parent or legal guardian, if such patient is a  
14 minor or has a legal guardian provided that the guardian has obtained  
15 authority to consent to such from the court which has venue over the  
16 guardianship following a hearing held for that purpose;

17 (7) to have explained, the nature of all medications prescribed, the  
18 reason for the prescription and the most common side effects and, if  
19 requested, the nature of any other treatments ordered;

20 (8) to communicate by letter with the secretary ~~of social and~~  
21 ~~rehabilitation for aging and disability~~ services, the head of the treatment  
22 facility and any court, attorney, physician, psychologist, or minister of  
23 religion, including a Christian Science practitioner. All such  
24 communications shall be forwarded at once to the addressee without  
25 examination and communications from such persons shall be delivered to  
26 the patient without examination;

27 (9) to contact or consult privately with the patient's physician or  
28 psychologist, minister of religion, including a Christian Science  
29 practitioner, legal guardian or attorney at any time and if the patient is a  
30 minor, their parent;

31 (10) to be visited by the patient's physician, psychologist, minister of  
32 religion, including a Christian Science practitioner, legal guardian or  
33 attorney at any time and if the patient is a minor, their parent;

34 (11) to be informed orally and in writing of their rights under this  
35 section upon admission to a treatment facility; and

36 (12) to be treated humanely consistent with generally accepted ethics  
37 and practices.

38 (b) The head of the treatment facility may, for good cause only,  
39 restrict a patient's rights under this section, except that the rights  
40 enumerated in subsections (a)(5) through (a)(12), and the right to mail any  
41 correspondence which does not violate postal regulations, shall not be  
42 restricted by the head of the treatment facility under any circumstances.  
43 Each treatment facility shall adopt regulations governing the conduct of all

1 patients being treated in such treatment facility, which regulations shall be  
2 consistent with the provisions of this section. A statement explaining the  
3 reasons for any restriction of a patient's rights shall be immediately entered  
4 on such patient's medical record and copies of such statement shall be  
5 made available to the patient or to the parent, or legal guardian if such  
6 patient is a minor or has a legal guardian, and to the patient's attorney. In  
7 addition, notice of any restriction of a patient's rights shall be  
8 communicated to the patient in a timely fashion.

9 (c) Any person willfully depriving any patient of the rights protected  
10 by this section, except for the restriction of such rights in accordance with  
11 the provisions of subsection (b) or in accordance with a properly obtained  
12 court order, shall be guilty of a class C misdemeanor.

13 (d) The provisions of this section do not apply to persons civilly  
14 committed to a treatment facility as a sexually violent predator pursuant to  
15 K.S.A. 59-29a01 et seq., and amendments thereto.

16 Sec. 238. K.S.A. 59-2981 is hereby amended to read as follows: 59-  
17 2981. In each proceeding the court shall allow and order paid to any  
18 individual or treatment facility as part of the costs thereof a reasonable fee  
19 and expenses for any professional services ordered performed by the court  
20 pursuant to this act other than those performed by any individual or  
21 hospital under the jurisdiction of the secretary of ~~social and rehabilitation~~  
22 *for aging and disability* services, and including the fee of counsel for the  
23 patient when counsel is appointed by the court and the costs of the county  
24 or district attorney incurred in cases involving change of venue. Other  
25 costs and fees shall be allowed and paid as are allowed by law for similar  
26 services in other cases. The costs shall be taxed to the estate of the patient,  
27 to those bound by law to support such patient or to the county of the  
28 residence of the patient as the court having jurisdiction shall direct, except  
29 that if a proposed patient is found not to be a mentally ill person subject to  
30 involuntary commitment under this act, the costs shall not be assessed  
31 against such patient's estate but may at the discretion of the court be  
32 assessed against the petitioner or may be paid from the general fund of the  
33 county of the residence of the proposed patient. Any district court  
34 receiving a statement of costs from another district court shall forthwith  
35 approve the same for payment out of the general fund of its county except  
36 that it may refuse to approve the same for payment only on the ground that  
37 the patient is not a resident of that county. In such case it shall transmit the  
38 statement of costs to the secretary of ~~social and rehabilitation~~ *for aging*  
39 *and disability* services who shall determine the question of residence and  
40 certify the secretary's findings to each district court. Whenever a district  
41 court has sent a statement of costs to the district court of another county  
42 and such costs have not been paid within 90 days after the statement was  
43 sent, the district court that sent the statement may transmit such statement

1 of costs to the secretary for determination and certification as provided  
2 above. If the claim for costs is not paid within 30 days after such  
3 certification, an action may be maintained thereon by the claimant county  
4 in the district court of the claimant county against the debtor county. The  
5 findings made by the secretary ~~of social and rehabilitation~~ *for aging and*  
6 *disability* services as to the residence of the patient shall be applicable only  
7 to the assessment of costs. Any county of residence which pays from its  
8 general fund court costs to the district court of another county may recover  
9 the same in any court of competent jurisdiction from the estate of the  
10 patient or from those bound by law to support such patient, unless the  
11 court shall find that the proceedings in which such costs were incurred  
12 were instituted without probable cause and not in good faith.

13 Sec. 239. K.S.A. 2012 Supp. 59-29a02 is hereby amended to read as  
14 follows: 59-29a02. As used in this act:

15 (a) "Sexually violent predator" means any person who has been  
16 convicted of or charged with a sexually violent offense and who suffers  
17 from a mental abnormality or personality disorder which makes the person  
18 likely to engage in repeat acts of sexual violence.

19 (b) "Mental abnormality" means a congenital or acquired condition  
20 affecting the emotional or volitional capacity which predisposes the person  
21 to commit sexually violent offenses in a degree constituting such person a  
22 menace to the health and safety of others.

23 (c) "Likely to engage in repeat acts of sexual violence" means the  
24 person's propensity to commit acts of sexual violence is of such a degree  
25 as to pose a menace to the health and safety of others.

26 (d) "Sexually motivated" means that one of the purposes for which  
27 the defendant committed the crime was for the purpose of the defendant's  
28 sexual gratification.

29 (e) "Sexually violent offense" means:

30 (1) Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
31 2012 Supp. 21-5503, and amendments thereto;

32 (2) indecent liberties with a child as defined in K.S.A. 21-3503, prior  
33 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and  
34 amendments thereto;

35 (3) aggravated indecent liberties with a child as defined in K.S.A. 21-  
36 3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506,  
37 and amendments thereto;

38 (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of  
39 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) and (a)(4) of  
40 K.S.A. 2012 Supp. 21-5504, and amendments thereto;

41 (5) aggravated criminal sodomy as defined in K.S.A. 21-3506, prior  
42 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5504, and  
43 amendments thereto;

1 (6) indecent solicitation of a child as defined in K.S.A. 21-3510, prior  
2 to its repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5508, and  
3 amendments thereto;

4 (7) aggravated indecent solicitation of a child as defined in K.S.A.  
5 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-  
6 5508, and amendments thereto;

7 (8) sexual exploitation of a child as defined in K.S.A. 21-3516, prior  
8 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

9 (9) aggravated sexual battery as defined in K.S.A. 21-3518, prior to  
10 its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5505, and  
11 amendments thereto;

12 (10) aggravated incest as defined in K.S.A. 21-3603, prior to its  
13 repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments  
14 thereto;

15 (11) any conviction for a felony offense in effect at any time prior to  
16 the effective date of this act, that is comparable to a sexually violent  
17 offense as defined in subparagraphs (1) through (11) or any federal or  
18 other state conviction for a felony offense that under the laws of this state  
19 would be a sexually violent offense as defined in this section;

20 (12) an attempt, conspiracy or criminal solicitation, as defined in  
21 K.S.A. 21-3301, 21-3302 and 21-3303, prior to their repeal, or K.S.A.  
22 2012 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a  
23 sexually violent offense as defined in this subsection; or

24 (13) any act which either at the time of sentencing for the offense or  
25 subsequently during civil commitment proceedings pursuant to this act,  
26 has been determined beyond a reasonable doubt to have been sexually  
27 motivated.

28 (f) "Agency with jurisdiction" means that agency which releases upon  
29 lawful order or authority a person serving a sentence or term of  
30 confinement and includes the department of corrections, the ~~department of~~  
31 ~~social and rehabilitation~~ *Kansas department for aging and disability*  
32 services and the prisoner review board.

33 (g) "Person" means an individual who is a potential or actual subject  
34 of proceedings under this act.

35 (h) "Treatment staff" means the persons, agencies or firms employed  
36 by or contracted with the secretary to provide treatment, supervision or  
37 other services at the sexually violent predator facility.

38 (i) "Transitional release" means any halfway house, work release,  
39 sexually violent predator treatment facility or other placement designed to  
40 assist the person's adjustment and reintegration into the community once  
41 released from commitment.

42 (j) "Secretary" means the secretary ~~of the department of social and~~  
43 ~~rehabilitation~~ *for aging and disability* services.



1       Sec. 240. K.S.A. 2012 Supp. 59-29a07 is hereby amended to read as  
2 follows: 59-29a07. (a) The court or jury shall determine whether, beyond a  
3 reasonable doubt, the person is a sexually violent predator. If such  
4 determination that the person is a sexually violent predator is made by a  
5 jury, such determination shall be by unanimous verdict of such jury. Such  
6 determination may be appealed. If the court or jury determines that the  
7 person is a sexually violent predator, the person shall be committed to the  
8 custody of the secretary ~~of social and rehabilitation~~ *for aging and*  
9 *disability* services for control, care and treatment until such time as the  
10 person's mental abnormality or personality disorder has so changed that  
11 the person is safe to be at large. Such control, care and treatment shall be  
12 provided at a facility operated by the ~~department of social and~~  
13 ~~rehabilitation~~ *Kansas department for aging and disability* services.

14       (b) At all times, persons committed for control, care and treatment by  
15 the ~~department of social and rehabilitation~~ *Kansas department for aging*  
16 *and disability* services pursuant to K.S.A. 59-29a01 et seq., and  
17 amendments thereto, shall be kept in a secure facility and such persons  
18 shall be segregated at all times from any other patient under the  
19 supervision of the secretary ~~of social and rehabilitation~~ *for aging and*  
20 *disability* services and commencing June 1, 1995, such persons committed  
21 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be  
22 kept in a facility or building separate from any other patient under the  
23 supervision of the secretary. The provisions of this subsection shall apply  
24 to any facility or building utilized in any transitional release program or  
25 conditional release program.

26       (c) The ~~department of social and rehabilitation~~ *Kansas department*  
27 *for aging and disability* services is authorized to enter into an interagency  
28 agreement with the department of corrections for the confinement of such  
29 persons. Such persons who are in the confinement of the secretary of  
30 corrections pursuant to an interagency agreement shall be housed and  
31 managed separately from offenders in the custody of the secretary of  
32 corrections, and except for occasional instances of supervised incidental  
33 contact, shall be segregated from such offenders.

34       (d) If any person while committed to the custody of the secretary  
35 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall be  
36 taken into custody by any law enforcement officer as defined in K.S.A.  
37 2012 Supp. 21-5111, and amendments thereto, pursuant to any parole  
38 revocation proceeding or any arrest or conviction for a criminal offense of  
39 any nature, upon the person's release from the custody of any law  
40 enforcement officer, the person shall be returned to the custody of the  
41 secretary for further treatment pursuant to K.S.A. 59-29a01 et seq., and  
42 amendments thereto. During any such period of time a person is not in the  
43 actual custody or supervision of the secretary, the secretary shall be

1 excused from the provisions of K.S.A. 59-29a08, and amendments thereto,  
2 with regard to providing that person an annual examination, annual notice  
3 and annual report to the court, except that the secretary shall give notice to  
4 the court as soon as reasonably possible after the taking of the person into  
5 custody that the person is no longer in treatment pursuant to K.S.A. 59-  
6 29a01 et seq., and amendments thereto, and notice to the court when the  
7 person is returned to the custody of the secretary for further treatment.

8 (e) If the court or jury is not satisfied beyond a reasonable doubt that  
9 the person is a sexually violent predator, the court shall direct the person's  
10 release.

11 (f) Upon a mistrial, the court shall direct that the person be held at an  
12 appropriate secure facility, including, but not limited to, a county jail, until  
13 another trial is conducted. Any subsequent trial following a mistrial shall  
14 be held within 90 days of the previous trial, unless such subsequent trial is  
15 continued as provided in K.S.A. 59-29a06, and amendments thereto.

16 (g) If the person charged with a sexually violent offense has been  
17 found incompetent to stand trial, and is about to be released pursuant to  
18 K.S.A. 22-3305, and amendments thereto, and such person's commitment  
19 is sought pursuant to subsection (a), the court shall first hear evidence and  
20 determine whether the person did commit the act or acts charged. The  
21 hearing on this issue must comply with all the procedures specified in this  
22 section. In addition, the rules of evidence applicable in criminal cases shall  
23 apply, and all constitutional rights available to defendants at criminal trials,  
24 other than the right not to be tried while incompetent, shall apply. After  
25 hearing evidence on this issue, the court shall make specific findings on  
26 whether the person did commit the act or acts charged, the extent to which  
27 the person's incompetence or developmental disability affected the  
28 outcome of the hearing, including its effect on the person's ability to  
29 consult with and assist counsel and to testify on such person's own behalf,  
30 the extent to which the evidence could be reconstructed without the  
31 assistance of the person and the strength of the prosecution's case. If after  
32 the conclusion of the hearing on this issue, the court finds, beyond a  
33 reasonable doubt, that the person did commit the act or acts charged, the  
34 court shall enter a final order, appealable by the person, on that issue, and  
35 may proceed to consider whether the person should be committed pursuant  
36 to this section.

37 Sec. 241. K.S.A. 2012 Supp. 59-29a11 is hereby amended to read as  
38 follows: 59-29a11. (a) Nothing in this act shall prohibit a person from  
39 filing a petition for transitional release, conditional release or final  
40 discharge pursuant to this act. However, if a person has previously filed a  
41 petition for transitional release, conditional release or final discharge  
42 without the secretary of the department of social and rehabilitation for  
43 *aging and disability* services approval and the court determined either

1 upon review of the petition or following a hearing, that the petitioner's  
2 petition was frivolous or that the petitioner's condition had not so changed  
3 that the person was safe to be at large, then the court shall deny the  
4 subsequent petition unless the petition contains facts upon which a court  
5 could find the condition of the petitioner had so changed that a hearing  
6 was warranted. Upon receipt of a first or subsequent petition from  
7 committed persons without the secretary's approval, the court shall  
8 endeavor whenever possible to review the petition and determine if the  
9 petition is based upon frivolous grounds and if so shall deny the petition  
10 without a hearing.

11 (b) No transitional release or conditional release facility or building  
12 shall be located within 2,000 feet of a licensed child care facility, an  
13 established place of worship, any residence in which a child under 18  
14 years of age resides, or the real property of any school upon which is  
15 located a structure used by a unified school district or an accredited  
16 nonpublic school for student instruction or attendance or extracurricular  
17 activities of pupils enrolled in kindergarten or any grades one through 12.  
18 This subsection shall not apply to any state institution or facility.

19 (c) Transitional release or conditional release facilities or buildings  
20 shall be subject to all regulations applicable to other property and  
21 buildings located in the zone or area that are imposed by any municipality  
22 through zoning ordinance, resolution or regulation, such municipality's  
23 building regulatory codes, subdivision regulations or other  
24 nondiscriminatory regulations.

25 (d) On and after January 1, 2009, the secretary ~~of social and~~  
26 ~~rehabilitation for aging and disability~~ services shall place no more than  
27 eight sexually violent predators in any one county on transitional release or  
28 conditional release.

29 (e) The secretary ~~of social and rehabilitation for aging and disability~~  
30 services shall submit an annual report to the governor and the legislature  
31 during the first week of the regular legislative session detailing activities  
32 related to the transitional release and conditional release of sexually  
33 violent predators. The report shall include the status of such predators who  
34 have been placed in transitional release or conditional release including the  
35 number of any such predators and their locations; information regarding  
36 the number of predators who have been returned to the sexually violent  
37 predator treatment program at Larned state hospital along with the reasons  
38 for such return; and any plans for the development of additional  
39 transitional release or conditional release facilities.

40 Sec. 242. K.S.A. 2012 Supp. 59-29a22 is hereby amended to read as  
41 follows: 59-29a22. (a) As used in this section:

42 (1) "Patient" means any individual:

43 (A) Who is receiving services for mental illness and who is admitted,

1 detained, committed, transferred or placed in the custody of the secretary  
2 ~~of social and rehabilitation for aging and disability~~ services under the  
3 authority of K.S.A. 22-3219, 22-3302, 22-3303, 22-3428a, 22-3429, 22-  
4 3430, 59-29a05, 75-5209 and 76-1306, and amendments thereto.

5 (B) In the custody of the secretary ~~of social and rehabilitation for~~  
6 *aging and disability* services after being found a sexually violent predator  
7 pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, including  
8 any sexually violent predator placed on transitional release.

9 (2) "Restraints" means the application of any devices, other than  
10 human force alone, to any part of the body of the patient for the purpose of  
11 preventing the patient from causing injury to self or others.

12 (3) "Seclusion" means the placement of a patient, alone, in a room,  
13 where the patient's freedom to leave is restricted and where the patient is  
14 not under continuous observation.

15 (b) Each patient shall have the following rights:

16 (1) Upon admission or commitment, be informed orally and in  
17 writing of the patient's rights under this section. Copies of this section shall  
18 be posted conspicuously in each patient area, and shall be available to the  
19 patient's guardian and immediate family.

20 (2) The right to refuse to perform labor which is of financial benefit  
21 to the facility in which the patient is receiving treatment or service.  
22 Privileges or release from the facility may not be conditioned upon the  
23 performance of any labor which is regulated by this subsection. Tasks of a  
24 personal housekeeping nature are not considered compensable labor.  
25 Patients may voluntarily engage in therapeutic labor which is of financial  
26 benefit to the facility if such labor is compensated in accordance with a  
27 plan approved by the department and if:

28 (A) The specific labor is an integrated part of the patient's treatment  
29 plan approved as a therapeutic activity by the professional staff member  
30 responsible for supervising the patient's treatment;

31 (B) the labor is supervised by a staff member who is qualified to  
32 oversee the therapeutic aspects of the activity;

33 (C) the patient has given written informed consent to engage in such  
34 labor and has been informed that such consent may be withdrawn at any  
35 time; and

36 (D) the labor involved is evaluated for its appropriateness by the staff  
37 of the facility at least once every 120 days.

38 (3) A right to receive prompt and adequate treatment, rehabilitation  
39 and educational services appropriate for such patient's condition, within  
40 the limits of available state and federal funds.

41 (4) Have the right to be informed of such patient's treatment and care  
42 and to participate in the planning of such treatment and care.

43 (5) Have the following rights, under the following procedures, to

1 refuse medication and treatment:

2 (A) Have the right to refuse all medication and treatment except as  
3 ordered by a court or in a situation in which the medication or treatment is  
4 necessary to prevent serious physical harm to the patient or to others.  
5 Except when medication or medical treatment has been ordered by the  
6 court or is necessary to prevent serious physical harm to others as  
7 evidenced by a recent overt act, attempt or threat to do such harm, a  
8 patient may refuse medications and medical treatment if the patient is a  
9 member of a recognized religious organization and the religious tenets of  
10 such organization prohibit such medications and treatment.

11 (B) Medication may not be used as punishment, for the convenience  
12 of staff, as a substitute for a treatment program, or in quantities that  
13 interfere with a patient's treatment program.

14 (C) Patients will have the right to have explained the nature of all  
15 medications prescribed, the reason for the prescription and the most  
16 common side effects and, if requested, the nature of any other treatments  
17 ordered.

18 (6) Except as provided in paragraph (2), have a right to be free from  
19 physical restraint and seclusion.

20 (A) Restraints or seclusion shall not be applied to a patient unless it is  
21 determined by the superintendent of the treatment facility or a physician or  
22 licensed psychologist to be necessary to prevent immediate substantial  
23 bodily injury to the patient or others and that other alternative methods to  
24 prevent such injury are not sufficient to accomplish this purpose. Restraint  
25 or seclusion shall never be used as a punishment or for the convenience of  
26 staff. The extent of the restraint or seclusion applied to the patient shall be  
27 the least restrictive measure necessary to prevent such injury to the patient  
28 or others, and the use of restraint or seclusion in a treatment facility shall  
29 not exceed three hours without medical reevaluation. When restraints or  
30 seclusion are applied, there shall be monitoring of the patient's condition at  
31 a frequency determined by the treating physician or licensed psychologist,  
32 which shall be no less than once per each 15 minutes. The superintendent  
33 of the treatment facility or a physician or licensed psychologist shall sign a  
34 statement explaining the treatment necessity for the use of any restraint or  
35 seclusion and shall make such statement a part of the permanent treatment  
36 record of the patient.

37 (B) The provisions of clause (A) shall not prevent:

38 (i) The use of seclusion as part of a treatment methodology that calls  
39 for time out when the patient is refusing to participate in a treatment or has  
40 become disruptive of a treatment process.

41 (ii) Patients may be restrained for security reasons during transport to  
42 or from the patient's building, including transport to another treatment  
43 facility. Any patient committed or transferred to a hospital or other health

1 care facility for medical care may be isolated for security reasons within  
2 locked facilities in the hospital.

3 (iii) Patients may be locked or restricted in such patient's room during  
4 the night shift, if such patient resides in a unit in which each room is  
5 equipped with a toilet and sink or if the patients who do not have toilets in  
6 the rooms shall be given an opportunity to use a toilet at least once every  
7 hour, or more frequently if medically indicated.

8 (iv) Patients may be locked in such patient's room for a period of time  
9 no longer than one hour during each change of shift by staff to permit staff  
10 review of patient needs.

11 (v) Patients may also be locked in such patient's room on a unit-wide  
12 or facility-wide basis as an emergency measure as needed for security  
13 purposes to deal with an escape or attempted escape, the discovery of a  
14 dangerous weapon in the unit or facility or the receipt of reliable  
15 information that a dangerous weapon is in the unit or facility, or to prevent  
16 or control a riot or the taking of a hostage. A unit-wide or facility-wide  
17 emergency isolation order may only be authorized by the superintendent of  
18 the facility where the order is applicable or the superintendent's designee.  
19 A unit-wide or facility-wide emergency isolation order shall be approved  
20 within one hour after it is authorized by the superintendent or the  
21 superintendent's designee. An emergency order for unit-wide or facility-  
22 wide isolation may only be in effect for the period of time needed to  
23 preserve order while dealing with the situation and may not be used as a  
24 substitute for adequate staffing. During a period of unit-wide or facility-  
25 wide isolation, the status of each patient shall be reviewed every 30  
26 minutes to ensure the safety and comfort of the patient, and each patient  
27 who is locked in a room without a toilet shall be given an opportunity to  
28 use a toilet at least once every hour, or more frequently if medically  
29 indicated. The facility shall have a written policy covering the use of  
30 isolation that ensures that the dignity of the individual is protected, that the  
31 safety of the individual is secured, and that there is regular, frequent  
32 monitoring by trained staff to care for bodily needs as may be required.

33 (vi) Individual patients who are referred by the court or correctional  
34 facilities for criminal evaluations may be placed in administrative  
35 confinement for security reasons and to maintain proper institutional  
36 management when treatment cannot be addressed through routine  
37 psychiatric methods. Administrative confinement of individuals shall be  
38 limited to only patients that demonstrate or threaten substantial injury to  
39 other patients or staff and when there are no clinical interventions  
40 available that will be effective to maintain a safe and therapeutic  
41 environment for both patients and staff. Administrative confinement shall  
42 not be used for any patient who is actively psychotic or likely to be  
43 psychologically harmed. The status of each patient shall be reviewed every

1 15 minutes to ensure the safety and comfort of the patient. The patient  
2 shall be afforded all patient rights including being offered a minimum of  
3 one hour of supervised opportunity for personal hygiene, exercise and to  
4 meet other personal needs.

5 (7) The right not to be subject to such procedures as psychosurgery,  
6 electroshock therapy, experimental medication, aversion therapy or  
7 hazardous treatment procedures without the written consent of the patient  
8 or the written consent of a parent or legal guardian, if such patient is a  
9 minor or has a legal guardian provided that the guardian has obtained  
10 authority to consent to such from the court which has venue over the  
11 guardianship following a hearing held for that purpose.

12 (8) The right to individual religious worship within the facility if the  
13 patient desires such an opportunity. The provisions for worship shall be  
14 available to all patients on a nondiscriminatory basis. No individual may  
15 be coerced into engaging in any religious activities.

16 (9) A right to a humane psychological and physical environment  
17 within the hospital facilities. All facilities shall be designed to afford  
18 patients with comfort and safety, to promote dignity and ensure privacy.  
19 Facilities shall also be designed to make a positive contribution to the  
20 effective attainment of the treatment goals of the hospital.

21 (10) The right to confidentiality of all treatment records, and as  
22 permitted by other applicable state or federal laws, have the right to  
23 inspect and to receive a copy of such records.

24 (11) Except as otherwise provided, have a right to not be filmed or  
25 taped, unless the patient signs an informed and voluntary consent that  
26 specifically authorizes a named individual or group to film or tape the  
27 patient for a particular purpose or project during a specified time period.  
28 The patient may specify in such consent periods during which, or  
29 situations in which, the patient may not be filmed or taped. If a patient is  
30 legally incompetent, such consent shall be granted on behalf of the patient  
31 by the patient's guardian. A patient may be filmed or taped for security  
32 purposes without the patient's consent.

33 (12) The right to be informed in writing upon or at a reasonable time  
34 after admission, of any liability that the patient or any of the patient's  
35 relatives may have for the cost of the patient's care and treatment and of  
36 the right to receive information about charges for care and treatment  
37 services.

38 (13) The right to be treated with respect and recognition of the  
39 patient's dignity and individuality by all employees of the treatment  
40 facility.

41 (14) Patients have an unrestricted right to send sealed mail and  
42 receive sealed mail to or from legal counsel, the courts, the secretary ~~of~~  
43 ~~social and rehabilitation~~ *for aging and disability* services, the

1 superintendent of the treatment facility, the agency designated as the  
2 developmental disabilities protection and advocacy agency pursuant to  
3 P.L. 94-103, as amended, private physicians and licensed psychologists,  
4 and have reasonable access to letter-writing materials.

5 (15) The right as specified under clause (A) to send and receive  
6 sealed mail, subject to the limitations specified under clause (B):

7 (A) A patient shall also have a right to send sealed mail and receive  
8 sealed mail to or from other persons, subject to physical examination in the  
9 patient's presence if there is reason to believe that such communication  
10 contains contraband materials or objects that threaten the security of  
11 patients or staff. The officers and staff of a facility may not read any mail  
12 covered by this clause.

13 (B) The above rights to send and receive sealed and confidential mail  
14 are subject to the following limitations:

15 (i) An officer or employee of the facility at which the patient is  
16 placed may delay delivery of the mail to the patient for a reasonable period  
17 of time to verify whether the person named as the sender actually sent the  
18 mail; may open the mail and inspect it for contraband outside the presence  
19 of the patient; or may, if the officer or staff member cannot determine  
20 whether the mail contains contraband, return the mail to the sender along  
21 with notice of the facility mail policy.

22 (ii) The superintendent of the facility or the superintendent's designee  
23 may, in accordance with the standards and the procedure under subsection  
24 (c) for denying a right for cause, authorize a member of the facility  
25 treatment staff to read the mail, if the superintendent or the  
26 superintendent's designee has reason to believe that the mail could pose a  
27 threat to security at the facility or seriously interfere with the treatment,  
28 rights, or safety of the patient or others.

29 (iii) Residents may be restricted in receiving in the mail items  
30 deemed to be pornographic, offensive or which is deemed to jeopardize  
31 their individual treatment or that of others.

32 (16) Reasonable access to a telephone to make and receive telephone  
33 calls within reasonable limits.

34 (17) Be permitted to use and wear such patient's own clothing and  
35 personal possessions, including toilet articles, or be furnished with an  
36 adequate allowance of clothes if none are available. Provision shall be  
37 made to launder the patient's clothing.

38 (18) Be provided a reasonable amount of individual secure storage  
39 space for private use.

40 (19) Reasonable protection of privacy in such matters as toileting and  
41 bathing.

42 (20) Be permitted to see a reasonable number of visitors who do not  
43 pose a threat to the security or therapeutic climate of other patients or the



1 facility.

2 (21) The right to present grievances under the procedures established  
3 by each facility on the patient's own behalf or that of others to the staff or  
4 superintendent of the treatment facility without justifiable fear of reprisal  
5 and to communicate, subject to paragraph (14), with public officials or  
6 with any other person without justifiable fear of reprisal.

7 (22) The right to spend such patient's money as such patient chooses,  
8 except to the extent that authority over the money is held by another,  
9 including the parent of a minor, a court-appointed guardian of the patient's  
10 estate or a representative payee. A treatment facility may, as a part of its  
11 security procedures, use a patient trust account in lieu of currency that is  
12 held by a patient and may establish reasonable policies governing patient  
13 account transactions.

14 (c) A patient's rights guaranteed under subsections (b)(15) to (b)(21)  
15 may be denied for cause after review by the superintendent of the facility  
16 or the superintendent's designee, and may be denied when medically or  
17 therapeutically contraindicated as documented by the patient's physician or  
18 licensed psychologist in the patient's treatment record. The individual shall  
19 be informed in writing of the grounds for withdrawal of the right and shall  
20 have the opportunity for a review of the withdrawal of the right in an  
21 informal hearing before the superintendent of the facility or the  
22 superintendent's designee. There shall be documentation of the grounds for  
23 withdrawal of rights in the patient's treatment record. After an informal  
24 hearing is held, a patient or such patient's representative may petition for  
25 review of the denial of any right under this subsection through the use of  
26 the grievance procedure provided in subsection (d).

27 ~~The department of social and rehabilitation~~ *secretary for aging*  
28 *and disability* services shall establish procedures to assure protection of  
29 patients' rights guaranteed under this section.

30 (e) No person may intentionally retaliate or discriminate against any  
31 patient or employee for contacting or providing information to any state  
32 official or to an employee of any state protection and advocacy agency, or  
33 for initiating, participating in, or testifying in a grievance procedure or in  
34 an action for any remedy authorized under this section.

35 (f) This section shall be a part of and supplemental to article 29a of  
36 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

37 Sec. 243. K.S.A. 2012 Supp. 59-29b46 is hereby amended to read as  
38 follows: 59-29b46. When used in the care and treatment act for persons  
39 with an alcohol or substance abuse problem:

40 (a) "Discharge" means the final and complete release from treatment,  
41 by either the head of a treatment facility acting pursuant to K.S.A. 59-  
42 29b50, and amendments thereto, or by an order of a court issued pursuant  
43 to K.S.A. 59-29b73, and amendments thereto.

1 (b) "Head of a treatment facility" means the administrative director of  
2 a treatment facility or such person's designee.

3 (c) "Law enforcement officer" shall have the meaning ascribed to it in  
4 K.S.A. 22-2202, and amendments thereto.

5 (d) "Other facility for care or treatment" means any mental health  
6 clinic, medical care facility, nursing home, the detox units at either  
7 Osawatomic state hospital or Larned state hospital, any physician or any  
8 other institution or individual authorized or licensed by law to give care or  
9 treatment to any person.

10 (e) "Patient" means a person who is a voluntary patient, a proposed  
11 patient or an involuntary patient.

12 (1) "Voluntary patient" means a person who is receiving treatment at  
13 a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

14 (2) "Proposed patient" means a person for whom a petition pursuant  
15 to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

16 (3) "Involuntary patient" means a person who is receiving treatment  
17 under order of a court or a person admitted and detained by a treatment  
18 facility pursuant to an application filed pursuant to subsection (b) or (c) of  
19 K.S.A. 59-29b54, and amendments thereto.

20 (f) "Person with an alcohol or substance abuse problem" means a  
21 person who: (1) Lacks self-control as to the use of alcoholic beverages or  
22 any substance as defined in subsection (k); or

23 (2) uses alcoholic beverages or any substance as defined in  
24 subsection (k) to the extent that the person's health may be substantially  
25 impaired or endangered without treatment.

26 (g) (1) "Person with an alcohol or substance abuse problem subject to  
27 involuntary commitment for care and treatment" means a person with an  
28 alcohol or substance abuse problem, as defined in subsection (f), who also  
29 is incapacitated by alcohol or any substance and is likely to cause harm to  
30 self or others.

31 (2) "Incapacitated by alcohol or any substance" means that the  
32 person, as the result of the use of alcohol or any substance as defined in  
33 subsection (k), has impaired judgment resulting in the person: (A) Being  
34 incapable of realizing and making a rational decision with respect to the  
35 need for treatment; or

36 (B) lacking sufficient understanding or capability to make or  
37 communicate responsible decisions concerning either the person's well-  
38 being or estate.

39 (3) "Likely to cause harm to self or others" means that the person, by  
40 reason of the person's use of alcohol or any substance: (A) Is likely, in the  
41 reasonably foreseeable future, to cause substantial physical injury or  
42 physical abuse to self or others or substantial damage to another's property,  
43 as evidenced by behavior threatening, attempting or causing such injury,

1 abuse or damage; except that if the harm threatened, attempted or caused is  
2 only harm to the property of another, the harm must be of such a value and  
3 extent that the state's interest in protecting the property from such harm  
4 outweighs the person's interest in personal liberty; or

5 (B) is substantially unable, except for reason of indigency, to provide  
6 for any of the person's basic needs, such as food, clothing, shelter, health  
7 or safety, causing a substantial deterioration of the person's ability to  
8 function on the person's own.

9 (h) "Physician" means a person licensed to practice medicine and  
10 surgery as provided for in the Kansas healing arts act or a person who is  
11 employed by a state psychiatric hospital or by an agency of the United  
12 States and who is authorized by law to practice medicine and surgery  
13 within that hospital or agency.

14 (i) "Psychologist" means a licensed psychologist, as defined by  
15 K.S.A. 74-5302, and amendments thereto.

16 (j) "State certified alcohol and drug abuse counselor" means a person  
17 approved by the secretary ~~of social and rehabilitation~~ *for aging and*  
18 *disability* services to perform assessments using the American Society of  
19 Addiction Medicine criteria and employed at a state funded and designated  
20 assessment center.

21 (k) "Substance" means: (1) The same as the term "controlled  
22 substance" as defined in K.S.A. 2012 Supp. 21-5701, and amendments  
23 thereto; or

24 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

25 (l) "Treatment" means the broad range of emergency, outpatient,  
26 intermediate and inpatient services and care, including diagnostic  
27 evaluation, medical, psychiatric, psychological and social service care,  
28 vocational rehabilitation and career counseling, which may be extended to  
29 persons with an alcohol or substance abuse problem.

30 (m) (1) "Treatment facility" means a treatment program, public or  
31 private treatment facility, or any facility of the United States government  
32 available to treat a person for an alcohol or other substance abuse problem,  
33 but such term shall not include a licensed medical care facility, a licensed  
34 adult care home, a facility licensed under K.S.A. 75-3307b, and  
35 amendments thereto, a community-based alcohol and drug safety action  
36 program certified under K.S.A. 8-1008, and amendments thereto, and  
37 performing only those functions for which the program is certified to  
38 perform under K.S.A. 8-1008, and amendments thereto, or a professional  
39 licensed by the behavioral sciences regulatory board to diagnose and treat  
40 mental disorders at the independent level or a physician, who may treat in  
41 the usual course of the behavioral sciences regulatory board licensee's or  
42 physician's professional practice individuals incapacitated by alcohol or  
43 other substances, but who are not primarily engaged in the usual course of

1 the individual's professional practice in treating such individuals, or any  
2 state institution, even if detoxification services may have been obtained at  
3 such institution.

4 (2) "Private treatment facility" means a private agency providing  
5 facilities for the care and treatment or lodging of persons with either an  
6 alcohol or other substance abuse problem and meeting the standards  
7 prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto,  
8 and licensed under either K.S.A. 65-4014 or 65-4607, and amendments  
9 thereto.

10 (3) "Public treatment facility" means a treatment facility owned and  
11 operated by any political subdivision of the state of Kansas and licensed  
12 under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an  
13 appropriate place for the care and treatment or lodging of persons with an  
14 alcohol or other substance abuse problem.

15 (n) The terms defined in K.S.A. 59-3051, and amendments thereto,  
16 shall have the meanings provided by that section.

17 Sec. 244. K.S.A. 59-29b57 is hereby amended to read as follows: 59-  
18 29b57. (a) A verified petition to determine whether or not a person is a  
19 person with an alcohol or substance abuse problem subject to involuntary  
20 commitment for care and treatment under this act may be filed in the  
21 district court of the county wherein that person resides or wherein such  
22 person may be found.

23 (b) The petition shall state:

24 (1) The petitioner's belief that the named person is a person with an  
25 alcohol or substance abuse problem subject to involuntary commitment  
26 and the facts upon which this belief is based;

27 (2) to the extent known, the name, age, present whereabouts and  
28 permanent address of the person named as possibly a person with an  
29 alcohol or substance abuse problem subject to involuntary commitment;  
30 and if not known, any information the petitioner might have about this  
31 person and where the person resides;

32 (3) to the extent known, the name and address of the person's spouse  
33 or nearest relative or relatives, or legal guardian, or if not known, any  
34 information the petitioner might have about a spouse, relative or relatives  
35 or legal guardian and where they might be found;

36 (4) to the extent known, the name and address of the person's legal  
37 counsel, or if not known, any information the petitioner might have about  
38 this person's legal counsel;

39 (5) to the extent known, whether or not this person is able to pay for  
40 medical services, or if not known, any information the petitioner might  
41 have about the person's financial circumstances or indigency;

42 (6) to the extent known, the name and address of any person who has  
43 custody of the person, and any known pending criminal charge or charges

1 or of any arrest warrant or warrants outstanding or, if there are none, that  
2 fact or if not known, any information the petitioner might have about any  
3 current criminal justice system involvement with the person;

4 (7) the name or names and address or addresses of any witness or  
5 witnesses the petitioner believes has knowledge of facts relevant to the  
6 issue being brought before the court; and

7 (8) the name and address of the treatment facility to which the  
8 petitioner recommends that the proposed patient be sent for treatment if  
9 the proposed patient is found to be a person with an alcohol or substance  
10 abuse problem subject to involuntary commitment for care and treatment  
11 under this act, or if the petitioner is not able to recommend a treatment  
12 facility to the court, then that fact and that the secretary of ~~social and~~  
13 ~~rehabilitation~~ *for aging and disability* services has been notified and  
14 requested to determine which treatment facility the proposed patient  
15 should be sent to.

16 (c) The petition shall be accompanied by:

17 (1) A signed certificate from a physician, psychologist or state  
18 certified alcohol and substance abuse counselor stating that such  
19 professional has personally examined the person and any available records  
20 and has found that the person, in such professional's opinion, is likely to be  
21 a person with an alcohol or substance abuse problem subject to involuntary  
22 commitment for care and treatment under this act, unless the court allows  
23 the petition to be accompanied by a verified statement by the petitioner  
24 that the petitioner had attempted to have the person seen by a physician,  
25 psychologist or state certified alcohol and substance abuse counselor, but  
26 that the person failed to cooperate to such an extent that the examination  
27 was impossible to conduct;

28 (2) a statement of consent to the admission of the proposed patient to  
29 the treatment facility named by the petitioner pursuant to subsection (b)(8)  
30 signed by the head of that treatment facility or other documentation which  
31 shows the willingness of the treatment facility to admitting the proposed  
32 patient for care and treatment; and

33 (3) if applicable, a copy of any notice given pursuant to K.S.A. 59-  
34 29b51, and amendments thereto, in which the named person has sought  
35 discharge from a treatment facility into which they had previously entered  
36 voluntarily, or a statement from the treating physician or psychologist that  
37 the person was admitted as a voluntary patient but now lacks capacity to  
38 make an informed decision concerning treatment and is refusing  
39 reasonable treatment efforts, and including a description of the treatment  
40 efforts being refused.

41 (d) The petition may include a request that an ex parte emergency  
42 custody order be issued pursuant to K.S.A. 59-29b58, and amendments  
43 thereto. If such request is made the petition shall also include:

1 (1) A brief statement explaining why the person should be  
2 immediately detained or continue to be detained;

3 (2) the place where the petitioner requests that the person be detained  
4 or continue to be detained; and

5 (3) if applicable, because detention is requested in a facility other  
6 than the detox unit at either Osawatomie state hospital or at Larned state  
7 hospital, a statement that the facility is willing to accept and detain such  
8 person.

9 (e) The petition may include a request that a temporary custody order  
10 be issued pursuant to K.S.A. 59-29b59, and amendments thereto.

11 Sec. 245. K.S.A. 59-29b60 is hereby amended to read as follows: 59-  
12 29b60. (a) Upon the filing of the petition provided for in K.S.A. 59-29b57,  
13 and amendments thereto, the district court shall issue the following:

14 (1) An order fixing the time and place of the trial upon the petition.  
15 Such hearing, in the court's discretion, may be conducted in a courtroom, a  
16 treatment facility or at some other suitable place. The time fixed in the  
17 order shall in no event be earlier than seven days or later than 14 days after  
18 the date of the filing of the petition. If a demand for a trial by jury is later  
19 filed by the proposed patient, the court may continue the trial and fix a  
20 new time and place of the trial at a time that may exceed beyond the 14  
21 days but shall be fixed within a reasonable time not exceeding 30 days  
22 from the date of the filing of the demand.

23 (2) An order that the proposed patient appear at the time and place of  
24 the hearing and providing that the proposed patient's presence will be  
25 required at the hearing unless the attorney for the proposed patient shall  
26 make a request that the proposed patient's presence be waived and the  
27 court finds that the proposed patient's presence at the hearing would be  
28 injurious to the proposed patient's welfare. The order shall further provide  
29 that notwithstanding the foregoing provision, if the proposed patient  
30 requests in writing to the court or to such person's attorney that the  
31 proposed patient wishes to be present at the hearing, the proposed patient's  
32 presence cannot be waived.

33 (3) An order appointing an attorney to represent the proposed patient  
34 at all stages of the proceedings and until all orders resulting from such  
35 proceedings are terminated. The court shall give preference, in the  
36 appointment of this attorney, to any attorney who has represented the  
37 proposed patient in other matters if the court has knowledge of that prior  
38 representation. The proposed patient shall have the right to engage an  
39 attorney of the proposed patient's own choice and, in such event, the  
40 attorney appointed by the court shall be relieved of all duties by the court.

41 (4) An order that the proposed patient shall appear at a time and place  
42 that is in the best interests of the patient where the proposed patient will  
43 have the opportunity to consult with the proposed patient's court-appointed

1 attorney, which time shall be at least five days prior to the date set for the  
2 trial under K.S.A. 59-29b65, and amendments thereto.

3 (5) An order for an evaluation as provided for in K.S.A. 59-29b61,  
4 and amendments thereto.

5 (6) A notice as provided for in K.S.A. 59-29b63, and amendments  
6 thereto.

7 (7) If the petition also contains allegations as provided for in K.S.A.  
8 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto,  
9 those orders necessary to make a determination of the need for a legal  
10 guardian or conservator, or both, to act on behalf of the proposed patient.  
11 For these purposes, the trials required by K.S.A. 59-29b65 and K.S.A. 59-  
12 3067, and amendments thereto, may be consolidated.

13 (8) If the petitioner shall not have named a proposed treatment  
14 facility to which the proposed patient may be sent as provided for  
15 subsection (b)(8) of K.S.A. 59-29b57, and amendments thereto, but  
16 instead stated that the secretary of ~~social and rehabilitation~~ *for aging and*  
17 *disability* services has been notified and requested to determine which  
18 treatment facility the proposed patient should be sent to, then the court  
19 shall issue an order requiring the secretary, or the secretary's designee, to  
20 make that determination and to notify the court of the name and address of  
21 that treatment facility by such time as the court shall specify in the court's  
22 order.

23 (b) Nothing in this section shall prevent the court from granting an  
24 order of continuance, for good cause shown, to any party for no longer  
25 than seven days, except that such limitation does not apply to a request for  
26 an order of continuance made by the proposed patient or to a request made  
27 by any party if the proposed patient is absent such that further proceedings  
28 can not be held until the proposed patient has been located. The court also,  
29 upon the request of any party, may advance the date of the hearing if  
30 necessary and in the best interests of all concerned.

31 Sec. 246. K.S.A. 59-29b63 is hereby amended to read as follows: 59-  
32 29b63. (a) Notice as required by subsection (a)(6) of K.S.A. 59-29b60, and  
33 amendments thereto, shall be given to the proposed patient named in the  
34 petition, the proposed patient's legal guardian if there is one, the attorney  
35 appointed to represent the proposed patient, the proposed patient's spouse  
36 or nearest relative and to such other persons as the court directs.

37 (b) The notice shall state:

38 (1) That a petition has been filed, alleging that the proposed patient is  
39 a person with an alcohol or substance abuse problem subject to involuntary  
40 commitment for care and treatment under this act and requesting that the  
41 court order treatment;

42 (2) the date, time and place of the trial;

43 (3) the name of the attorney appointed to represent the proposed

1 patient and the time and place where the proposed patient shall have the  
2 opportunity to consult with this attorney;

3 (4) that the proposed patient has a right to a jury trial if a written  
4 demand for such is filed with the court at least four days prior to the time  
5 set for trial; and

6 (5) that if the proposed patient demands a jury trial, the trial date may  
7 have to be continued by the court for a reasonable time in order to empanel  
8 a jury, but that this continuance shall not exceed 30 days from the date of  
9 the filing of the demand.

10 (c) The court may order any of the following persons to serve the  
11 notice upon the proposed patient:

12 (1) The physician or psychologist currently administering to the  
13 proposed patient, if the physician or psychologist consents to doing so;

14 (2) the head of the treatment facility where the proposed patient is  
15 being detained or the designee thereof;

16 (3) the local health officer or such officer's designee;

17 (4) ~~the secretary of social and rehabilitation~~ *for aging and disability*  
18 services or the secretary's designee if the proposed patient is being treated  
19 at a state psychiatric hospital pursuant to any provision of K.S.A. 59-2945  
20 et seq., and amendments thereto;

21 (5) any law enforcement officer; or

22 (6) the attorney of the proposed patient.

23 (d) The notice shall be served personally on the proposed patient as  
24 soon as possible, but not less than six days prior to the date of the trial, and  
25 immediate return thereof shall be made to the court by the person serving  
26 notice. Unless otherwise ordered by the court, notice shall be served on the  
27 proposed patient by a nonuniformed person.

28 (e) Notice to all other persons may be made by mail or in such other  
29 manner as directed by the court.

30 Sec. 247. K.S.A. 2012 Supp. 59-29b66 is hereby amended to read as  
31 follows: 59-29b66. (a) Upon the completion of the trial, if the court or jury  
32 finds by clear and convincing evidence that the proposed patient is a  
33 person with an alcohol or substance abuse problem subject to involuntary  
34 commitment for care and treatment under this act, the court shall order  
35 treatment for such person for a specified period of time not to exceed three  
36 months from the date of the trial at a treatment facility. Whenever an  
37 involuntary patient is ordered to receive treatment, the clerk of the district  
38 court shall send a copy of the order to the Kansas bureau of investigation  
39 within five days after receipt of the order. The Kansas bureau of  
40 investigation shall immediately enter the order into the national criminal  
41 information center and other appropriate databases. An order for treatment  
42 in a treatment facility shall be conditioned upon the consent of the head of  
43 that treatment facility to accepting the patient. In the event no appropriate



1 treatment facility has agreed to provide treatment for the patient, then the  
2 secretary of social and rehabilitation for aging and disability services shall  
3 be given responsibility for providing or securing treatment for the patient.

4 (b) A copy of the order for treatment shall be provided to the head of  
5 the treatment facility.

6 (c) When the court orders treatment, it shall retain jurisdiction to  
7 modify, change or terminate such order, unless venue has been changed  
8 pursuant to K.S.A. 59-29b71, and amendments thereto, and then the  
9 receiving court shall have continuing jurisdiction.

10 (d) If the court finds from the evidence that the proposed patient has  
11 not been shown to be a person with an alcohol or substance abuse problem  
12 subject to involuntary commitment for care and treatment under this act,  
13 the court shall release the person and terminate the proceedings.

14 Sec. 248. K.S.A. 59-29b78 is hereby amended to read as follows: 59-  
15 29b78. (a) Every patient being treated in any treatment facility, in addition  
16 to all other rights preserved by the provisions of this act, shall have the  
17 following rights:

18 (1) To wear the patient's own clothes, keep and use the patient's own  
19 personal possessions including toilet articles and keep and be allowed to  
20 spend the patient's own money;

21 (2) to communicate by all reasonable means with a reasonable  
22 number of persons at reasonable hours of the day and night, including both  
23 to make and receive confidential telephone calls, and by letter, both to mail  
24 and receive unopened correspondence, except that if the head of the  
25 treatment facility should deny a patient's right to mail or to receive  
26 unopened correspondence under the provisions of subsection (b), such  
27 correspondence shall be opened and examined in the presence of the  
28 patient;

29 (3) to conjugal visits if facilities are available for such visits;

30 (4) to receive visitors in reasonable numbers and at reasonable times  
31 each day;

32 (5) to refuse involuntary labor other than the housekeeping of the  
33 patient's own bedroom and bathroom, provided that nothing herein shall be  
34 construed so as to prohibit a patient from performing labor as a part of a  
35 therapeutic program to which the patient has given their written consent  
36 and for which the patient receives reasonable compensation;

37 (6) not to be subject to such procedures as psychosurgery,  
38 electroshock therapy, experimental medication, aversion therapy or  
39 hazardous treatment procedures without the written consent of the patient  
40 or the written consent of a parent or legal guardian, if such patient is a  
41 minor or has a legal guardian provided that the guardian has obtained  
42 authority to consent to such from the court which has venue over the  
43 guardianship following a hearing held for that purpose;

1 (7) to have explained, the nature of all medications prescribed, the  
2 reason for the prescription and the most common side effects and, if  
3 requested, the nature of any other treatments ordered;

4 (8) to communicate by letter with the secretary ~~of social and~~  
5 ~~rehabilitation for aging and disability~~ services, the head of the treatment  
6 facility and any court, attorney, physician, psychologist or minister of  
7 religion, including a Christian Science practitioner. All such  
8 communications shall be forwarded at once to the addressee without  
9 examination and communications from such persons shall be delivered to  
10 the patient without examination;

11 (9) to contact or consult privately with the patient's physician or  
12 psychologist, minister of religion, including a Christian Science  
13 practitioner, legal guardian or attorney at any time and if the patient is a  
14 minor, their parent;

15 (10) to be visited by the patient's physician, psychologist, minister of  
16 religion, including a Christian Science practitioner, legal guardian or  
17 attorney at any time and if the patient is a minor, their parent;

18 (11) to be informed orally and in writing of their rights under this  
19 section upon admission to a treatment facility; and

20 (12) to be treated humanely consistent with generally accepted ethics  
21 and practices.

22 (b) The head of the treatment facility may, for good cause only,  
23 restrict a patient's rights under this section, except that the rights  
24 enumerated in subsections (a)(5) through (a)(12), and the right to mail any  
25 correspondence which does not violate postal regulations, shall not be  
26 restricted by the head of the treatment facility under any circumstances.  
27 Each treatment facility shall adopt regulations governing the conduct of all  
28 patients being treated in such treatment facility, which regulations shall be  
29 consistent with the provisions of this section. A statement explaining the  
30 reasons for any restriction of a patient's rights shall be immediately entered  
31 on such patient's medical record and copies of such statement shall be  
32 made available to the patient or to the parent, or legal guardian if such  
33 patient is a minor or has a legal guardian, and to the patient's attorney. In  
34 addition, notice of any restriction of a patient's rights shall be  
35 communicated to the patient in a timely fashion.

36 (c) Any person willfully depriving any patient of the rights protected  
37 by this section, except for the restriction of such rights in accordance with  
38 the provisions of subsection (b) or in accordance with a properly obtained  
39 court order, shall be guilty of a class C misdemeanor.

40 Sec. 249. K.S.A. 59-29b81 is hereby amended to read as follows: 59-  
41 29b81. In each proceeding the court shall allow and order paid to any  
42 individual or treatment facility as part of the costs thereof a reasonable fee  
43 and expenses for any professional services ordered performed by the court

1 pursuant to this act, and including the fee of counsel for the patient when  
2 counsel is appointed by the court and the costs of the county or district  
3 attorney incurred in cases involving change of venue. Other costs and fees  
4 shall be allowed and paid as are allowed by law for similar services in  
5 other cases. The costs shall be taxed to the estate of the patient, to those  
6 bound by law to support such patient or to the county of the residence of  
7 the patient as the court having jurisdiction shall direct, except that if a  
8 proposed patient is found not to be a person with an alcohol or substance  
9 abuse problem subject to involuntary commitment under this act, the costs  
10 shall not be assessed against such patient's estate but may at the discretion  
11 of the court be assessed against the petitioner or may be paid from the  
12 general fund of the county of the residence of the proposed patient. Any  
13 district court receiving a statement of costs from another district court shall  
14 forthwith approve the same for payment out of the general fund of its  
15 county except that it may refuse to approve the same for payment only on  
16 the ground that the patient is not a resident of that county. In such case it  
17 shall transmit the statement of costs to the secretary ~~of social and~~  
18 ~~rehabilitation for aging and disability~~ services who shall determine the  
19 question of residence and certify the secretary's findings to each district  
20 court. Whenever a district court has sent a statement of costs to the district  
21 court of another county and such costs have not been paid within 90 days  
22 after the statement was sent, the district court that sent the statement may  
23 transmit such statement of costs to the secretary for determination and  
24 certification as provided in this section. If the claim for costs is not paid  
25 within 30 days after such certification, an action may be maintained  
26 thereon by the claimant county in the district court of the claimant county  
27 against the debtor county. The findings made by the secretary ~~of social and~~  
28 ~~rehabilitation for aging and disability~~ services as to the residence of the  
29 patient shall be applicable only to the assessment of costs. Any county of  
30 residence which pays from its general fund court costs to the district court  
31 of another county may recover the same in any court of competent  
32 jurisdiction from the estate of the patient or from those bound by law to  
33 support such patient, unless the court shall find that the proceedings in  
34 which such costs were incurred were instituted without probable cause and  
35 not in good faith.

36 Sec. 250. K.S.A. 59-3065 is hereby amended to read as follows: 59-  
37 3065. (a) Upon the filing of a petition as provided for in K.S.A. 59-3058,  
38 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, or at any  
39 time thereafter until the trial provided for in K.S.A. 59-3067, and  
40 amendments thereto, the court may enter any of the following:

41 (1) An order for an investigation and report concerning the proposed  
42 ward's or proposed conservatee's family relationships, past conduct, the  
43 nature and extent of any property or income of the proposed ward or

1 proposed conservatee; whether the proposed ward or proposed conservatee  
2 is likely to injure self or others, or other matters as the court may specify.  
3 If requested to do so by the court, the secretary ~~of social and rehabilitation~~  
4 *services for children and families* shall conduct this investigation.  
5 Otherwise, the court may appoint any other person who is qualified to  
6 conduct this investigation, and the costs of this investigation shall be  
7 assessed as provided for in K.S.A. 59-3094, and amendments thereto.

8 (2) Any orders requested or authorized pursuant to K.S.A. 59-3073,  
9 and amendments thereto.

10 (3) For good cause shown, an order of continuance of the trial set  
11 pursuant to K.S.A. 59-3063, and amendments thereto.

12 (4) For good cause shown, an order of advancement of the trial set  
13 pursuant to K.S.A. 59-3063, and amendments thereto.

14 (5) For good cause shown, an order changing the place of the trial set  
15 pursuant to K.S.A. 59-3063, and amendments thereto.

16 (6) A notice in the manner provided for in K.S.A. 59-3066, and  
17 amendments thereto.

18 (b) Upon the filing of a petition as provided for in K.S.A. 59-3059,  
19 and amendments thereto, alleging that the proposed ward or proposed  
20 conservatee is a minor in need of a guardian or conservator, or both, the  
21 court may issue any of the following:

22 (1) An order of temporary custody of the minor.

23 (2) An order requiring that the minor appear at the time and place of  
24 the trial set pursuant to subsection (b) of K.S.A. 59-3063, and amendments  
25 thereto. If an order to appear is entered, but is later rescinded, the court  
26 shall enter in the record of the proceedings the facts upon which the court  
27 found subsequent to the issuance of the order that the presence of the  
28 minor should be excused.

29 (3) An order appointing an attorney to represent the minor. The court  
30 shall give preference, in the appointment of the attorney, to any attorney  
31 who has represented the minor in other matters if the court has knowledge  
32 of that prior representation, or to an attorney whom the minor, if 14 years  
33 of age or older, has requested. Any appointment made by the court shall  
34 terminate upon a final determination of the petition and any appeal  
35 therefrom, unless the court continues the appointment by further order.  
36 Thereafter, an attorney may be appointed by the court if requested, in  
37 writing, by the guardian, conservator or minor, if 14 years of age or older,  
38 or upon the court's own motion.

39 (4) A notice in the manner provided for in K.S.A. 59-3066, and  
40 amendments thereto.

41 (5) An order for a psychological or other examination and evaluation  
42 of the minor as may be specified by the court. The court may order the  
43 minor to submit to such an examination and evaluation to be conducted

1 through a general hospital, psychiatric hospital, community mental health  
2 center, community developmental disability organization, or by a private  
3 physician, psychiatrist, psychologist or other person appointed by the court  
4 who is qualified to examine and evaluate the minor. The costs of this  
5 examination and evaluation shall be assessed as provided for in K.S.A. 59-  
6 3094, and amendments thereto.

7 (c) Upon the filing of a petition as provided for in K.S.A. 59-3060,  
8 and amendments thereto, alleging that the proposed ward or proposed  
9 conservatee is a minor with an impairment in need of a guardian or  
10 conservator, or both, the court may issue an order of temporary custody of  
11 the minor.

12 (d) Upon the filing of a petition as provided for in K.S.A. 59-3061,  
13 and amendments thereto, alleging that the proposed ward or proposed  
14 conservatee is a person who has been previously adjudged as impaired in  
15 another state, the court may issue any of the following:

16 (1) An order appointing an attorney to represent the proposed ward or  
17 proposed conservatee. In making this appointment, the court shall consider  
18 the appointment of any attorney who has represented the proposed ward or  
19 proposed conservatee in other matters if the court has knowledge of that  
20 prior representation. Any appointment made by the court shall terminate  
21 upon a final determination of the petition and any appeal therefrom, unless  
22 the court continues the appointment by further order. Thereafter, an  
23 attorney may be appointed at any time if requested, in writing, by the  
24 ward, conservatee, guardian or conservator, or upon the court's own  
25 motion.

26 (2) An order requiring that the proposed ward or proposed  
27 conservatee appear at the time and place of the trial set pursuant to  
28 subsection (d) of K.S.A. 59-3063, and amendments thereto. If an order to  
29 appear is entered, but later rescinded, the court shall enter in the record of  
30 the proceedings the facts upon which the court found subsequent to the  
31 issuance of the order that the presence of the proposed ward or proposed  
32 conservatee should be excused.

33 (3) An order for an examination and evaluation of the proposed ward  
34 or proposed conservatee as may be specified by the court. The court may  
35 order the proposed ward or proposed conservatee to submit to such an  
36 examination and evaluation to be conducted through a general hospital,  
37 psychiatric hospital, community mental health center, community  
38 developmental disability organization, or by a private physician,  
39 psychiatrist, psychologist or other person appointed by the court who is  
40 qualified to examine and evaluate the proposed ward or proposed  
41 conservatee. The costs of this examination and evaluation shall be assessed  
42 as provided for in K.S.A. 59-3094, and amendments thereto.

43 (4) A notice in the manner provided for in K.S.A. 59-3066, and

1 amendments thereto.

2 (e) Upon the filing of a petition as provided for in K.S.A. 59-3062,  
3 and amendments thereto, alleging that the proposed conservatee is a  
4 person in need of an ancillary conservator and requesting the appointment  
5 of an ancillary conservator in Kansas, the court may issue any of the  
6 following:

7 (1) An order appointing an attorney to represent the proposed  
8 conservatee. In making this appointment, the court shall consider the  
9 appointment of any attorney who has represented the proposed conservatee  
10 in other matters if the court has knowledge of that prior representation.  
11 Any appointment made by the court shall terminate upon a final  
12 determination of the petition and any appeal therefrom, unless the court  
13 continues the appointment by further order. Thereafter, an attorney may be  
14 appointed at any time if requested, in writing, by the conservatee or  
15 conservator, or upon the court's own motion.

16 (2) A notice in the manner provided for in K.S.A. 59-3066, and  
17 amendments thereto.

18 Sec. 251. K.S.A. 59-3067 is hereby amended to read as follows: 59-  
19 3067. (a) The trial upon a petition filed pursuant to K.S.A. 59-3058, 59-  
20 3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, shall be  
21 held at the time and place specified in the court's order entered pursuant to  
22 K.S.A. 59-3063, and amendments thereto, unless an order of advancement,  
23 continuance or change of place has been issued pursuant to K.S.A. 59-  
24 3065, and amendments thereto, and may be consolidated with the trial  
25 provided for in the care and treatment act for mentally ill persons, K.S.A.  
26 59-2945 et seq., and amendments thereto, or the care and treatment act for  
27 persons with an alcohol or substance abuse problem, K.S.A. 59-29b45, and  
28 amendments thereto, if the petition also incorporates the allegations  
29 required by, and is filed in compliance with, the provisions of either of  
30 those acts.

31 (b) If the petition alleges that the proposed ward or proposed  
32 conservatee is an adult with an impairment in need of a guardian or  
33 conservator, or both, the trial may be held to a jury if, at least four days  
34 prior to the date of the trial, a written demand for jury trial is filed with the  
35 court by the proposed ward or proposed conservatee. In all other cases, the  
36 trial shall be held to the court.

37 (c) The jury, if one is demanded, shall consist of six persons and shall  
38 be selected as provided by law. Notwithstanding any provision of K.S.A.  
39 43-166, and amendments thereto, to the contrary, a panel of prospective  
40 jurors may be assembled by the clerk upon less than 20 days notice in this  
41 circumstance. From this panel, 12 qualified jurors who have been passed  
42 for cause shall be empaneled. Prior service as a juror in any other court  
43 shall not exempt, for that reason alone, any person from jury service

1 hereunder. From the panel so obtained, the proposed ward or proposed  
2 conservatee, or the attorney for the proposed ward or proposed  
3 conservatee, shall strike one name; then the petitioner, or the petitioner's  
4 attorney, shall strike one name; and so on alternatively until each has  
5 stricken three names so as to reach the jury of six persons. During this  
6 process, if either party neglects or refuses to aid in striking the names, the  
7 court shall strike a name on behalf of such party.

8 (d) The petitioner and the proposed ward or proposed conservatee  
9 shall each be afforded an opportunity to appear at the trial, to testify and to  
10 present and cross-examine witnesses. If the trial has been consolidated  
11 with a trial being held pursuant to either the care and treatment act for  
12 mentally ill persons or the care and treatment act for persons with an  
13 alcohol or substance abuse problem persons not necessary for the conduct  
14 of the proceedings may be excluded as provided for in those acts. The trial  
15 shall be conducted in as informal a manner as may be consistent with  
16 orderly procedure. The court shall have the authority to receive all relevant  
17 and material evidence which may be offered, including the testimony or  
18 written report, findings or recommendations of any professional or other  
19 person who has examined or evaluated the proposed ward or proposed  
20 conservatee and the testimony and written findings and recommendations  
21 of the ~~secretary of social and rehabilitation services for children and~~  
22 *families* or any other person appointed by the court to conduct an  
23 investigation pursuant to K.S.A. 59-3065, and amendments thereto. Such  
24 evidence shall not be privileged for the purpose of this trial.

25 (e) Upon completion of the trial:

26 (1) If the court finds by clear and convincing evidence that the  
27 proposed ward or proposed conservatee is an adult with an impairment in  
28 need of a guardian or a conservator, or both, or a minor in need of a  
29 guardian or a conservator, or both, or a minor with an impairment in need  
30 of a guardian or a conservator, or both, or a person who has been  
31 previously adjudged as impaired in another state, the court, pursuant to  
32 K.S.A. 59-3068, and amendments thereto, shall appoint a qualified and  
33 suitable individual or corporation as the guardian or conservator, or both,  
34 and shall specify what duties, responsibilities, powers and authorities as  
35 provided for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078 or 59-3079,  
36 and amendments thereto, the guardian or conservator shall have. If the  
37 court appoints co-guardians or co-conservators, or both, the court shall  
38 specify whether such co-guardians or co-conservators, or both, shall have  
39 the authority to act independently, to act only in concert, or under what  
40 circumstances or with regard to what matter they may act independently  
41 and when they may act only in concert.

42 (2) If a jury has been demanded in the case of an adult and the jury  
43 finds by clear and convincing evidence that the proposed ward or proposed

1 conservatee is unable to meet essential needs for physical health, safety or  
2 welfare, or is unable to manage such person's estate, then the court shall  
3 determine if the proposed ward or proposed conservatee is in need of a  
4 guardian or a conservator, or both, and if so, the court, pursuant to K.S.A.  
5 59-3068, and amendments thereto, shall appoint a qualified and suitable  
6 individual or corporation as the guardian or conservator, or both, and shall  
7 specify what duties, responsibilities, powers and authorities as provided  
8 for in K.S.A. 59-3075, 59-3076, 59-3077, 59-3078 or 59-3079, and  
9 amendments thereto, the guardian or conservator shall have. If the court  
10 appoints co-guardians or co-conservators, or both, the court shall specify  
11 whether such co-guardians or co-conservators, or both, shall have the  
12 authority to act independently or whether they shall be required to act only  
13 in concert.

14 (3) If the court finds by clear and convincing evidence that the  
15 proposed conservatee is a person in need of an ancillary conservator, the  
16 court, pursuant to K.S.A. 59-3068, and amendments thereto, shall appoint  
17 a qualified and suitable individual or corporation as the ancillary  
18 conservator, and shall specify what duties, responsibilities, powers and  
19 authorities as provided for in K.S.A. 59-3078 or 59-3079, and amendments  
20 thereto, the ancillary conservator shall have. If the court appoints co-  
21 ancillary conservators, the court shall specify whether such co-ancillary  
22 conservators shall have the authority to act independently or whether they  
23 shall be required to act only in concert.

24 (f) If the court does not find by clear and convincing evidence that the  
25 proposed ward or proposed conservatee is an adult with an impairment in  
26 need of a guardian or a conservator, or both, or a minor in need of a  
27 guardian or a conservator, or both, or a minor with an impairment in need  
28 of a guardian or a conservator, or both, or a person who has been  
29 previously adjudged as impaired in another state, or a person in need of an  
30 ancillary conservator, or does not find that the proposed ward or proposed  
31 conservatee is in need of a guardian or a conservator, even though the jury  
32 has determined that the proposed ward or proposed conservatee is unable  
33 to meet essential needs for physical health, safety or welfare, or is unable  
34 to manage such person's estate, because other appropriate alternatives exist  
35 and are sufficient to meet those needs of the proposed ward or proposed  
36 conservatee, then the court shall deny the requested appointments.

37 Sec. 252. K.S.A. 2012 Supp. 59-3069 is hereby amended to read as  
38 follows: 59-3069. (a) When the court appoints an individual or a  
39 corporation as a guardian, the court shall require that the individual or a  
40 representative on behalf of the corporation file with the court an oath or  
41 affirmation as required by K.S.A. 59-1702, and amendments thereto.

42 (b) When the court appoints an individual or a corporation as a  
43 conservator, except as provided for in subsections (c), (d) or (e), or in



1 K.S.A. 59-3055, and amendments thereto, the court shall require that the  
2 individual or a representative on behalf of the corporation file with the  
3 court a bond in the amount of 125% of the combined value of the tangible  
4 and intangible personal property in the conservatee's estate and the total of  
5 any annual income from any source which the conservator may be  
6 expected to receive on behalf of the conservatee, minus any reasonably  
7 expected expenses, conditioned upon the faithful discharge of all the duties  
8 of the conservator's trust according to law, and with sufficient sureties as  
9 the court may determine necessary or appropriate.

10 (c) When the court appoints an individual or a corporation as a  
11 conservator pursuant to a request for a voluntary conservatorship as  
12 provided for in K.S.A. 59-3056, and amendments thereto, and the person  
13 for whom the voluntary conservatorship is established has requested that  
14 the individual or corporation appointed not be required to file a bond, the  
15 court may waive the filing of a bond; provided that the court may later  
16 require the filing of a bond if circumstances so require.

17 (d) If, at the time of the appointment of a conservator, there is no  
18 property in the possession of the conservatee requiring a conservatorship,  
19 but the court finds that there is likely to be such at some point in time, the  
20 court may waive the filing of a bond and order that the conservator shall  
21 immediately file a report with the court upon either the conservator  
22 coming into possession of any property of the conservatee, or if the  
23 conservatee becomes entitled to receive any property which the  
24 conservator believes should be placed within the conservatorship. Upon  
25 the filing of such a report, the court, following any hearing the court may  
26 determine appropriate, may require the conservator to file a bond as  
27 provided for herein.

28 (e) If the conservator appointed is the individual or corporation  
29 suggested by a testator or settlor as provided for in K.S.A. 59-3054, and  
30 amendments thereto, and the testator or settlor has provided by will or trust  
31 that no bond should be required of such conservator, the court may waive  
32 the filing of a bond; provided that the court may later require the filing of a  
33 bond if circumstances so require.

34 (f) If the conservator is a bank having trust authority or a trust  
35 company organized and having its principal place of business within the  
36 state of Kansas, the court may waive the filing of a bond.

37 (g) If the conservator appointed is under contract with the Kansas  
38 guardianship program, the ~~department of social and rehabilitation services~~  
39 *Kansas department for children and families* shall act as surety on the  
40 bond. The court shall order that a certified copy of the order appointing a  
41 conservator who is under contract with the Kansas guardianship program  
42 be sent to the director of the Kansas guardianship program.

43 (h) If the individual appointed as guardian or conservator, or both,

1 resides outside of Kansas, the court shall require that person, and in the  
2 case of a corporation being appointed as guardian or conservator, or both,  
3 the court shall require a representative of the corporation, to appoint, in  
4 writing, a resident agent pursuant to K.S.A. 59-1706, and amendments  
5 thereto.

6 (i) Upon the filing of the required oath or bond, and appointment and  
7 consent of a resident agent, the court shall issue letters of guardianship to  
8 the guardian or letters of conservatorship to the conservator, or both. The  
9 court may order that a certified copy of these letters be sent to such  
10 persons or agencies as the court specifies.

11 (j) Every individual appointed as guardian or conservator on or after  
12 January 1, 2009, shall file with the court evidence of completion of a basic  
13 instructional program concerning the duties and responsibilities of a  
14 guardian or conservator prior to the issuance of letters of guardianship or  
15 conservatorship. The court shall have the authority to require any guardian  
16 or conservator appointed prior to January 1, 2009, to complete the basic  
17 instructional program and provide evidence thereof to the court. The  
18 materials comprising the basic instructional program shall be prepared by  
19 the judicial council.

20 Sec. 253. K.S.A. 59-3070 is hereby amended to read as follows: 59-  
21 3070. (a) Any corporation organized under the Kansas general corporation  
22 code may act as guardian for an individual found to be in need of a  
23 guardian under the act for obtaining a guardian or conservator, or both, if  
24 the corporation has been certified by the secretary ~~of social and~~  
25 ~~rehabilitation services for children and families~~ as a suitable agency to  
26 perform the duties of a guardian.

27 (b) The secretary ~~of social and rehabilitation services for children~~  
28 ~~and families~~ shall establish criteria for determining whether a corporation  
29 should be certified as a suitable agency to perform the duties of a guardian.  
30 The criteria shall be designed for the protection of the ward and shall  
31 include, but not be limited to, the following:

32 (1) Whether the corporation is capable of performing the duties of a  
33 guardian;

34 (2) whether the staff of the corporation is accessible and available to  
35 wards and to other persons concerned about their well-being and is  
36 adequate in number to properly perform the duties and responsibilities of a  
37 guardian;

38 (3) whether the corporation is a stable organization which is likely to  
39 continue in existence for some time; and

40 (4) whether the corporation will agree to submit such reports and  
41 answer such questions as the secretary may require in monitoring  
42 corporate guardianships.

43 (c) Application for certification under this section shall be made to

1 the secretary of ~~social and rehabilitation services for children and families~~  
2 in such manner as the secretary may direct. The secretary of ~~social and~~  
3 ~~rehabilitation services for children and families~~ may suspend or revoke  
4 certification of a corporation under this section, after notice and hearing,  
5 upon a finding that such corporation has failed to comply with the criteria  
6 established by rules and regulations under subsection (b). Such corporation  
7 shall not be appointed as a guardian during the period of time the  
8 certificate is suspended or revoked.

9 (d) No corporation shall be eligible for appointment as provided for  
10 in K.S.A. 59-3068, and amendments thereto, as the guardian of any person  
11 if such corporation provides care, treatment or housing to that person or is  
12 the owner, part owner or operator of any adult care home, lodging  
13 establishment or institution utilized for the care, treatment or housing of  
14 that person.

15 (e) The secretary of ~~social and rehabilitation services for children and~~  
16 ~~families~~ may adopt rules and regulations necessary to administer the  
17 provisions of this section.

18 Sec. 254. K.S.A. 59-3080 is hereby amended to read as follows: 59-  
19 3080. (a) At any time the conservator, or the guardian if the guardian has  
20 been granted the authority to exercise control or authority over the ward's  
21 estate pursuant to subsection (e)(8) of K.S.A. 59-3075, and amendments  
22 thereto, may file a verified petition requesting that the court grant authority  
23 to the conservator or guardian to establish an irrevocable trust which will  
24 enable the conservatee or ward to qualify for benefits from any federal,  
25 state or local government program, or which will accelerate the  
26 conservatee's or ward's qualification for such benefits.

27 (b) The petition shall include:

28 (1) The conservator's or guardian's name and address, and if the  
29 conservator is the petitioner and is both the conservator and the guardian, a  
30 statement of that fact, or if the guardian is the petitioner, a statement that  
31 the court has previously granted to the guardian the authority to exercise  
32 control or authority over the ward's estate;

33 (2) the conservatee's or ward's name, age, date of birth, address of  
34 permanent residence, and present address or whereabouts, if different from  
35 the conservatee's or ward's permanent residence;

36 (3) the name and address of the conservatee's court appointed  
37 guardian, if a guardian has been appointed by the court and is different  
38 from the conservator;

39 (4) the names and addresses of any spouse, adult children and adult  
40 grandchildren of the conservatee or ward, and those of any parents and  
41 adult siblings of the conservatee or ward, or if no such names or addresses  
42 are known to the petitioner, the name and address of at least one adult who  
43 is nearest in kinship to the conservatee, or if none, that fact. If no such

1 names and addresses are known to the petitioner, but the petitioner has  
2 reason to believe such persons exist, then the petition shall state that fact  
3 and that the petitioner has made diligent inquiry to learn those names and  
4 addresses;

5 (5) a statement of whether the secretary ~~of social and rehabilitation~~  
6 ~~services for children and families~~ has an interest in the matter by virtue of  
7 the purpose of the trust being to enable the conservatee or ward to qualify  
8 for benefits from any program administered by the secretary;

9 (6) the names and addresses of other persons, if any, whom the  
10 petitioner knows to have an interest in the matter, or a statement that the  
11 petitioner knows of no other persons having an interest in the matter;

12 (7) a description of the funds or assets of the conservatee or ward  
13 which the petitioner proposes to transfer to a trust;

14 (8) the factual basis upon which the petitioner alleges the need for  
15 such a trust;

16 (9) the names and addresses of witnesses by whom the truth of this  
17 petition may be proved; and

18 (10) a request that the court find that the conservator or guardian  
19 should be granted such authority, and that the court grant to the  
20 conservator or guardian the authority to establish such a trust.

21 (c) The petition shall be accompanied by a draft of the instrument by  
22 which the trust is proposed to be established.

23 (d) Upon the filing of such a petition, the court shall issue an order  
24 fixing the date, time and place of a hearing upon the petition, which  
25 hearing may be held forthwith and without further notice if those persons  
26 named within the petition pursuant to the requirements of subsections (b)  
27 (4), (b)(5) and (b)(6), as applicable, have entered their appearances,  
28 waived notice and agreed to the court's granting to the conservator or  
29 guardian the authority to establish the proposed trust. Otherwise, the court  
30 shall require the petitioner to give notice of this hearing to such persons  
31 and in such manner as the court may direct, including therewith a copy of  
32 the proposed trust instrument. This notice shall advise such persons that if  
33 they have any objections to this authority being granted to the conservator  
34 or guardian, that they must file their written objections with the court prior  
35 to the scheduled hearing or that they must appear at the hearing to present  
36 those objections. The court may appoint an attorney to represent the  
37 conservatee or ward in this matter similarly as provided for in subsection  
38 (a)(3) of K.S.A. 59-3063, and amendments thereto, and in such event, the  
39 court shall require the petitioner to also give this notice to that attorney.

40 (e) At the conclusion of the hearing, if the court finds by a  
41 preponderance of the evidence that:

42 (1) The establishment of such a trust will enable the conservatee or  
43 ward to qualify for benefits from any federal, state or local government

1 program, or will accelerate the qualification of the conservatee or ward for  
2 such benefits;

3 (2) the conservatee or ward will be the sole beneficiary of such trust;

4 (3) the term of the trust will not extend beyond the lifetime of the  
5 conservatee or ward;

6 (4) the provisions of the trust will provide for the distribution of the  
7 trust estate for the benefit of the conservatee or ward for special needs not  
8 satisfied from governmental benefits and that such distributions made for  
9 special needs not satisfied from governmental benefits will only be made  
10 in similar manner and under similar circumstances as the conservatee's or  
11 ward's estate would otherwise have been distributed by the conservator or  
12 guardian for the benefit of the conservatee or ward had the trust not been  
13 established;

14 (5) if the provisions of the trust will grant discretion to the trustee to  
15 terminate the trust during the lifetime of the conservatee or ward, that such  
16 provisions shall preclude the exercise thereof if such termination of the  
17 trust will disqualify the conservatee or ward from being eligible for any  
18 governmental benefits; and

19 (6) the provisions of the trust will provide that, upon termination of  
20 the trust, the remaining trust estate will first be expended to reimburse the  
21 governmental entities for the benefits which have been provided to a  
22 conservatee or ward, if such reimbursement was ever required as a  
23 condition for the conservatee's or ward's qualification for such benefits,  
24 and then any remaining balance shall be paid over and assigned as follows:

25 (A) To the conservator, if the termination occurs during the lifetime  
26 of the conservatee and the conservatorship remains open, or to the  
27 guardian, if the termination occurs during the lifetime of the ward and the  
28 guardianship remains open, or to the conservatee or ward, in the event the  
29 conservatorship or guardianship has been terminated and the conservatee  
30 or ward has been restored to capacity; or

31 (B) if the termination of the trust occurs by virtue of the conservatee's  
32 or ward's death, as follows: (i) If a testamentary power of appointment was  
33 granted to the conservatee or ward in the trust instrument, pursuant to the  
34 conservatee's or ward's valid exercise of such testamentary power of  
35 appointment which specifically references such power of appointment; or  
36 (ii) in the absence of any such power of appointment or to the extent such  
37 power was not validly exercised by the conservatee or ward over the  
38 entirety of the trust assets, to: (a) The devisees and legatees the trustee  
39 determines would have otherwise received such trust assets, and in the  
40 manner they would have received it, under the provisions of the  
41 conservatee's or ward's last will and testament had such last will and  
42 testament been admitted to probate and the trust assets constituted a  
43 portion of the conservatee's or ward's estate; (b) in the absence of a valid

1 duly probated last will and testament of the conservatee or ward, the  
2 persons who would have received such trust assets, and in the manner they  
3 would receive it, under the intestacy laws of the state of residence of the  
4 conservatee or ward at the time of the death of the conservatee or ward had  
5 such trust assets constituted a portion of the estate of the conservatee or  
6 ward; or (c) the personal representative of the estate of the conservatee or  
7 ward, then the court may grant to the conservator or guardian the authority  
8 to establish such a trust and to transfer specified property or assets from  
9 the conservatee's or ward's estate to the trust. The court shall order the  
10 conservator or guardian to report any such transfer within the conservator's  
11 or guardian's next accounting as required by K.S.A. 59-3083, and  
12 amendments thereto.

13 (f) The court may require as a condition of the court's granting to the  
14 conservator or guardian the authority to establish such a trust that the sole  
15 trustee of the trust be the court appointed conservator or guardian, and that  
16 the conservator or guardian, acting as the trustee, shall be subject to the  
17 same requirements and limitations as provided for in this act concerning  
18 conservatorships and shall report and account to the court concerning the  
19 trust estate the same as if the trust estate remained within the conservatee's  
20 or ward's estate.

21 Sec. 255. K.S.A. 59-3094 is hereby amended to read as follows: 59-  
22 3094. (a) In each proceeding the court shall allow and order paid to any  
23 individual or institution as a part of the costs thereof a reasonable fee and  
24 expenses for any professional services ordered performed by the court  
25 pursuant to this act other than those performed by any individual or  
26 institution under the jurisdiction of the ~~department of social and~~  
27 ~~rehabilitation services~~ *Kansas department for children and families*, but  
28 including the fee of counsel for the proposed ward or proposed  
29 conservatee or ward or conservatee when counsel is appointed by the  
30 court. The court may allow and order paid the fee of counsel for the  
31 petitioner and any respondent. Other costs and fees may be allowed and  
32 paid as are allowed by law for similar services in other cases. The costs  
33 shall be taxed to the estate of the proposed ward or proposed conservatee  
34 or ward or conservatee, to those bound by law to support the proposed  
35 ward or proposed conservatee or ward or conservatee, to other parties  
36 whenever it would be just and equitable to do so, or to the county of  
37 residence of the proposed ward or proposed conservatee or ward or  
38 conservatee as the court having venue shall direct.

39 (b) In any contested proceeding or matter the court, in its discretion,  
40 may require one or more parties to give security for the costs thereof, or in  
41 lieu thereof to file a poverty affidavit as provided for in the code of civil  
42 procedure.

43 (c) Any district court receiving a statement of costs from another

1 district court shall approve the same for payment out of the general fund of  
2 its county except that it may refuse to approve the same for payment only  
3 on the grounds that the proposed ward or proposed conservatee or ward or  
4 conservatee is not a resident of that county. In such case it shall transmit  
5 the statement of costs to the secretary ~~of social and rehabilitation services~~  
6 *for children and families* who shall determine the question of residence  
7 and certify those findings to each district court. If the claim for costs is not  
8 paid within 30 days after such certification, an action may be maintained  
9 thereon by the claimant county in the district court of the claimant county  
10 against the debtor county. The findings made by the secretary ~~of social and~~  
11 ~~rehabilitation services~~ *for children and families* as to the residence of the  
12 proposed ward or proposed conservatee or ward or conservatee shall be  
13 applicable only to the assessment of costs. Any county of residence which  
14 pays from its general fund court costs to the district court of another  
15 county may recover the same in any court of competent jurisdiction from  
16 the estate of the proposed ward or proposed conservatee or ward or  
17 conservatee or from those bound by law to support the proposed ward or  
18 proposed conservatee or ward or conservatee, unless the court finds that  
19 the proceedings in which such costs were incurred were instituted without  
20 good cause and not in good faith.

21 Sec. 256. K.S.A. 60-2204 is hereby amended to read as follows: 60-  
22 2204. Whenever a judgment or decree of divorce has been made or  
23 subsequently becomes a lien on real property in favor of the minor child or  
24 children of the person holding legal title to such real property, the parent,  
25 legal guardian or other person having legal custody of such minor child or  
26 children may release such lien on said real property on behalf of such  
27 minor child or children. If the support rights accruing under such judgment  
28 or decree of divorce have been assigned to the secretary ~~of social and~~  
29 ~~rehabilitation services~~ *for children and families* pursuant to the provisions  
30 of K.S.A. 39-709, *and amendments thereto*, such lien may not be released  
31 without the written consent of the secretary or the secretary's designee.  
32 Such release shall be filed in the office of the clerk of the district court in  
33 which the journal entry of such judgment was filed pursuant to K.S.A. 60-  
34 2202, *and amendments thereto*, and shall be filed in the office of register  
35 of deeds of any county in which said real property is situated. Any such  
36 release made pursuant to this section shall be binding upon such minor  
37 child or children.

38 Sec. 257. K.S.A. 2012 Supp. 60-2308 is hereby amended to read as  
39 follows: 60-2308. (a) Money received by any debtor as pensioner of the  
40 United States within three months next preceding the issuing of an  
41 execution, or attachment, or garnishment process, cannot be applied to the  
42 payment of the debts of such pensioner when it appears by the affidavit of  
43 the debtor or otherwise that such pension money is necessary for the

1 maintenance of the debtor's support or a family support wholly or in part  
2 by the pension money. The filing of the affidavit by the debtor, or making  
3 proof as provided in this section, shall be prima facie evidence of the  
4 necessity of such pension money for such support. It shall be the duty of  
5 the court in which such proceeding is pending to release all moneys held  
6 by such attachment or garnishment process, immediately upon the filing of  
7 such affidavit, or the making of such proof.

8 (b) Except as provided in subsection (c), any money or other assets  
9 payable to a participant or beneficiary from, or any interest of any  
10 participant or beneficiary in, a retirement plan which is qualified under  
11 sections 401(a), 403(a), 403(b), 408, 408A or 409 of the federal internal  
12 revenue code of 1986, and amendments thereto, shall be exempt from any  
13 and all claims of creditors of the beneficiary or participant. Any such plan  
14 shall be conclusively presumed to be a spendthrift trust under these  
15 statutes and the common law of the state.

16 (c) Any plan or arrangement described in subsection (b) shall not be  
17 exempt from the claims of an alternate payee under a qualified domestic  
18 relations order. However, the interest of any and all alternate payees under  
19 a qualified domestic relations order shall be exempt from any and all  
20 claims of any creditor, other than the ~~state department of social and~~  
21 ~~rehabilitation services~~ *Kansas department for children and families*, of the  
22 alternate payee. As used in this subsection, the terms "alternate payee" and  
23 "qualified domestic relations order" have the meaning ascribed to them in  
24 section 414(p) of the federal internal revenue code of 1986, and  
25 amendments thereto.

26 (d) The provisions of subsections (b) and (c) shall apply to any  
27 proceeding which: (1) Is filed on or after July 1, 1986; or (2) was filed on  
28 or after January 1, 1986, and is pending or on appeal July 1, 1986.

29 (e) Money held by the central unit for collection and disbursement of  
30 support payments designated pursuant to K.S.A. 2012 Supp. 39-7,135, and  
31 amendments thereto, the ~~state department of social and rehabilitation~~  
32 ~~services~~ *Kansas department for children and families*, any clerk of a  
33 district court or any district court trustee in connection with a court order  
34 for the support of any person, whether the money is identified as child  
35 support, spousal support, alimony or maintenance, shall be exempt from  
36 execution, attachment or garnishment process.

37 (f) (1) The provisions of this subsection shall apply to any proceeding  
38 which:

39 (A) Is filed on or after January 1, 2002; or

40 (B) was filed prior to January 1, 2002, and is pending on or on appeal  
41 after January 1, 2002.

42 (2) Except as provided by paragraphs (3) and (4) of this subsection, if  
43 the designated beneficiary of a family postsecondary education savings



1 account established pursuant to K.S.A. 2012 Supp. 75-640 et seq., and  
2 amendments thereto, is a lineal descendant of the account owner, all  
3 moneys in the account shall be exempt from any claims of creditors of the  
4 account owner or designated beneficiary.

5 (3) The provisions of paragraph (2) of this subsection shall not apply  
6 to:

7 (A) Claims of any creditor of an account owner, as to amounts  
8 contributed within a one-year period preceding the date of the filing of a  
9 bankruptcy petition under 11 U.S.C. § 101 et seq.; or

10 (B) claims of any creditor of an account owner, as to amounts  
11 contributed within a one-year period preceding an execution on judgment  
12 for such claims against the account owner.

13 (4) The provisions of paragraph (2) of this subsection shall not apply  
14 to:

15 (A) Claims of any creditor of an account owner, as to amounts  
16 exceeding \$5,000 contributed within a period of time which is more than  
17 one year but less than two years preceding the date of the filing of a  
18 bankruptcy petition under 11 U.S.C. § 101 et seq.; or

19 (B) claims of any creditor of an account owner, as to amounts  
20 exceeding \$5,000 contributed within a period of time which is more than  
21 one year but less than two years preceding an execution on judgment for  
22 such claims against the account owner.

23 Sec. 258. K.S.A. 60-2310 is hereby amended to read as follows: 60-  
24 2310. (a) *Definitions*. As used in this act and the acts of which this act is  
25 amendatory, unless the context otherwise requires, the following words  
26 and phrases shall have the meanings respectively ascribed to them:

27 (1) "Earnings" means compensation paid or payable for personal  
28 services, whether denominated as wages, salary, commission, bonus or  
29 otherwise;

30 (2) "disposable earnings" means that part of the earnings of any  
31 individual remaining after the deduction from such earnings of any  
32 amounts required by law to be withheld;

33 (3) "wage garnishment" means any legal or equitable procedure  
34 through which the earnings of any individual are required to be withheld  
35 for payment of any debt; and

36 (4) "federal minimum hourly wage" means that wage prescribed by  
37 subsection (a)(1) of section 6 of the federal fair labor standards act of  
38 1938, and any amendments thereto.

39 (b) *Restriction on wage garnishment*. Subject to the provisions of  
40 subsection (e), only the aggregate disposable earnings of an individual  
41 may be subjected to wage garnishment. The maximum part of such  
42 earnings of any wage earning individual which may be subjected to wage  
43 garnishment for any workweek or multiple thereof may not exceed the

1 lesser of: (1) Twenty-five percent of the individual's aggregate disposable  
2 earnings for that workweek or multiple thereof; (2) the amount by which  
3 the individual's aggregate disposable earnings for that workweek or  
4 multiple thereof exceed an amount equal to 30 times the federal minimum  
5 hourly wage, or equivalent multiple thereof for such longer period; or (3)  
6 the amount of the plaintiff's claim as found in the order for garnishment.  
7 No one creditor may issue more than one garnishment against the earnings  
8 of the same judgment debtor during any one 30-day period, but the court  
9 shall allow the creditor to file amendments or corrections of names or  
10 addresses of any party to the order of garnishment at any time. In  
11 answering such order the garnishee-employer shall withhold from all  
12 earnings of the judgment-debtor for any pay period or periods ending  
13 during such 30-day period an amount or amounts as are allowed and  
14 required by law. Nothing in this act shall be construed as charging the  
15 plaintiff in any garnishment action with the knowledge of the amount of  
16 any defendant's earnings prior to the commencement of such garnishment  
17 action.

18 (c) *Sickness preventing work.* If any debtor is prevented from working  
19 at the debtor's regular trade, profession or calling for any period greater  
20 than two weeks because of illness of the debtor or any member of the  
21 family of the debtor, and this fact is shown by the affidavit of the debtor,  
22 the provisions of this section shall not be invoked against any such debtor  
23 until after the expiration of two months after recovery from such illness.

24 (d) *Assignment of account.* If any person, firm or corporation sells or  
25 assigns an account to any person or collecting agency, that person, firm or  
26 corporation or their assignees shall not have or be entitled to the benefits  
27 of wage garnishment. The provision of this subsection shall not apply to  
28 the following:

29 (1) Assignments of support rights to the secretary ~~of social and~~  
30 ~~rehabilitation services for children and families~~ pursuant to K.S.A. 39-709  
31 and 39-756, and amendments thereto, and support enforcement actions  
32 conducted by court trustees pursuant to K.S.A. 23-492; et seq., and  
33 amendments thereto;

34 (2) support rights which have been assigned to any other state  
35 pursuant to title IV-D of the federal social security act (42 U.S.C. § 651 et  
36 seq.);

37 (3) assignments of accounts receivable or taxes receivable to the  
38 director of accounts and reports made under K.S.A. 75-3728b, and  
39 amendments thereto; or

40 (4) collections pursuant to contracts entered into in accordance with  
41 K.S.A. 75-719, and amendments thereto, involving the collection of  
42 restitution or debts to district courts.

43 (e) *Exceptions to restrictions on wage garnishment.* The restrictions

1 on the amount of disposable earnings subject to wage garnishment as  
2 provided in subsection (b) shall not apply in the following instances:

3 (1) Any order of any court for the support of any person, including  
4 any order for support in the form of alimony, but the foregoing shall be  
5 subject to the restriction provided for in subsection (g);

6 (2) any order of any court of bankruptcy under chapter XIII of the  
7 federal bankruptcy act; and

8 (3) any debt due for any state or federal tax.

9 (f) *Prohibition on courts.* No court of this state may make, execute or  
10 enforce any order or process in violation of this section.

11 (g) The maximum part of the aggregate disposable earnings of an  
12 individual for any workweek which is subject to garnishment to enforce  
13 any order for the support of any person shall not exceed:

14 (1) If the individual is supporting a spouse or dependent child (other  
15 than a spouse or child with respect to whose support such order is used),  
16 50% of the individual's disposable earnings for that week;

17 (2) if the individual is not supporting a spouse or dependent child  
18 described in clause (1), 60% of such individual's disposable earnings for  
19 that week; and

20 (3) with respect to the disposable earnings of any individual for any  
21 workweek, the 50% specified in clause (1) shall be 55% and the 60%  
22 specified in clause (2) shall be 65%, if such earnings are subject to  
23 garnishment to enforce a support order for a period which is prior to the  
24 twelve-week period which ends with the beginning of such workweek.

25 Sec. 259. K.S.A. 60-2401 is hereby amended to read as follows: 60-  
26 2401. (a) *Definitions.* A general execution is a direction to an officer to  
27 seize any nonexempt property of a judgment debtor and cause it to be sold  
28 in satisfaction of the judgment. A special execution or order of sale is a  
29 direction to an officer to effect some action with regard to specified  
30 property as the court determines necessary in adjudicating the rights of  
31 parties to an action. Notwithstanding the provisions of K.S.A. 60-706, and  
32 amendments thereto, executions served under this section shall be by  
33 personal service and not by certified mail return receipt requested. If  
34 personal service cannot be obtained, other forms of service of process are  
35 hereby authorized.

36 (b) *By whom issued.* At the request of any interested person,  
37 executions and orders of sale shall be issued by the clerk and signed by a  
38 judge. Such executions and orders shall be directed to the appropriate  
39 officers of the counties where such executions and orders are to be levied.

40 To the extent authorized by K.S.A. 39-7,152 and amendments thereto,  
41 the secretary of social and rehabilitation services for children and families  
42 may issue an order of execution, which shall be directed to the appropriate  
43 officer of the county where the execution is to be levied. The secretary

1 shall deliver the execution to the appropriate officer, and a copy of the  
2 execution shall be filed with the clerk of the district court where the  
3 support order was entered or registered. The execution shall thereafter be  
4 treated in all respects as though it had been issued at the request of the  
5 secretary by the clerk of court where the support order was entered or  
6 registered.

7 (c) *When returnable.* The officer to whom any execution or order of  
8 sale is directed shall return it to the court from which it is issued within 60  
9 days from the date thereof. If the execution was issued by the secretary ~~of~~  
10 ~~social and rehabilitation services for children and families,~~ the return shall  
11 be made to the court where the underlying support order was entered or  
12 registered.

13 (d) *Manner of levy.* Except as provided in subsection (a), a general  
14 execution shall be levied upon any real or personal nonexempt property of  
15 the judgment debtor in the manner provided for the service and execution  
16 of orders of attachment under K.S.A. 60-706 through 60-710, and  
17 amendments thereto. Oil and gas leaseholds, for the purposes of this  
18 article, shall be treated as real property. Special executions or orders of  
19 sale shall be levied and executed as the court determines.

20 Sec. 260. K.S.A. 65-116i is hereby amended to read as follows: 65-  
21 116i. Except as otherwise provided by K.S.A. 65-116l, *and amendments*  
22 *thereto*, the expenses incurred in the inpatient care, maintenance and  
23 treatment of patients committed under the provisions of K.S.A. 65-116e,  
24 *and amendments thereto*, or of other persons having communicable or  
25 infectious tuberculosis who voluntarily agree to accept care and treatment  
26 shall be paid from state funds appropriated to the ~~department of social and~~  
27 ~~rehabilitation~~ *Kansas department for aging and disability* services for the  
28 purpose of paying medical care facilities and physicians qualified to treat  
29 persons infected with tuberculosis.

30 Sec. 261. K.S.A. 65-116j is hereby amended to read as follows: 65-  
31 116j. The secretary of health and environment is hereby granted and may  
32 exercise the following powers and duties in providing for the care,  
33 maintenance and treatment of persons having communicable or infectious  
34 tuberculosis:

35 (a) To select medical care facilities qualified to treat persons infected  
36 with tuberculosis for the purpose of caring for, maintaining and treating  
37 patients committed in accordance with the provisions of K.S.A. 65-116e,  
38 *and amendments thereto*, and other persons having communicable or  
39 infectious tuberculosis who voluntarily agree to accept care and treatment  
40 by a medical care facility on either an inpatient or an outpatient basis;

41 (b) To inspect the facilities, operations and administration of those  
42 medical care facilities receiving financial assistance from the ~~department~~  
43 ~~of social and rehabilitation~~ *Kansas department for aging and disability*

1 services for the purpose of providing care, maintenance or treatment for  
2 persons infected with communicable or infectious tuberculosis;

3 (c) To provide public health nursing services to persons having  
4 infectious or communicable tuberculosis who are being treated on an  
5 outpatient basis; and

6 (d) To adopt rules and regulations establishing standards for the  
7 hospital admission and discharge, care, treatment and maintenance of  
8 persons having communicable or infectious tuberculosis.

9 Sec. 262. K.S.A. 65-116k is hereby amended to read as follows: 65-  
10 116k. ~~The secretary of social and rehabilitation~~ *for aging and disability*  
11 services is hereby authorized and directed to adopt rules and regulations  
12 establishing reasonable rates and administrative procedures to be followed  
13 in making payments to the medical care facilities and physicians providing  
14 care and treatment under the provisions of this act. Payments shall only be  
15 made directly to medical care facilities and physicians except that this act  
16 shall not be deemed to create any rights or causes of action against the  
17 state or the ~~secretary of social and rehabilitation~~ *for aging and disability*  
18 services in such a medical care facility or physician, their heirs or assigns.  
19 No payments shall be made for expenses incurred prior to the time the  
20 secretary assumes payment responsibility and payments made by the  
21 secretary on behalf of an individual eligible for payments under the  
22 provisions of this act shall constitute a complete settlement of the claim  
23 upon which such payment is based.

24 Sec. 263. K.S.A. 65-116l is hereby amended to read as follows: 65-  
25 116l. No funds appropriated to the ~~department of social and rehabilitation~~  
26 *Kansas department for aging and disability* services for the purpose of  
27 carrying out the provisions of K.S.A. 65-116i, *and amendments thereto*,  
28 shall be used for meeting the cost of the care, maintenance or treatment of  
29 any person who has communicable or infectious tuberculosis by a medical  
30 care facility on an inpatient basis to the extent that such cost is covered by  
31 insurance or other third party payments, or to the extent that such person  
32 or a person who is legally responsible for the support of such person is  
33 able to assume the cost of such care, maintenance, treatment or  
34 transportation. The ~~secretary of social and rehabilitation~~ *for aging and*  
35 *disability* services in determining the ability of a person to assume such  
36 costs shall consider the following factors: (a) The age of such person; (b)  
37 the number of such person's dependents and their ages and physical  
38 condition; (c) the person's length of care, maintenance or treatment, if such  
39 person is the person receiving the care, maintenance or treatment; (d) such  
40 person's liabilities; (e) such person's assets; and (f) such other factors as  
41 the secretary deems important. The ~~secretary of social and rehabilitation~~  
42 *for aging and disability* services may adopt rules and regulations necessary  
43 to carry out the provisions of this section.

1        Sec. 264. K.S.A. 65-116m is hereby amended to read as follows: 65-  
2 116m. Where funds appropriated to the ~~department of social and~~  
3 ~~rehabilitation~~ *Kansas department for aging and disability* services have  
4 been expended for the purpose of meeting the cost of the care,  
5 maintenance or treatment of any person who has communicable or  
6 infectious tuberculosis pursuant to the provisions of this act and a third  
7 party has a legal obligation to pay such cost to or on behalf of the  
8 recipient, the ~~secretary of social and rehabilitation~~ *for aging and disability*  
9 services may recover the same from the recipient or from the third party  
10 and in all respects shall be subrogated to the rights of the recipient in such  
11 cases.

12        Sec. 265. K.S.A. 65-1,108 is hereby amended to read as follows: 65-  
13 1,108. (a) It shall be unlawful for any person or laboratory to perform tests  
14 to evaluate biological specimens for the presence of controlled substances  
15 included in schedule I or II of the uniform controlled substances act or  
16 metabolites thereof, unless the laboratory in which such tests are  
17 performed has been approved by the secretary of health and environment  
18 to perform such tests. Any person violating any of the provisions of this  
19 section shall be deemed guilty of a class B misdemeanor.

20        (b) As used in this section and in K.S.A. 65-1,107 and amendments  
21 thereto, "laboratory" shall not include: (1) The office or clinic of a person  
22 licensed to practice medicine and surgery in which laboratory tests are  
23 performed as part of and incidental to the examination or treatment of a  
24 patient of such person; (2) the Kansas bureau of investigation forensic  
25 laboratory; (3) urinalysis tests for controlled substances performed only for  
26 management purposes on inmates, parolees or probationers by personnel  
27 of the department of corrections or office of judicial administration and  
28 which shall not be used for revoking or denying parole or probation; (4)  
29 urinalysis tests approved by the secretary of corrections for controlled  
30 substances performed by the community corrections programs; (5)  
31 urinalysis tests approved by the secretary of corrections for controlled  
32 substances performed by personnel of the community correctional  
33 conservation camp in Labette county which is operated under agreements  
34 entered into by the secretary of corrections and the board of county  
35 commissioners of Labette county pursuant to K.S.A. 75-52,132 and  
36 amendments thereto; or (6) urinalysis tests performed for management  
37 purposes only by personnel of alcohol and drug treatment programs which  
38 are licensed or certified by the ~~secretary of social and rehabilitation~~ *for*  
39 *aging and disability* services.

40        Sec. 266. K.S.A. 65-1,120 is hereby amended to read as follows: 65-  
41 1,120. As used in this act:

42        (a) "Medication aide" means an unlicensed person certified as having  
43 satisfactorily completed a training program in medication administration

1 approved by the secretary of health and environment for the purposes of  
 2 subsection (i) of K.S.A. 65-1124, and amendments thereto.

3 (b) "Secretary" means ~~the secretary of health and environment for~~  
 4 ~~aging and disability services.~~

5 Sec. 267. K.S.A. 65-1,159 is hereby amended to read as follows: 65-  
 6 1,159. (a) On or before January 1, 1993, the secretary of health and  
 7 environment, in cooperation with the ~~secretary of social and rehabilitation~~  
 8 ~~for aging and disability services~~, the commissioner of education and the  
 9 commissioner of insurance, shall develop and submit to the governor, the  
 10 joint committee on health care decisions for the 1990's and the Kansas  
 11 commission on the future of health care, inc., a proposal for consolidating  
 12 all existing health programs required by law for pregnant women and  
 13 children into one comprehensive plan to be implemented by one or several  
 14 agencies through interagency contracts, contracts with private agencies or  
 15 by providing direct services. Such proposal shall:

16 (1) Include a time schedule for phasing in implementation of the  
 17 comprehensive plan;

18 (2) provide cost estimates for the plan;

19 (3) identify federal waivers necessary to implement the plan;

20 (4) identify sources of funding for the plan; and

21 (5) examine innovative programs.

22 (b) The comprehensive plan developed pursuant to subsection (a)  
 23 shall, at a minimum, provide for the following statewide:

24 (1) Comprehensive prenatal services for all pregnant women who  
 25 qualify for existing programs through the ~~Kansas department of social and~~  
 26 ~~rehabilitation for aging and disability services~~ or the department of health  
 27 and environment or other government-funded programs;

28 (2) comprehensive medical care for all children under 18 years of  
 29 age;

30 (3) preventative and restorative dental care for all children under 18  
 31 years of age of each family qualifying under the plan;

32 (4) periodic sight and hearing tests for all children under 18 years of  
 33 age and such eyeglasses and hearing aids as such children are found to  
 34 need;

35 (5) a case management system under which each family with a child  
 36 under the plan is assigned a case manager and under which every  
 37 reasonable effort is made to assure continuity of case management and  
 38 access to other appropriate social services; and

39 (6) services regardless of, and fees for services based on, clients'  
 40 ability to pay.

41 Sec. 268. K.S.A. 65-1,162 is hereby amended to read as follows: 65-  
 42 1,162. (a) The secretary of health and environment, in collaboration with  
 43 the ~~secretary of social and rehabilitation for aging and disability services,~~

1 shall provide an educational program to health care professionals who  
2 provide health care services to pregnant women for the purpose of:

3 (1) Assuring accurate and appropriate patient education regarding the  
4 effects of drugs on pregnancy and fetal outcome;

5 (2) taking accurate and complete drug histories;

6 (3) counseling techniques for drug abusing women to improve  
7 referral to and compliance with drug treatment programs; and

8 (4) other additional topics as deemed necessary.

9 (b) This section shall take effect and be in force from and after  
10 January 1, 1993.

11 Sec. 269. K.S.A. 65-1,165 is hereby amended to read as follows: 65-  
12 1,165. (a) A pregnant woman referred for substance abuse treatment shall  
13 be a first priority user of substance abuse treatment available through  
14 ~~social and rehabilitation~~ *aging and disability* services. All records and  
15 reports regarding such pregnant woman shall be kept confidential. The  
16 ~~secretary of social and rehabilitation~~ *for aging and disability* services shall  
17 ensure that family oriented substance abuse treatment is available.  
18 Substance abuse treatment facilities which receive public funds shall not  
19 refuse to treat women solely because they are pregnant.

20 (b) This section shall take effect and be in force from and after  
21 January 1, 1993.

22 Sec. 270. K.S.A. 2012 Supp. 65-1,246 is hereby amended to read as  
23 follows: 65-1,246. Three years after the date a birth defects information  
24 system is implemented pursuant to K.S.A. 2012 Supp. 65-1,241, and  
25 amendments thereto, and annually thereafter, the secretary shall prepare a  
26 report regarding the birth defects information system. The department shall  
27 file the report with the governor, the president and minority leader of the  
28 senate, the speaker and minority leader of the house of representatives, the  
29 ~~departments of social and rehabilitation~~ *Kansas department for aging and*  
30 *disability services; and the department of* education and human resources.

31 Sec. 271. K.S.A. 2012 Supp. 65-445 is hereby amended to read as  
32 follows: 65-445. (a) Every medical care facility shall keep written records  
33 of all pregnancies which are lawfully terminated within such medical care  
34 facility and shall annually submit a written report thereon to the secretary  
35 of health and environment in the manner and form prescribed by the  
36 secretary. Every person licensed to practice medicine and surgery shall  
37 keep a record of all pregnancies which are lawfully terminated by such  
38 person in a location other than a medical care facility and shall annually  
39 submit a written report thereon to the secretary of health and environment  
40 in the manner and form prescribed by the secretary.

41 (b) Each report required by this section shall include the number of  
42 pregnancies terminated during the period of time covered by the report, the  
43 type of medical facility in which the pregnancy was terminated,



1 information required to be reported under subsections (b) and (c) of K.S.A.  
2 65-6703, subsection (j) of K.S.A. 65-6705, subsection (c) of K.S.A. 65-  
3 6721 and K.S.A. 2012 Supp. 65-6724, and amendments thereto, if  
4 applicable to the pregnancy terminated, and such other information as may  
5 be required by the secretary of health and environment, but the report shall  
6 not include the names of the persons whose pregnancies were so  
7 terminated. Each report required by subsections (b) and (c) of K.S.A. 65-  
8 6703, subsection (j) of K.S.A. 65-6705 and subsection (c) of K.S.A. 65-  
9 6721, and amendments thereto, shall specify the medical diagnosis and  
10 condition constituting a substantial and irreversible impairment of a major  
11 bodily function or the medical diagnosis and condition which necessitated  
12 performance of an abortion to preserve the life of the pregnant woman.  
13 Each report required by K.S.A. 65-6703, and amendments thereto, shall  
14 include a sworn statement by the physician performing the abortion and  
15 the referring physician that such physicians are not legally or financially  
16 affiliated.

17 (c) Information obtained by the secretary of health and environment  
18 under this section shall be confidential and shall not be disclosed in a  
19 manner that would reveal the identity of any person licensed to practice  
20 medicine and surgery who submits a report to the secretary under this  
21 section or the identity of any medical care facility which submits a report  
22 to the secretary under this section, except that such information, including  
23 information identifying such persons and facilities may be disclosed to the  
24 state board of healing arts upon request of the board for disciplinary action  
25 conducted by the board and may be disclosed to the attorney general or  
26 any district or county attorney in this state upon a showing that a  
27 reasonable cause exists to believe that a violation of this act has occurred.  
28 Any information disclosed to the state board of healing arts, the attorney  
29 general or any district or county attorney pursuant to this subsection shall  
30 be used solely for the purposes of a disciplinary action or criminal  
31 proceeding. Except as otherwise provided in this subsection, information  
32 obtained by the secretary under this section may be used only for statistical  
33 purposes and such information shall not be released in a manner which  
34 would identify any county or other area of this state in which the  
35 termination of the pregnancy occurred. A violation of this subsection (c) is  
36 a class A nonperson misdemeanor.

37 (d) In addition to such criminal penalty under subsection (c), any  
38 person licensed to practice medicine and surgery or medical care facility  
39 whose identity is revealed in violation of this section may bring a civil  
40 action against the responsible person or persons for any damages to the  
41 person licensed to practice medicine and surgery or medical care facility  
42 caused by such violation.

43 (e) For the purpose of maintaining confidentiality as provided by

1 subsections (c) and (d), reports of terminations of pregnancies required by  
2 this section shall identify the person or facility submitting such reports  
3 only by confidential code number assigned by the secretary of health and  
4 environment to such person or facility and the department of health and  
5 environment shall maintain such reports only by such number.

6 (f) The annual public report on abortions performed in Kansas issued  
7 by the secretary of health and environment shall contain the information  
8 required to be reported by this section to the extent such information is not  
9 deemed confidential pursuant to this section. The secretary of health and  
10 environment shall adopt rules and regulations to implement this section.  
11 Such rules and regulations shall prescribe, in detail, the information  
12 required to be kept by the physicians and hospitals and the information  
13 required in the reports which must be submitted to the secretary.

14 (g) ~~The department of social and rehabilitation services~~ *Kansas*  
15 *department for children and families* shall prepare and publish an annual  
16 report on the number of reports of child sexual abuse received by the  
17 department from abortion providers. Such report shall be categorized by  
18 the age of the victim and the month the report was submitted to the  
19 department. The name of the victim and any other identifying information  
20 shall be kept confidential by the department and shall not be released as  
21 part of the public report.

22 Sec. 272. K.S.A. 2012 Supp. 65-503 is hereby amended to read as  
23 follows: 65-503. As used in this act:

24 (a) "Child placement agency" means a business or service conducted,  
25 maintained or operated by a person engaged in finding homes for children  
26 by placing or arranging for the placement of such children for adoption or  
27 foster care.

28 (b) "Child care resource and referral agency" means a business or  
29 service conducted, maintained or operated by a person engaged in  
30 providing resource and referral services, including information of specific  
31 services provided by child care facilities, to assist parents to find child  
32 care.

33 (c) "Child care facility" means:

34 (1) A facility maintained by a person who has control or custody of  
35 one or more children under 16 years of age, unattended by parent or  
36 guardian, for the purpose of providing the children with food or lodging,  
37 or both, except children in the custody of the ~~secretary of social and~~  
38 ~~rehabilitation services for children and families~~ who are placed with a  
39 prospective adoptive family pursuant to the provisions of an adoptive  
40 placement agreement or who are related to the person by blood, marriage  
41 or legal adoption;

42 (2) a children's home, orphanage, maternity home, day care facility or  
43 other facility of a type determined by the secretary to require regulation

1 under the provisions of this act;

2 (3) a child placement agency or child care resource and referral  
3 agency, or a facility maintained by such an agency for the purpose of  
4 caring for children under 16 years of age; or

5 (4) any receiving or detention home for children under 16 years of  
6 age provided or maintained by, or receiving aid from, any city or county or  
7 the state.

8 (d) "Day care facility" means a child care facility that includes a day  
9 care home, preschool, child care center, school-age program or other  
10 facility of a type determined by the secretary to require regulation under  
11 the provisions of K.S.A. 65-501 et seq., and amendments thereto.

12 (e) "Person" means any individual, association, partnership,  
13 corporation, government, governmental subdivision or other entity.

14 (f) "Boarding school" means a facility which provides 24-hour care to  
15 school age children, provides education as its primary function, and is  
16 accredited by an accrediting agency acceptable to the secretary of health  
17 and environment.

18 (g) "Maternity center" means a facility which provides delivery  
19 services for normal, uncomplicated pregnancies but does not include a  
20 medical care facility as defined by K.S.A. 65-425, and amendments  
21 thereto.

22 Sec. 273. K.S.A. 2012 Supp. 65-504 is hereby amended to read as  
23 follows: 65-504.(a) The secretary of health and environment shall have the  
24 power to grant a license to a person to maintain a maternity center or child  
25 care facility for children under 16 years of age. A license granted to  
26 maintain a maternity center or child care facility shall state the name of the  
27 licensee, describe the particular premises in or at which the business shall  
28 be carried on, whether it shall receive and care for women or children, and  
29 the number of women or children that may be treated, maintained, boarded  
30 or cared for at any one time. No greater number of women or children than  
31 is authorized in the license shall be kept on those premises and the  
32 business shall not be carried on in a building or place not designated in the  
33 license. The license shall be kept posted in a conspicuous place on the  
34 premises where the business is conducted. A license granted to maintain a  
35 day care facility shall have on its face an expiration sticker stating the date  
36 of expiration of the license.

37 The secretary of health and environment shall grant no license in any  
38 case until careful inspection of the maternity center or child care facility  
39 shall have been made according to the terms of this act and until such  
40 maternity center or child care facility has complied with all the  
41 requirements of this act. Except as provided by this subsection, no license  
42 shall be granted without the approval of the secretary ~~of social and~~  
43 ~~rehabilitation services for children and families.~~ The secretary of health

1 and environment may issue, without the approval of the secretary of social  
2 ~~and rehabilitation services for children and families~~, a temporary permit to  
3 operate for a period not to exceed 90 days upon receipt of an initial  
4 application for license. The secretary of health and environment may  
5 extend, without the approval of the secretary of social and rehabilitation  
6 ~~services for children and families~~, the temporary permit to operate for an  
7 additional period not to exceed 90 days if an applicant is not in full  
8 compliance with the requirements of this act but has made efforts towards  
9 full compliance.

10 (b) (1) In all cases where the secretary of social and rehabilitation  
11 ~~services for children and families~~ deems it necessary, an investigation of  
12 the maternity center or child care facility shall be made under the  
13 supervision of the secretary of social and rehabilitation services for  
14 *children and families* or other designated qualified agents. For that purpose  
15 and for any subsequent investigations they shall have the right of entry and  
16 access to the premises of the center or facility and to any information  
17 deemed necessary to the completion of the investigation. In all cases  
18 where an investigation is made, a report of the investigation of such center  
19 or facility shall be filed with the secretary of health and environment.

20 (2) In cases where neither approval or disapproval can be given  
21 within a period of 30 days following formal request for such a study, the  
22 secretary of health and environment may issue a temporary license without  
23 fee pending final approval or disapproval of the center or facility.

24 (c) Whenever the secretary of health and environment refuses to grant  
25 a license to an applicant, the secretary shall issue an order to that effect  
26 stating the reasons for such denial and within five days after the issuance  
27 of such order shall notify the applicant of the refusal. Upon application not  
28 more than 15 days after the date of its issuance a hearing on the order shall  
29 be held in accordance with the provisions of the Kansas administrative  
30 procedure act.

31 (d) When the secretary of health and environment finds upon  
32 investigation or is advised by the secretary of social and rehabilitation  
33 ~~services for children and families~~ that any of the provisions of this act or  
34 the provisions of K.S.A. 59-2123, and amendments thereto, are being  
35 violated, or that the maternity center or child care facility is maintained  
36 without due regard to the health, safety or welfare of any woman or child,  
37 the secretary of health and environment may issue an order revoking such  
38 license after giving notice and conducting a hearing in accordance with the  
39 provisions of the Kansas administrative procedure act. The order shall  
40 clearly state the reason for the revocation.

41 (e) If the secretary revokes or refuses to renew a license, the licensee  
42 who had a license revoked or not renewed shall not be eligible to apply for  
43 a license for a period of one year subsequent to the date such revocation or

1 refusal to renew becomes final. If the secretary revokes or refuses to renew  
2 a license of a licensee who is a repeat, three or more times, violator of  
3 statutory requirements or rules and regulations or is found to have  
4 contributed to the death or serious bodily harm of a child under such  
5 licensee's care, such licensee shall be permanently prohibited from  
6 applying for a new license to provide child care or from seeking  
7 employment under another licensee.

8 (f) Any applicant or licensee aggrieved by a final order of the  
9 secretary of health and environment denying or revoking a license under  
10 this act may appeal the order in accordance with the Kansas judicial  
11 review act.

12 Sec. 274. K.S.A. 2012 Supp. 65-506 is hereby amended to read as  
13 follows: 65-506. The secretary of health and environment shall serve  
14 notice of the issuance, limitation, modification, suspension or revocation  
15 of a license to conduct a maternity center or child care facility to the  
16 ~~secretary of social and rehabilitation services for children and families,~~  
17 juvenile justice authority, department of education, office of the state fire  
18 marshal, county, city-county or multi-county department of health, and to  
19 any licensed child placement agency or licensed child care resource and  
20 referral agency serving the area where the center or facility is located. A  
21 maternity center or child care facility that has had a license limited,  
22 modified, suspended, revoked or denied by the secretary of health and  
23 environment shall notify in writing the parents or guardians of the  
24 enrollees of the limitation, modification, suspension, revocation or denial.  
25 ~~Neither the secretary of social and rehabilitation services for children and~~  
26 ~~families~~ nor any other person shall place or cause to be placed any woman  
27 or child under 16 years of age in any maternity center or child care facility  
28 not licensed by the secretary of health and environment.

29 Sec. 275. K.S.A. 65-507 is hereby amended to read as follows: 65-  
30 507. (a) Each maternity center licensee shall keep a record upon forms  
31 prescribed and provided by the secretary of health and environment and  
32 ~~the secretary of social and rehabilitation services for children and families~~  
33 which shall include the name of every patient, together with the patient's  
34 place of residence during the year preceding admission to the center and  
35 the name and address of the attending physician. Each child care facility  
36 licensee shall keep a record upon forms prescribed and provided by the  
37 secretary of health and environment which shall include the name and age  
38 of each child received and cared for in the facility; the name of the  
39 physician who attended any sick children in the facility, together with the  
40 names and addresses of the parents or guardians of such children; and such  
41 other information as the secretary of health and environment or secretary  
42 ~~of social and rehabilitation services for children and families~~ may require.  
43 Each maternity center licensee and each child care facility licensee shall

1 apply to and shall receive without charge from the secretary of health and  
2 environment and the secretary ~~of social and rehabilitation services for~~  
3 *children and families* forms for such records as may be required, which  
4 forms shall contain a copy of this act.

5 (b) Information obtained under this section shall be confidential and  
6 shall not be made public in a manner which would identify individuals.

7 Sec. 276. K.S.A. 2012 Supp. 65-508 is hereby amended to read as  
8 follows: 65-508. (a) Any maternity center or child care facility subject to  
9 the provisions of this act shall: (1) Be properly heated, plumbed, lighted  
10 and ventilated; (2) have plumbing, water and sewerage systems which  
11 conform to all applicable state and local laws; and (3) be operated with  
12 strict regard to the health, safety and welfare of any woman or child.

13 (b) Every maternity center or child care facility shall furnish or cause  
14 to be furnished for the use of each resident and employee individual towel,  
15 wash cloth, comb and individual drinking cup or sanitary bubbling  
16 fountain, and toothbrushes for all other than infants, and shall keep or  
17 require such articles to be kept at all times in a clean and sanitary  
18 condition. Every maternity center or child care facility shall comply with  
19 all applicable fire codes and rules and regulations of the state fire marshal.

20 (c) (1) The secretary of health and environment with the cooperation  
21 of the secretary ~~of social and rehabilitation services for children and~~  
22 *families* shall develop and adopt rules and regulations for the operation and  
23 maintenance of maternity centers and child care facilities. The rules and  
24 regulations for operating and maintaining maternity centers and child care  
25 facilities shall be designed to promote the health, safety and welfare of any  
26 woman or child served in such facilities by ensuring safe and adequate  
27 physical surroundings, healthful food, adequate handwashing, safe storage  
28 of toxic substances and hazardous chemicals, sanitary diapering and  
29 toileting, home sanitation, supervision and care of the residents by capable,  
30 qualified persons of sufficient number, after hour care, an adequate  
31 program of activities and services, sudden infant death syndrome and safe  
32 sleep practices training, prohibition on corporal punishment, crib safety,  
33 protection from electrical hazards, protection from swimming pools and  
34 other water sources, fire drills, emergency plans, safety of outdoor  
35 playground surfaces, door locks, safety gates and transportation and such  
36 appropriate parental participation as may be feasible under the  
37 circumstances. Boarding schools are excluded from requirements  
38 regarding the number of qualified persons who must supervise and provide  
39 care to residents.

40 (2) Rules and regulations developed under this subsection shall  
41 include provisions for the competent supervision and care of children in  
42 day care facilities. For purposes of such rules and regulations, competent  
43 supervision as this term relates to children less than five years of age

1 includes, but is not limited to, direction of activities, adequate oversight  
2 including sight or sound monitoring, or both, physical proximity to  
3 children, diapering and toileting practices; and for all children, competent  
4 supervision includes, but is not limited to, planning and supervision of  
5 daily activities, safe sleep practices, including, but not limited to, visual or  
6 sound monitoring, periodic checking, emergency response procedures and  
7 drills, illness and injury response procedures, food service preparation and  
8 sanitation, playground supervision, pool and water safety practices.

9 (d) Each child cared for in a child care facility, including children of  
10 the person maintaining the facility, shall be required to have current such  
11 immunizations as the secretary of health and environment considers  
12 necessary. The person maintaining a child care facility shall maintain a  
13 record of each child's immunizations and shall provide to the secretary of  
14 health and environment such information relating thereto, in accordance  
15 with rules and regulations of the secretary, but the person maintaining a  
16 child care facility shall not have such person's license revoked solely for  
17 the failure to have or to maintain the immunization records required by  
18 this subsection.

19 (e) The immunization requirement of subsection (d) shall not apply if  
20 one of the following is obtained:

21 (1) Certification from a licensed physician stating that the physical  
22 condition of the child is such that immunization would endanger the child's  
23 life or health; or

24 (2) a written statement signed by a parent or guardian that the parent  
25 or guardian is an adherent of a religious denomination whose teachings are  
26 opposed to immunizations.

27 Sec. 277. K.S.A. 65-513 is hereby amended to read as follows: 65-  
28 513. Whenever an authorized agent of the secretary of health and  
29 environment or ~~secretary of social and rehabilitation services for children~~  
30 *and families* finds a maternity center or child care facility is not being  
31 conducted according to law, it shall be the duty of such agent to notify the  
32 licensee in writing of such changes or alterations as the agent determines  
33 necessary in order to comply with the requirements of the law, and the  
34 agent shall file a copy of such notice with the secretary of health and  
35 environment. It shall thereupon be the duty of the licensee to make such  
36 changes or alterations as are contained in the written notice within five  
37 days from the receipt of such notice. Notice shall be given in accordance  
38 with the provisions of the Kansas administrative procedure act.

39 Sec. 278. K.S.A. 2012 Supp. 65-516 is hereby amended to read as  
40 follows: 65-516.(a) No person shall knowingly maintain a child care  
41 facility if, there resides, works or regularly volunteers any person who in  
42 this state or in other states or the federal government:

43 (1) (A) Has a felony conviction for a crime against persons; (B) has a

1 felony conviction under K.S.A. 2010 Supp. 21-36a01 through 21-36a17,  
2 prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes  
3 Annotated, and amendments thereto, or any felony violation of any  
4 provision of the uniform controlled substances act prior to July 1, 2009;  
5 (C) has a conviction of any act which is described in articles 34, 35 or 36  
6 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or  
7 article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or  
8 K.S.A. 2012 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-  
9 6421, and amendments thereto, or a conviction of an attempt under K.S.A.  
10 21-3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and  
11 amendments thereto, to commit any such act or a conviction of conspiracy  
12 under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-5302,  
13 and amendments thereto, to commit such act, or similar statutes of other  
14 states or the federal government; or (D) has been convicted of any act  
15 which is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or  
16 K.S.A. 2012 Supp. 21-6401, and amendments thereto, or similar statutes  
17 of other states or the federal government;

18 (2) has been adjudicated a juvenile offender because of having  
19 committed an act which if done by an adult would constitute the  
20 commission of a felony and which is a crime against persons, is any act  
21 described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes  
22 Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the  
23 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-  
24 6326 or 21-6418 through 21-6421, and amendments thereto, or similar  
25 statutes of other states or the federal government, or is any act described in  
26 K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2012 Supp.  
27 21-6401, and amendments thereto, or similar statutes of other states or the  
28 federal government;

29 (3) has committed an act of physical, mental or emotional abuse or  
30 neglect or sexual abuse and who is listed in the child abuse and neglect  
31 registry maintained by the ~~department of social and rehabilitation services~~  
32 *Kansas department for children and families* pursuant to K.S.A. 2012  
33 Supp. 38-2226, and amendments thereto, and (A) the person has failed to  
34 successfully complete a corrective action plan which had been deemed  
35 appropriate and approved by the ~~department of social and rehabilitation~~  
36 *services Kansas department for children and families*, or (B) the record  
37 has not been expunged pursuant to rules and regulations adopted by the  
38 ~~secretary of social and rehabilitation services for children and families~~;

39 (4) has had a child removed from home based on a court order  
40 pursuant to K.S.A. 2012 Supp. 38-2251, and amendments thereto, in this  
41 state, or a court order in any other state based upon a similar statute that  
42 finds the child to be deprived or a child in need of care based on a finding  
43 of physical, mental or emotional abuse or neglect or sexual abuse and the



1 child has not been returned to the home or the child reaches majority  
2 before being returned to the home and the person has failed to  
3 satisfactorily complete a corrective action plan approved by the  
4 department of health and environment;

5 (5) has had parental rights terminated pursuant to the Kansas juvenile  
6 code or K.S.A. 2012 Supp. 38-2266 through 38-2270, and amendments  
7 thereto, or a similar statute of other states;

8 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et  
9 seq., and amendments thereto, or an immediate intervention agreement  
10 pursuant to K.S.A. 2012 Supp. 38-2346, and amendments thereto,  
11 involving a charge of child abuse or a sexual offense; or

12 (7) has an infectious or contagious disease.

13 (b) No person shall maintain a child care facility if such person has  
14 been found to be a person in need of a guardian or a conservator, or both,  
15 as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

16 (c) Any person who resides in a child care facility and who has been  
17 found to be in need of a guardian or a conservator, or both, shall be  
18 counted in the total number of children allowed in care.

19 (d) In accordance with the provisions of this subsection, the secretary  
20 of health and environment shall have access to any court orders or  
21 adjudications of any court of record, any records of such orders or  
22 adjudications, criminal history record information including, but not  
23 limited to, diversion agreements, in the possession of the Kansas bureau of  
24 investigation and any report of investigations as authorized by K.S.A.  
25 2012 Supp. 38-2226, and amendments thereto, in the possession of the  
26 ~~department of social and rehabilitation services~~ *Kansas department for*  
27 *children and families* or court of this state concerning persons working,  
28 regularly volunteering or residing in a child care facility. The secretary  
29 shall have access to these records for the purpose of determining whether  
30 or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-  
31 508 and 65-516, and amendments thereto.

32 (e) In accordance with the provisions of this subsection, the secretary  
33 is authorized to conduct national criminal history record checks to  
34 determine criminal history on persons residing, working or regularly  
35 volunteering in a child care facility. In order to conduct a national criminal  
36 history check the secretary shall require fingerprinting for identification  
37 and determination of criminal history. The secretary shall submit the  
38 fingerprints to the Kansas bureau of investigation and to the federal bureau  
39 of investigation and receive a reply to enable the secretary to verify the  
40 identity of such person and whether such person has been convicted of any  
41 crime that would prohibit such person from residing, working or regularly  
42 volunteering in a child care facility. The secretary is authorized to use  
43 information obtained from the national criminal history record check to

1 determine such person's fitness to reside, work or regularly volunteer in a  
2 child care facility.

3 (f) The secretary shall notify the child care applicant or licensee,  
4 within seven days by certified mail with return receipt requested, when the  
5 result of the national criminal history record check or other appropriate  
6 review reveals unfitness specified in subsection (a)(1) through (7) with  
7 regard to the person who is the subject of the review.

8 (g) No child care facility or the employees thereof, shall be liable for  
9 civil damages to any person refused employment or discharged from  
10 employment by reason of such facility's or home's compliance with the  
11 provisions of this section if such home acts in good faith to comply with  
12 this section.

13 (h) For the purpose of subsection (a)(3), a person listed in the child  
14 abuse and neglect central registry shall not be prohibited from residing,  
15 working or volunteering in a child care facility unless such person has: (1)  
16 Had an opportunity to be interviewed and present information during the  
17 investigation of the alleged act of abuse or neglect; and (2) been given  
18 notice of the agency decision and an opportunity to appeal such decision to  
19 the secretary and to the courts pursuant to the Kansas judicial review act.

20 (i) In regard to Kansas issued criminal history records:

21 (1) The secretary of health and environment shall provide in writing  
22 information available to the secretary to each child placement agency  
23 requesting information under this section, including the information  
24 provided by the Kansas bureau of investigation pursuant to this section, for  
25 the purpose of assessing the fitness of persons living, working or regularly  
26 volunteering in a family foster home under the child placement agency's  
27 sponsorship.

28 (2) The child placement agency is considered to be a governmental  
29 entity and the designee of the secretary of health and environment for the  
30 purposes of obtaining, using and disseminating information obtained under  
31 this section.

32 (3) The information shall be provided to the child placement agency  
33 regardless of whether the information discloses that the subject of the  
34 request has been convicted of any offense.

35 (4) Whenever the information available to the secretary reveals that  
36 the subject of the request has no criminal history on record, the secretary  
37 shall provide notice thereof in writing to each child placement agency  
38 requesting information under this section.

39 (5) Any staff person of a child placement agency who receives  
40 information under this subsection shall keep such information confidential,  
41 except that the staff person may disclose such information on a need-to-  
42 know basis to: (A) The person who is the subject of the request for  
43 information; (B) the applicant or operator of the family foster home in

1 which the person lives, works or regularly volunteers; (C) the department  
2 of health and environment; (D) the ~~department of social and rehabilitation~~  
3 ~~services~~ *Kansas department for children and families*; (E) the juvenile  
4 justice authority; and (F) the courts.

5 (6) A violation of the provisions of subsection (i)(5) shall be an  
6 unclassified misdemeanor punishable by a fine of \$100 for each violation.

7 (j) No person shall maintain a day care facility unless such person is a  
8 high school graduate or the equivalent thereof, except where extraordinary  
9 circumstances exist, the secretary of health and environment may exercise  
10 discretion to make exceptions to this requirement. The provisions of this  
11 subsection shall not apply to any person who was maintaining a day care  
12 facility on the day immediately prior to July 1, 2010 or who had an  
13 application for an initial license or the renewal of an existing license  
14 pending on July 1, 2010.

15 Sec. 279. K.S.A. 2012 Supp. 65-1456 is hereby amended to read as  
16 follows: 65-1456. (a) The board may suspend or revoke the license of any  
17 dentist who shall permit any dental hygienist operating under such dentist's  
18 supervision to perform any operation other than that permitted under the  
19 provisions of article 14 of chapter 65 of the Kansas Statutes Annotated,  
20 and amendments thereto, and may suspend or revoke the license of any  
21 hygienist found guilty of performing any operation other than those  
22 permitted under article 14 of chapter 65 of the Kansas Statutes Annotated,  
23 and amendments thereto. No license of any dentist or dental hygienist shall  
24 be suspended or revoked in any administrative proceedings without first  
25 complying with the notice and hearing requirements of the Kansas  
26 administrative procedure act.

27 (b) The practice of dental hygiene shall include those educational,  
28 preventive, and therapeutic procedures which result in the removal of  
29 extraneous deposits, stains and debris from the teeth and the rendering of  
30 smooth surfaces of the teeth to the depths of the gingival sulci. Included  
31 among those educational, preventive and therapeutic procedures are the  
32 instruction of the patient as to daily personal care, protecting the teeth  
33 from dental caries, the scaling and polishing of the crown surfaces and the  
34 planing of the root surfaces, in addition to the curettage of those soft  
35 tissues lining the free gingiva to the depth of the gingival sulcus and such  
36 additional educational, preventive and therapeutic procedures as the board  
37 may establish by rules and regulations.

38 (c) Subject to such prohibitions, limitations and conditions as the  
39 board may prescribe by rules and regulations, any licensed dental hygienist  
40 may practice dental hygiene and may also perform such dental service as  
41 may be performed by a dental assistant under the provisions of K.S.A. 65-  
42 1423, and amendments thereto.

43 (d) Except as otherwise provided in this section, the practice of dental

1 hygiene shall be performed under the direct or general supervision of a  
2 licensed dentist at the office of such licensed dentist. The board shall  
3 designate by rules and regulations the procedures which may be performed  
4 by a dental hygienist under direct supervision and the procedures which  
5 may be performed under general supervision of a licensed dentist. As used  
6 in this section: (1) "Direct supervision" means that the dentist is in the  
7 dental office, personally diagnoses the condition to be treated, personally  
8 authorizes the procedure and before dismissal of the patient evaluates the  
9 performance; and (2) "general supervision" means a Kansas licensed  
10 dentist may delegate verbally or by written authorization the performance  
11 of a service, task or procedure to a licensed dental hygienist under the  
12 supervision and responsibility of the dentist, if the dental hygienist is  
13 licensed to perform the function, and the supervising dentist examines the  
14 patient at the time the dental hygiene procedure is performed, or during the  
15 12 calendar months preceding the performance of the procedure, except  
16 that the licensed hygienist shall not be permitted to diagnose a dental  
17 disease or ailment, prescribe any treatment or a regimen thereof, prescribe,  
18 order or dispense medication or perform any procedure which is  
19 irreversible or which involves the intentional cutting of the soft or hard  
20 tissue by any means. A dentist is not required to be on the premises at the  
21 time a hygienist performs a function delegated under part (2) of this  
22 subsection.

23 (e) The practice of dental hygiene may be performed at an adult care  
24 home, hospital long-term care unit, state institution, local health  
25 department or indigent health care clinic on a resident of a facility, client  
26 or patient thereof so long as:

27 (1) A licensed dentist has delegated the performance of the service,  
28 task or procedure;

29 (2) the dental hygienist is under the supervision and responsibility of  
30 the dentist;

31 (3) either the supervising dentist is personally present or the services,  
32 tasks and procedures are limited to the cleaning of teeth, education and  
33 preventive care; and

34 (4) the supervising dentist examines the patient at the time the dental  
35 hygiene procedure is performed or has examined the patient during the 12  
36 calendar months preceding performance of the procedure.

37 (f) The practice of dental hygiene may be performed with consent of  
38 the parent or legal guardian, on children participating in residential and  
39 nonresidential centers for therapeutic services, on all children in families  
40 which are receiving family preservation services, on all children in the  
41 custody of the secretary of social and rehabilitation services *for children*  
42 *and families* or the commissioner of juvenile justice authority and in an  
43 out-of-home placement residing in foster care homes, on children being

1 served by runaway youth programs and homeless shelters; and on children  
2 birth to five and children in public and nonpublic schools kindergarten  
3 through grade 12 regardless of the time of year and children participating  
4 in youth organizations, so long as such children who are dentally  
5 underserved are targeted; at any state correctional institution, local health  
6 department or indigent health care clinic, as defined in K.S.A. 65-1466,  
7 and amendments thereto, and at any federally qualified health center,  
8 federally qualified health center look-alike or a community health center  
9 that receives funding from section 330 of the health center consolidation  
10 act, on a person, inmate, client or patient thereof and on other persons as  
11 may be defined by the board; so long as:

12 (1) The dental hygienist has received an "extended care permit I"  
13 from the Kansas dental board specifying that the dental hygienist has  
14 performed 1,200 hours of dental hygiene care within the past three years or  
15 has been an instructor at an accredited dental hygiene program for two  
16 academic years within the past three years;

17 (2) the dental hygienist shows proof of professional liability  
18 insurance;

19 (3) the dental hygienist is sponsored by a dentist licensed in the state  
20 of Kansas, including a signed agreement stating that the dentist shall  
21 monitor the dental hygienist's activities, except such dentist shall not  
22 monitor more than five dental hygienists with an extended care permit;

23 (4) the tasks and procedures are limited to: (A) Removal of  
24 extraneous deposits, stains and debris from the teeth and the rendering of  
25 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the  
26 application of topical anesthetic if the dental hygienist has completed the  
27 required course of instruction approved by the dental board; (C) the  
28 application of fluoride; (D) dental hygiene instruction; (E) assessment of  
29 the patient's apparent need for further evaluation by a dentist to diagnose  
30 the presence of dental caries and other abnormalities; and (F) other duties  
31 as may be delegated verbally or in writing by the sponsoring dentists  
32 consistent with this act;

33 (5) the dental hygienist advises the patient and legal guardian that the  
34 services are preventive in nature and do not constitute a comprehensive  
35 dental diagnosis and care;

36 (6) the dental hygienist provides a copy of the findings and the report  
37 of treatment to the sponsoring dentist and any other dental or medical  
38 supervisor at a participating organization found in this subsection; and

39 (7) any payment to the dental hygienist for dental hygiene services is  
40 received from the sponsoring dentist or the participating organization  
41 found in this subsection.

42 (g) The practice of dental hygiene may be performed on persons with  
43 developmental disabilities and on persons who are 65 years and older who

1 live in a residential center, an adult care home, subsidized housing,  
2 hospital long-term care unit, state institution or are served in a community  
3 senior service center, elderly nutrition program or at the home of a  
4 homebound person who qualifies for the federal home and community  
5 based service (HCBS) waiver on a resident of a facility, client or patient  
6 thereof so long as:

7 (1) The dental hygienist has received an "extended care permit II"  
8 from the Kansas dental board specifying that the dental hygienist has: (A)  
9 Performed 1,600 hours of dental hygiene care or has been an instructor at  
10 an accredited dental hygiene program for two academic years within the  
11 past three years; and (B) completed six hours of training on the care of  
12 special needs patients or other training as may be accepted by the board;

13 (2) the dental hygienist shows proof of professional liability  
14 insurance;

15 (3) the dental hygienist is sponsored by a dentist licensed in the state  
16 of Kansas, including a signed agreement stating that the dentist shall  
17 monitor the dental hygienist's activities, except such dentist shall not  
18 monitor more than five dental hygienists with an extended care permit II;

19 (4) the tasks and procedures are limited to: (A) Removal of  
20 extraneous deposits, stains and debris from the teeth and the rendering of  
21 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the  
22 application of topical anesthetic if the dental hygienist has completed the  
23 required course of instruction approved by the dental board; (C) the  
24 application of fluoride; (D) dental hygiene instruction; (E) assessment of  
25 the patient's apparent need for further evaluation by a dentist to diagnose  
26 the presence of dental caries and other abnormalities; and (F) other duties  
27 as may be delegated verbally or in writing by the sponsoring dentist  
28 consistent with this act;

29 (5) the dental hygienist advises the patient and legal guardian that the  
30 services are preventive in nature and do not constitute comprehensive  
31 dental diagnosis and care;

32 (6) the dental hygienist provides a copy of the findings and the report  
33 of treatment to the sponsoring dentist and any other dental or medical  
34 supervisor at a participating organization found in this subsection;

35 (7) any payment to the dental hygienist for dental hygiene services is  
36 received from the sponsoring dentist or the participating organization  
37 found in this subsection; and

38 (8) the dental hygienist completes a minimum of three hours of  
39 education in the area of special needs care within the board's continuing  
40 dental education requirements for relicensure.

41 (h) The expanded practice of dental hygiene may be performed with  
42 consent of the parent or legal guardian, on children participating in  
43 residential and nonresidential centers for therapeutic services, on all

1 children in families which are receiving family preservation services, on  
2 all children in the custody of the secretary ~~of social and rehabilitation~~  
3 ~~services for children and families~~ or the commissioner of juvenile justice  
4 authority and in an out-of-home placement residing in foster care homes,  
5 on children being served by runaway youth programs and homeless  
6 shelters; and on children birth to five and children in public and nonpublic  
7 schools kindergarten through grade 12 regardless of the time of year and  
8 children participating in youth organizations, so long as such children who  
9 are dentally underserved are targeted; at any state correctional institution,  
10 local health department or indigent health care clinic, as defined in K.S.A.  
11 65-1466, and amendments thereto, and at any federally qualified health  
12 center, federally qualified health center look-alike or a community health  
13 center that receives funding from section 330 of the health center  
14 consolidation act, on a person, inmate, client or patient; on persons with  
15 developmental disabilities and on persons who are 65 years and older who  
16 live in a residential center, an adult care home, subsidized housing,  
17 hospital long-term care unit, state institution or are served in a community  
18 senior service center, elderly nutrition program or at the home of a  
19 homebound person who qualifies for the federal home and community  
20 based service (HCBS) waiver on a resident of a facility, client or patient  
21 thereof so long as:

22 (1) The dental hygienist has received an "extended care permit III"  
23 from the Kansas dental board specifying that the dental hygienist has: (A)  
24 Performed 2,000 hours of dental hygiene care or has been an instructor at  
25 an accredited dental hygiene program for three academic years within the  
26 past four years; and (B) completed a course of study of 18 seat hours  
27 approved by the board which includes, but is not limited to, emergency  
28 dental care techniques, the preparation and placement of temporary  
29 restorations, the adjustment of dental prostheses and appropriate  
30 pharmacology;

31 (2) the dental hygienist shows proof of professional liability  
32 insurance;

33 (3) the dental hygienist is sponsored by a dentist licensed in the state  
34 of Kansas, including a signed agreement stating that the dentist shall  
35 monitor the dental hygienist's activities, except such dentist shall not  
36 monitor more than five dental hygienists with an extended care permit III;

37 (4) the tasks and procedures are limited to: (A) Removal of  
38 extraneous deposits, stains and debris from the teeth and the rendering of  
39 smooth surfaces of the teeth to the depths of the gingival sulci; (B) the  
40 application of topical anesthetic if the dental hygienist has completed the  
41 required course of instruction approved by the dental board; (C) the  
42 application of fluoride; (D) dental hygiene instruction; (E) assessment of  
43 the patient's apparent need for further evaluation by a dentist to diagnose

1 the presence of dental caries and other abnormalities; (F) identification and  
2 removal of decay using hand instrumentation and placing a temporary  
3 filling, including glass ionomer and other palliative materials; (G)  
4 adjustment of dentures, placing soft relines in dentures, checking partial  
5 dentures for sore spots and placing permanent identification labeling in  
6 dentures; (H) smoothing of a sharp tooth with a slow speed dental  
7 handpiece; (I) use of local anesthetic, including topical, infiltration and  
8 block anesthesia, when appropriate to assist with procedures where  
9 medical services are available in a nursing home, health clinic or any other  
10 settings if the dental hygienist has completed a course on local anesthesia  
11 and nitrous oxide as required in this act; (J) extraction of deciduous teeth  
12 that are partially exfoliated with class 4 mobility; and (K) other duties as  
13 may be delegated verbally or in writing by the sponsoring dentist  
14 consistent with this act;

15 (5) the dental hygienist advises the patient and legal guardian that the  
16 services are palliative or preventive in nature and do not constitute  
17 comprehensive dental diagnosis and care;

18 (6) the dental hygienist provides a copy of the findings and the report  
19 of treatment to the sponsoring dentist and any other dental or medical  
20 supervisor at a participating organization found in this subsection;

21 (7) the dental hygienist notifies the patient or the patient's parent or  
22 legal guardian of such patient's need for treatment by a dentist, when the  
23 dental hygienist finds an apparent need for evaluation to diagnose the  
24 presence of dental caries and other abnormalities;

25 (8) any payment to the dental hygienist for dental hygiene services is  
26 received from the sponsoring dentist or the participating organization  
27 found in this subsection; and

28 (9) the dental hygienist completes a minimum of three hours of  
29 education related to the expanded scope of dental hygiene practice in  
30 subsection (h)(4) of this act within the board's continuing dental education  
31 requirements for relicensure.

32 (i) In addition to the duties specifically mentioned in subsection (b)  
33 any duly licensed dental hygienist may:

34 (1) Give fluoride treatments as a prophylactic measure, as defined by  
35 the United States public health service and as recommended for use in  
36 dentistry;

37 (2) remove overhanging restoration margins and periodontal surgery  
38 materials by hand scaling instruments; and

39 (3) administer local block and infiltration anaesthesia and nitrous  
40 oxide. (A) The administration of local anaesthesia shall be performed  
41 under the direct supervision of a licensed dentist except that topically  
42 applied local anaesthesia, as defined by the board, may be administered  
43 under the general supervision of a licensed dentist. (B) Each dental



1 hygienist who administers local anaesthesia regardless of the type shall  
2 have completed courses of instruction in local anaesthesia and nitrous  
3 oxide which have been approved by the board.

4 (j) (1) The courses of instruction required in subsection (i)(3)(B) shall  
5 provide a minimum of 12 hours of instruction at a teaching institution  
6 accredited by the American dental association.

7 (2) The courses of instruction shall include courses which provide  
8 both didactic and clinical instruction in: (A) Theory of pain control; (B)  
9 anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and  
10 complications.

11 (3) Certification in cardiac pulmonary resuscitation shall be required  
12 in all cases.

13 (k) The board is authorized to issue to a qualified dental hygienist an  
14 extended care permit I or extended care permit II, or extended care permit  
15 III as provided in subsections (f), (g) and (h) of this section.

16 (l) Nothing in this section shall be construed to prevent a dental  
17 hygienist from providing dental hygiene instruction or visual oral health  
18 care screenings or fluoride applications in a school or community based  
19 setting regardless of the age of the patient.

20 (m) As used in this section, "dentally underserved" means a person  
21 who lacks resources to pay for medically necessary health care services  
22 and who meets the eligibility criteria for qualification as a medically  
23 indigent person established by the secretary of health and environment  
24 under K.S.A. 75-6120, and amendments thereto.

25 Sec. 280. K.S.A. 2012 Supp. 65-1673 is hereby amended to read as  
26 follows: 65-1673. (a) For matters related only to the lawful donation,  
27 acceptance or dispensing of medications under the utilization of unused  
28 medications act, the following persons and entities, in compliance with the  
29 utilization of unused medications act, in the absence of bad faith or gross  
30 negligence, shall not be subject to criminal or civil liability for injury other  
31 than death, or loss to person or property, or professional disciplinary  
32 action:

33 (1) The state board of pharmacy;

34 (2) the department of health and environment;

35 (3) ~~the department on aging~~ *Kansas department for aging and*  
36 *disability services*;

37 (4) any governmental entity or donating entity donating medications  
38 under the utilization of unused medications act;

39 (5) any qualifying center or clinic that accepts or dispenses  
40 medications under the utilization of unused medications act; and

41 (6) any qualifying center or clinic that employs a practitioner or mid-  
42 level practitioner who accepts or can legally dispense prescription drugs  
43 under the utilization of unused medications act and the pharmacy act of the

1 state of Kansas.

2 (b) For matters related to the donation, acceptance or dispensing of a  
3 medication manufactured by the prescription drug manufacturer that is  
4 donated by any entity under the utilization of unused medications act, a  
5 prescription drug manufacturer shall not, in the absence of bad faith or  
6 gross negligence, be subject to criminal or civil liability for injury other  
7 than for death, or loss to person or property including, but not limited to,  
8 liability for failure to transfer or communicate product or consumer  
9 information or the expiration date of the donated prescription drug.

10 (c) Any person who in good faith donates medications without charge  
11 under the utilization of unused medications act, which medications are in  
12 compliance with such act at the time donated, shall not be subject to  
13 criminal or civil liability arising from any injury or death due to the  
14 condition of such medications unless such injury or death is a direct result  
15 of the willful, wanton, malicious or intentional misconduct of such person.

16 Sec. 281. K.S.A. 2012 Supp. 65-1674 is hereby amended to read as  
17 follows: 65-1674. (a) The state board of pharmacy shall adopt rules and  
18 regulations by December 1, 2008, to implement the utilization of unused  
19 medications act. Such rules shall:

20 (1) Include standards and procedures for transfer, acceptance and safe  
21 storage of donated medications;

22 (2) include standards and procedures for inspecting donated  
23 medications to ensure that the medications are in compliance with the  
24 utilization of unused medications act and to ensure that, in the professional  
25 judgment of a pharmacist, the medications meet all federal and state  
26 standards for product integrity;

27 (3) establish standards for acceptance of unused medications from  
28 donating entities; and

29 (4) establish, in consultation with the department of health and  
30 environment and the ~~department on aging~~ *Kansas department for aging*  
31 *and disability services*, any additional rules and regulations, and standards  
32 and procedures it deems appropriate or necessary to implement the  
33 provisions of the utilization of unused medications act.

34 (b) In accordance with the rules and regulations and procedures of the  
35 program established pursuant to this section, a resident of an adult care  
36 home, or the representative or guardian of a resident may donate unused  
37 medications, other than prescription drugs defined as controlled  
38 substances, for dispensation to medically indigent persons.

39 Sec. 282. K.S.A. 2012 Supp. 65-2409a is hereby amended to read as  
40 follows: 65-2409a. (a) A certificate of birth for each live birth which  
41 occurs in this state shall be filed with the state registrar within five days  
42 after such birth and shall be registered by such registrar if such certificate  
43 has been completed and filed in accordance with this section. If a birth

1 occurs on a moving conveyance, a birth certificate shall indicate as the  
2 place of birth the location where the child was first removed from the  
3 conveyance.

4 (b) When a birth occurs in an institution, the person in charge of the  
5 institution or the person's designated representative shall obtain the  
6 personal data, prepare the certificate, secure the signatures required by the  
7 certificate and file such certificate with the state registrar. The physician in  
8 attendance or, in the absence of the physician, the person in charge of the  
9 institution or that person's designated representative shall certify to the  
10 facts of birth and provide the medical information required by the  
11 certificate within five days after the birth. When a birth occurs outside an  
12 institution, the certificate shall be prepared and filed by one of the  
13 following in the indicated order of priority: (1) The physician in  
14 attendance at or immediately after the birth, or in the absence of such a  
15 person; (2) any other person in attendance at or immediately after the birth,  
16 or in the absence of such a person; or (3) the father, the mother or, in the  
17 absence of the father and the inability of the mother, the person in charge  
18 of the premises where the birth occurred.

19 (c) If the mother was married at the time of either conception or birth,  
20 or at any time between conception and birth, the name of the husband shall  
21 be entered on the certificate as the father of the child unless paternity has  
22 been determined otherwise by a court of competent jurisdiction, in which  
23 case the name of the father as determined by the court shall be entered. If  
24 the mother was not married either at the time of conception or of birth, or  
25 at any time between conception and birth, the name of the father shall not  
26 be entered on the certificate of birth without the written consent of the  
27 mother and of the person to be named as the father on a form provided by  
28 the state registrar pursuant to K.S.A. 2012 Supp. 23-2204, and  
29 amendments thereto, unless a determination of paternity has been made by  
30 a court of competent jurisdiction, in which case the name of the father as  
31 determined by the court shall be entered.

32 (d) One of the parents of any child shall sign the certificate of live  
33 birth to attest to the accuracy of the personal data entered thereon, in time  
34 to permit its filing within the five days prescribed above.

35 (e) Except as otherwise provided by this subsection, a fee of \$4 shall  
36 be paid for each certificate of live birth filed with the state registrar. Such  
37 fee shall be paid by the parent or parents of the child. If a birth occurs in  
38 an institution, the person in charge of the institution or the person's  
39 designated representative shall be responsible for collecting the fee and  
40 shall remit such fee to the secretary of health and environment not later  
41 than the 15<sup>th</sup> day following the end of the calendar quarter during which  
42 the birth occurred. If a birth occurs other than in an institution, the person  
43 completing the birth certificate shall be responsible for collecting the fee

1 and shall remit such fee to the secretary of health and environment not  
2 later than the 15<sup>th</sup> day of the month following the birth.

3 The fee provided for by this subsection shall not be required to be paid  
4 if the parent or parents of the child are at the time of the birth receiving  
5 assistance, as defined by K.S.A. 39-702, and amendments thereto, from  
6 the secretary of ~~social and rehabilitation services~~ *for children and families*.

7 (f) Except as provided in this subsection, when a certificate of birth is  
8 filed pursuant to this act, each parent shall furnish the social security  
9 number or numbers issued to the parent. Social security numbers furnished  
10 pursuant to this subsection shall not be recorded on the birth certificate. A  
11 parent shall not be required to furnish such person's social security number  
12 pursuant to this subsection if no social security number has been issued to  
13 the parent; the social security number is unknown; or the secretary  
14 determines that good cause, as defined in federal regulations promulgated  
15 pursuant to title IV-D of the federal social security act, exists for not  
16 requiring the social security number. Nothing in this subsection shall delay  
17 the filing or issuance of the birth certificate.

18 Sec. 283. K.S.A. 65-2422b is hereby amended to read as follows: 65-  
19 2422b. For each divorce and annulment of marriage granted by any court  
20 in this state, a report shall be prepared and filed by the clerk of court with  
21 the state registrar of vital statistics. The information necessary to prepare  
22 the report shall be furnished to the clerk of the court by the prevailing  
23 party or the legal representative of the prevailing party on forms prescribed  
24 and furnished by the state registrar of vital statistics. On or before the 15<sup>th</sup>  
25 day of each month, the clerk of the court shall forward to the state registrar  
26 of vital statistics the report of each divorce and annulment granted during  
27 the preceding calendar month and such related reports as may be required  
28 by rules and regulations issued under this act. The information provided  
29 shall include the social security numbers of both parties. Information in the  
30 report which will assist the secretary of ~~social and rehabilitation services~~  
31 *for children and families* in establishing, modifying or enforcing a support  
32 obligation shall be made available to the secretary of ~~social and~~  
33 ~~rehabilitation services~~ *for children and families* or the secretary's designee.

34 Sec. 284. K.S.A. 2012 Supp. 65-2422d is hereby amended to read as  
35 follows: 65-2422d. (a) The records and files of the division of health  
36 pertaining to vital statistics shall be open to inspection, subject to the  
37 provisions of the uniform vital statistics act and rules and regulations of  
38 the secretary. It shall be unlawful for any officer or employee of the state  
39 to disclose data contained in vital statistical records, except as authorized  
40 by the uniform vital statistics act and the secretary, and it shall be unlawful  
41 for anyone who possesses, stores or in any way handles vital statistics  
42 records under contract with the state to disclose any data contained in the  
43 records, except as authorized by law.

1 (b) No information concerning the birth of a child shall be disclosed  
2 in a manner that enables determination that the child was born out of  
3 wedlock, except upon order of a court in a case where the information is  
4 necessary for the determination of personal or property rights and then  
5 only for that purpose, or except that employees of the office of child  
6 support enforcement of the federal department of health and human  
7 services shall be provided information when the information is necessary  
8 to ensure compliance with federal reporting and audit requirements  
9 pursuant to title IV-D of the federal social security act or except that the  
10 ~~secretary of social and rehabilitation services for children and families~~  
11 the secretary's designee performing child support enforcement functions  
12 pursuant to title IV-D of the federal social security act shall be provided  
13 information and copies of birth certificates when the information is  
14 necessary to establish parentage in legal actions or to ensure compliance  
15 with federal reporting and audit requirements pursuant to title IV-D of  
16 the federal social security act. Nothing in this subsection shall be construed as  
17 exempting such employees of the federal department of health and human  
18 services or the ~~secretary of social and rehabilitation services for children~~  
19 ~~and families~~ or the secretary's designee from the fees prescribed by K.S.A.  
20 65-2418, and amendments thereto.

21 (c) Except as provided in subsection (b), and amendments thereto, the  
22 state registrar shall not permit inspection of the records or issue a certified  
23 copy or abstract of a certificate or part thereof unless the state registrar is  
24 satisfied the applicant therefor has a direct interest in the matter recorded  
25 and the information contained in the record is necessary for the  
26 determination of personal or property rights. The state registrar's decision  
27 shall be subject, however, to review by the secretary or by a court in  
28 accordance with the Kansas judicial review act, subject to the limitations  
29 of this section.

30 (d) The secretary shall permit the use of data contained in vital  
31 statistical records for research purposes only, but no identifying use of  
32 them shall be made. The secretary shall permit the use of birth, death and  
33 still birth certificates as identifiable data for purposes of maternal and child  
34 health surveillance and monitoring. The secretary or the secretary's  
35 designee may interview individuals for purposes of maternal and child  
36 health surveillance and monitoring only with an approval of the health and  
37 environmental institutional review board as provided in title 45, part 46 of  
38 the code of federal regulations. The secretary shall inform such individuals  
39 that the participation in such surveillance and monitoring is voluntary and  
40 may only be conducted with the written consent of the person who is the  
41 subject of the information or with the informed consent of a parent or legal  
42 guardian if the person is under 18 years of age. Informed consent is not  
43 required if the person who is the subject of the information is deceased.

1 (e) Subject to the provisions of this section the secretary may direct  
2 the state registrar to release birth, death and stillbirth certificate data to  
3 federal, state or municipal agencies.

4 (f) On or before the 20<sup>th</sup> day of each month, the state registrar shall  
5 furnish to the county election officer of each county and the clerk of the  
6 district court in each county, without charge, a list of deceased residents of  
7 the county who were at least 18 years of age and for whom death  
8 certificates have been filed in the office of the state registrar during the  
9 preceding calendar month. The list shall include the name, age or date of  
10 birth, address and date of death of each of the deceased persons and shall  
11 be used solely by the election officer for the purpose of correcting records  
12 of their offices and by the clerk of the district court in each county for the  
13 purpose of correcting juror information for such county. Information  
14 provided under this subsection to the clerk of the district court shall be  
15 considered confidential and shall not be disclosed to the public. The  
16 provisions of subsection (b) of K.S.A. 45-229, and amendments thereto,  
17 shall not apply to the provisions of this subsection.

18 (g) No person shall prepare or issue any certificate which purports to  
19 be an original, certified copy or abstract or copy of a certificate of birth,  
20 death or fetal death, except as authorized in this act or rules and  
21 regulations adopted under this act.

22 (h) Records of births, deaths or marriages which are not in the  
23 custody of the secretary of health and environment and which were created  
24 before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of  
25 Kansas, and any copies of such records, shall be open to inspection by any  
26 person and the provisions of this section shall not apply to such records.

27 (i) Social security numbers furnished pursuant to K.S.A. 65-2409a,  
28 and amendments thereto, shall only be used as permitted by title IV-D of  
29 the federal social security act, and amendments thereto, or as permitted by  
30 section 7(a) of the federal privacy act of 1974, and amendments thereto.  
31 The secretary shall make social security numbers furnished pursuant to  
32 K.S.A. 65-2409a, and amendments thereto, available to the ~~department of~~  
33 ~~social and rehabilitation services~~ *Kansas department for children and*  
34 *families* for purposes permitted under title IV-D of the federal social  
35 security act.

36 (j) Fact of death information may be disseminated to state and federal  
37 agencies administering benefit programs. Such information shall be used  
38 for file clearance purposes only.

39 Sec. 285. K.S.A. 2012 Supp. 65-2895 is hereby amended to read as  
40 follows: 65-2895. (a) There is hereby created an institutional license which  
41 may be issued by the board to a person who:

42 (1) Is a graduate of an accredited school of medicine or osteopathic  
43 medicine or a school which has been in operation for not less than 15 years

1 and the graduates of which have been licensed in another state or states  
2 which have standards similar to Kansas;

3 (2) has completed at least two years in a postgraduate training  
4 program in the United States approved by the board; and

5 (3) who is employed as provided in this section.

6 (b) Subject to the restrictions of this section, the institutional license  
7 shall confer upon the holder the right and privilege to practice medicine  
8 and surgery and shall obligate the holder to comply with all requirements  
9 of such license.

10 (c) The practice privileges of institutional license holders are  
11 restricted and shall be valid only during the period in which:

12 (1) The holder is employed by any institution within the ~~department~~  
13 ~~of social and rehabilitation~~ *Kansas department for aging and disability*  
14 services, employed by any institution within the department of corrections  
15 or employed pursuant to a contract entered into by the ~~department of social~~  
16 ~~and rehabilitation~~ *Kansas department for aging and disability* services or  
17 the department of corrections with a third party, and only within the  
18 institution to which the holder is assigned;

19 (2) the holder has been employed for at least three years as described  
20 in subsection (c)(1) and is employed to provide mental health services in  
21 the employ of a Kansas licensed community mental health center, or one  
22 of its contracted affiliates, or a federal, state, county or municipal agency,  
23 or other political subdivision, or a contractor of a federal, state, county or  
24 municipal agency, or other political subdivision, or a duly chartered  
25 educational institution, or a medical care facility licensed under K.S.A. 65-  
26 425 et seq., and amendments thereto, in a psychiatric hospital licensed  
27 under K.S.A. 75-3307b, and amendments thereto, or a contractor of such  
28 educational institution, medical care facility or psychiatric hospital, and  
29 whose practice, in any such employment, is limited to providing mental  
30 health services, is a part of the duties of such licensee's paid position and is  
31 performed solely on behalf of the employer; or

32 (3) the holder has been employed for at least three years as described  
33 in subsection (c)(1) and is providing mental health services pursuant to a  
34 written protocol with a person who holds a license to practice medicine  
35 and surgery other than an institutional license.

36 (d) An institutional license shall be valid for a period of two years  
37 after the date of issuance and may be renewed for additional two-year  
38 periods if the applicant for renewal meets the requirements under  
39 subsection (c) of this section, has submitted an application for renewal on  
40 a form provided by the board, has paid the renewal fee established by rules  
41 and regulations of the board of not to exceed \$500 and has submitted  
42 evidence of satisfactory completion of a program of continuing education  
43 required by the board. In addition, an applicant for renewal who is

1 employed as described in subsection (c)(1) shall submit with the  
2 application for renewal a recommendation that the institutional license be  
3 renewed signed by the superintendent of the institution to which the  
4 institutional license holder is assigned.

5 (e) Nothing in this section shall prohibit any person who was issued  
6 an institutional license prior to the effective date of this act from having  
7 the institutional license reinstated by the board if the person meets the  
8 requirements for an institutional license described in subsection (a).

9 (f) This section shall be a part of and supplemental to the Kansas  
10 healing arts act.

11 Sec. 286. K.S.A. 2012 Supp. 65-3503 is hereby amended to read as  
12 follows: 65-3503. (a) It shall be the duty of the board to:

13 (1) Develop, impose and enforce standards which shall be met by  
14 individuals in order to receive a license as an adult care home  
15 administrator, which standards shall be designed to ensure that adult care  
16 home administrators will be individuals who are of good character and are  
17 otherwise suitable, and who, by training or experience in the field of  
18 institutional administration, are qualified to serve as adult care home  
19 administrators;

20 (2) develop examinations and investigations for determining whether  
21 an individual meets such standards;

22 (3) issue licenses to individuals who meet such standards, and revoke  
23 or suspend licenses issued by the board or reprimand, censure or otherwise  
24 discipline a person holding any such license as provided under K.S.A. 65-  
25 3508, and amendments thereto;

26 (4) establish and carry out procedures designed to ensure that  
27 individuals licensed as adult care home administrators comply with the  
28 requirements of such standards; and

29 (5) receive, investigate and take appropriate action under K.S.A. 65-  
30 3505, and amendments thereto, and rules and regulations adopted by the  
31 board with respect to any charge or complaint filed with the board to the  
32 effect that any person licensed as an adult care home administrator may be  
33 subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and  
34 amendments thereto.

35 (b) The board shall also have the power to make rules and  
36 regulations, not inconsistent with law, as may be necessary for the proper  
37 performance of its duties, and to have subpoenas issued pursuant to K.S.A.  
38 60-245, and amendments thereto, in the board's exercise of its power and  
39 to take such other actions as may be necessary to enable the state to meet  
40 the requirements set forth in section 1908 of the social security act, the  
41 federal rules and regulations promulgated thereunder and other pertinent  
42 federal authority.

43 (c) The board shall fix by rules and regulations the licensure fee,



1 temporary license fee, renewal fee, late renewal fee, reinstatement fee,  
2 reciprocity fee, sponsorship fee, wall or wallet card license replacement  
3 fee, duplicate wall license fee for any administrator serving as  
4 administrator in more than one facility and, if necessary, an examination  
5 fee under this act. Such fees shall be fixed in an amount to cover the costs  
6 of administering the provisions of the act. No fee shall be more than \$200.  
7 The secretary of ~~health and environment~~ *for aging and disability services*  
8 shall remit all moneys received from fees, charges or penalties under this  
9 act to the state treasurer in accordance with the provisions of K.S.A. 75-  
10 4215, and amendments thereto. Upon receipt of each such remittance, the  
11 state treasurer shall deposit the entire amount in the state treasury to the  
12 credit of the state general fund.

13 (d) The board upon request shall receive from the Kansas bureau of  
14 investigation, without charge, such criminal history record information  
15 relating to criminal convictions as necessary for the purpose of  
16 determining initial and continuing qualifications of licensees of and  
17 applicants for licensure by the board.

18 Sec. 287. K.S.A. 2012 Supp. 65-3504 is hereby amended to read as  
19 follows: 65-3504. (a) The board shall admit to examination for licensure as  
20 an adult care home administrator any candidate who pays a licensure and  
21 examination fee, if required, to the department of ~~health and environment~~  
22 *for aging and disability services* to be fixed by rules and regulations;  
23 submits evidence that such candidate is at least 18 years old; has  
24 completed preliminary education satisfactory to the board as prescribed in  
25 rules and regulations; and has met board established standards of good  
26 character, training and experience.

27 (b) Nothing in the provisions of article 35 of chapter 65 of the Kansas  
28 Statutes Annotated, ~~or acts amendatory of the provisions thereof or~~  
29 ~~supplemental and amendments~~ thereto, or any rules and regulations  
30 adopted pursuant thereto shall prohibit a candidate for licensure as an adult  
31 care home administrator who is a member of a recognized church or  
32 religious denomination whose religious teachings prohibit the acquisition  
33 of formal education which would qualify such candidate for examination  
34 as required by the board under subsection (a) from being admitted to  
35 examination under subsection (a) so long as such candidate otherwise  
36 meets the qualifications for admission to examination under subsection (a).  
37 A candidate for licensure as an adult care home administrator who  
38 qualifies to take the examination for licensure under this subsection (b),  
39 who passes the examination and who is licensed as an adult care home  
40 administrator shall engage in the practice of adult care home  
41 administration only in an adult care home which is owned and operated by  
42 such recognized church or religious denomination.

43 Sec. 288. K.S.A. 2012 Supp. 65-3506 is hereby amended to read as

1 follows: 65-3506. (a) There is hereby established the board of adult care  
2 home administrators. The board shall be attached to the ~~department of~~  
3 ~~health and environment~~ *Kansas department for aging and disability*  
4 *services* and shall be within the department as a part thereof. All  
5 budgeting, purchasing and related management functions of the board  
6 shall be administered under the direction and supervision of the secretary  
7 ~~of health and environment~~ *for aging and disability services*. The  
8 department shall serve as the administrative agency of the board in all  
9 respects and shall perform such services and duties as it may be legally  
10 called upon to perform. The attorney for the board shall be an assistant  
11 attorney general appointed by the attorney general. The office of the  
12 attorney general shall serve as the enforcement agency for the board. All  
13 vouchers for expenditures and all payrolls of the board shall be approved  
14 by the chairperson of the board and by the secretary ~~of health and~~  
15 ~~environment~~ *for aging and disability services*.

16 (b) The board of adult care home administrators shall be composed of  
17 seven members appointed by the governor as follows:

18 (1) Two members shall be representatives of professions and  
19 institutions concerned with the care and treatment of chronically ill or  
20 infirm elderly patients;

21 (2) two members shall be consumer representatives who have no  
22 current or previous involvement in the financial affairs or as a member of  
23 the governing body of any adult care home or any association directly  
24 concerned with the regulation or licensure of adult care homes in the state;  
25 and

26 (3) three members shall be licensed in Kansas as licensed adult care  
27 home administrators, subject to the following requirements:

28 (A) (i) One such member shall be a representative of the not-for-  
29 profit adult care home industry in Kansas. At least 30 days prior to the  
30 expiration of such member's term, Leading Age Kansas, or the successor  
31 of such entity, shall submit at least one but not more than three names of  
32 persons of recognized ability and qualification to the governor, who may  
33 consider such list in making appointments to the board under subsection  
34 (b)(3);

35 (ii) one such member shall be a representative of the for-profit adult  
36 care home industry in Kansas. At least 30 days prior to the expiration of  
37 such member's term, the Kansas health care association, or the successor  
38 of such entity, shall submit at least one but not more than three names of  
39 persons of recognized ability and qualification to the governor, who may  
40 consider such list in making appointments to the board under subsection  
41 (b)(3); and

42 (iii) one such member shall be a representative of the professional  
43 association for the adult care home industry in Kansas. At least 30 days

1 prior to the expiration of such member's term, the Kansas adult care  
2 executives association, or the successor of such entity, shall submit at least  
3 one but not more than three names of persons of recognized ability and  
4 qualification to the governor, who may consider such list in making  
5 appointments to the board under subsection (b)(3);

6 (B) all such members shall have been actively engaged in the  
7 administration of adult care homes within the state of Kansas for the three  
8 years immediately preceding appointment;

9 (C) all such members shall be actively engaged in the administration  
10 of adult care homes within the state of Kansas; and

11 (D) no such members shall have had or shall have any published  
12 disciplinary action taken by the board of adult care administrators against  
13 such members.

14 (c) No more than three members of the board may be licensed adult  
15 care home administrators. Members of the board, other than the licensed  
16 adult care home administrators, shall have no direct financial interest in  
17 adult care homes. Members of the board shall serve on the board for terms  
18 of three years or until otherwise disqualified from serving on the board. On  
19 the effective date of this act, the current expiration date of the term of  
20 office of each existing board member shall be extended by one year from  
21 such expiration date. On and after the effective date of this act, no member  
22 shall serve more than two consecutive terms. The provisions of article 35  
23 of chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*,  
24 shall not affect the office of any member of the board of adult care home  
25 administrators appointed prior to the effective date of this section. On and  
26 after the effective date of this act, as positions become vacant on the board,  
27 appointments shall be made in a manner so as to comply with the  
28 provisions of this section.

29 (d) Members of the board of adult care home administrators shall  
30 meet at such times as may be appropriate but in no case less than once  
31 each four months. The chairperson of the board shall be elected annually  
32 from among the members of the board. All final orders shall be in writing  
33 and shall be issued in accordance with the Kansas administrative  
34 procedure act.

35 (e) Members of the board who attend meetings of such board, or  
36 attend a subcommittee meeting thereof authorized by such board, shall be  
37 paid compensation, subsistence allowances, mileage and other expenses as  
38 provided in K.S.A. 75-3223, and amendments thereto.

39 Sec. 289. K.S.A. 65-3507 is hereby amended to read as follows: 65-  
40 3507. (a) All of the powers, duties and functions of the secretary of health  
41 and environment for aging and disability services granted by K.S.A. 65-  
42 3501 to 65-3505, inclusive, *and amendments thereto*, relating to the  
43 licensure and registration of skilled nursing home administrators, are

1 transferred to and conferred and imposed upon the board of adult care  
2 home administrators established by K.S.A. 65-3506, *and amendments*  
3 *thereto*, except as otherwise provided by this act.

4 (b) Whenever the secretary ~~of health and environment~~ *for aging and*  
5 *disability services* or the department ~~of health and environment~~ *for aging*  
6 *and disability services*, or words of like effect, is referred to or designated  
7 by a contract or other document executed pursuant to the powers, duties  
8 and functions granted to the secretary ~~of health and environment~~ *for aging*  
9 *and disability services* by K.S.A. 65-3501 to 65-3505, inclusive, *and*  
10 *amendments thereto*, such reference or designation shall be deemed to  
11 apply to the board of adult care home administrators established by K.S.A.  
12 65-3506, *and amendments thereto*.

13 (c) All rules and regulations and all orders or directives of the  
14 secretary ~~of health and environment~~ *for aging and disability services*  
15 adopted in administering the powers, duties and functions granted to such  
16 secretary by K.S.A. 65-3501 to 65-3505, inclusive, *and amendments*  
17 *thereto*, and in existence on the effective date of this act shall continue to  
18 be effective and shall be deemed to be the rules and regulations and orders  
19 or directives of the board of adult care home administrators created by  
20 K.S.A. 65-3506, *and amendments thereto*, until revised, amended,  
21 repealed or nullified pursuant to law.

22 Sec. 290. K.S.A. 2012 Supp. 65-4024a is hereby amended to read as  
23 follows: 65-4024a. As used in this act:

24 (a) "Act" means the alcohol or other drug addiction treatment act;

25 (b) "Alcohol or other drug addiction" means a pattern of substance  
26 use, leading to significant impairment or distress, manifested by three or  
27 more of the following occurring at any time in the same 12-month period:

28 (1) Tolerance, defined as: (A) A need for markedly increased amounts  
29 of the substance to achieve intoxication or desired effect; or (B) a  
30 markedly diminished effect with continued use of the same amount of  
31 substance;

32 (2) withdrawal, as manifested by either of the following: (A) The  
33 characteristic withdrawal syndrome for the substance; or (B) the same or a  
34 closely related substance is taken to relieve or avoid withdrawal  
35 symptoms;

36 (3) the substance is often taken in larger amounts or over a longer  
37 period than was intended;

38 (4) there is a persistent desire or unsuccessful efforts to cut down or  
39 control substance use;

40 (5) a great deal of time is spent in activities necessary to obtain the  
41 substance, use the substance or recover from its effects;

42 (6) important social, occupational or recreational activities are given  
43 up or reduced because of substance use;

1 (7) the substance use is continued despite knowledge of having a  
2 persistent or recurrent physical or psychological problem that is likely to  
3 have been caused or exacerbated by the substance.

4 (c) "Care or treatment" means such necessary services as are in the  
5 best interests of the physical and mental health of the patient.

6 (d) "Committee" means the Kansas citizens committee on alcohol and  
7 other drug abuse.

8 (e) "Counselor" means an individual whose education, experience  
9 and training has been evaluated and approved by the ~~department of social  
10 and rehabilitation~~ *Kansas department for aging and disability* services to  
11 provide the scope of practice afforded to an alcohol and drug credentialed  
12 counselor or counselor assistant working in a licensed, certified alcohol  
13 and drug treatment program.

14 (f) "Department" means the ~~department of social and rehabilitation~~  
15 *Kansas department for aging and disability* services.

16 (g) "Designated state funded assessment center" or "assessment  
17 center" means a treatment facility designated by the secretary.

18 (h) "Discharge" shall have the meaning ascribed to it in K.S.A. 59-  
19 29b46, and amendments thereto.

20 (i) "Government unit" means any county, municipality or other  
21 political subdivision of the state; or any department, division, board or  
22 other agency of any of the foregoing.

23 (j) "Head of the treatment facility" shall have the meaning ascribed to  
24 it in K.S.A. 59-29b46, and amendments thereto.

25 (k) "Incapacitated by alcohol" shall have the meaning ascribed to it in  
26 K.S.A. 59-29b46, and amendments thereto.

27 (l) "Intoxicated individual" means an individual who is under the  
28 influence of alcohol or drugs or both.

29 (m) "Law enforcement officer" shall have the meaning ascribed to it  
30 in K.S.A. 59-29b46, and amendments thereto.

31 (n) "Patient" shall have the meaning ascribed to it in K.S.A. 59-  
32 29b46, and amendments thereto.

33 (o) "Private treatment facility" shall have the meaning ascribed to it  
34 in K.S.A. 59-29b46, and amendments thereto.

35 (p) "Public treatment facility" shall have the meaning ascribed to it in  
36 K.S.A. 59-29b46, and amendments thereto.

37 (q) "Treatment" shall have the meaning ascribed to it in K.S.A. 59-  
38 29b46, and amendments thereto.

39 (r) "Treatment facility" shall have the meaning ascribed to it in  
40 K.S.A. 59-29b46, and amendments thereto.

41 (s) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
42 *aging and disability* services.

43 Sec. 291. K.S.A. 2012 Supp. 65-4024b is hereby amended to read as

1 follows: 65-4024b. The secretary shall remit all moneys received from fees  
2 for licensing alcohol or other drug treatment facilities to the state treasurer  
3 in accordance with the provisions of K.S.A. 75-4215, and amendments  
4 thereto. Upon receipt of each such remittance, the state treasurer shall  
5 deposit the entire amount in the state treasury. Ten percent of each such  
6 deposit shall be credited to the state general fund and the balance shall be  
7 credited to the other state fees fund of the ~~department of social and~~  
8 ~~rehabilitation~~ *Kansas department for aging and disability* services.

9 Sec. 292. K.S.A. 2012 Supp. 65-4412 is hereby amended to read as  
10 follows: 65-4412. (a) "Community facilities for people with intellectual  
11 disability" means: (1) Any community facility for people with intellectual  
12 disability organized pursuant to the provisions of K.S.A. 19-4001 to 19-  
13 4015, inclusive, and amendments thereto, and licensed in accordance with  
14 the provisions of K.S.A. 75-3307b, and amendments thereto; or (2) any  
15 intellectual disability governing board which contracts with a nonprofit  
16 corporation to provide services for people with intellectual disability.

17 (b) "Secretary" means secretary ~~of social and rehabilitation~~ *for aging*  
18 *and disability* services.

19 Sec. 293. K.S.A. 65-4432 is hereby amended to read as follows: 65-  
20 4432. (a) "Mental health center" means any community mental health  
21 center organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015,  
22 inclusive, and amendments thereto, or mental health clinics organized  
23 pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and  
24 amendments thereto, and licensed in accordance with the provisions of  
25 K.S.A. 75-3307b, and amendments thereto.

26 (b) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
27 *aging and disability* services.

28 Sec. 294. K.S.A. 65-5101 is hereby amended to read as follows: 65-  
29 5101. As used in this act, unless the context otherwise requires:

30 (a) "Council" means the home health services advisory council  
31 created by this act;

32 (b) "home health agency" means a public or private agency or  
33 organization or a subdivision or subunit of such agency or organization  
34 that provides for a fee one or more home health services at the residence of  
35 a patient but does not include local health departments which are not  
36 federally certified home health agencies, durable medical equipment  
37 companies which provide home health services by use of specialized  
38 equipment, independent living agencies, the ~~department of social and~~  
39 ~~rehabilitation~~ *Kansas department for aging and disability* services and the  
40 department of health and environment;

41 (c) "home health services" means any of the following services  
42 provided at the residence of the patient on a full-time, part-time or  
43 intermittent basis: Nursing, physical therapy, speech therapy, nutritional or

1 dietetic consulting, occupational therapy, respiratory therapy, home health  
2 aid, attendant care services or medical social service;

3 (d) "home health aide" means an employee of a home health agency  
4 who is not licensed or professionally registered to provide home health  
5 services but who assists, under supervision, in the provision of home  
6 health services and who provides related health care to patients but shall  
7 not include employees of a home health agency providing only attendant  
8 care services;

9 (e) "independent living agency" means a public or private agency or  
10 organization or a subunit of such agency or organization whose primary  
11 function is to provide at least four independent living services, including  
12 independent living skills training, advocacy, peer counseling and  
13 information and referral as defined by the rehabilitation act of 1973, title  
14 VII, part B, and such agency shall be recognized by the secretary of social  
15 and rehabilitation for aging and disability services as an independent  
16 living agency. Such agencies include independent living centers and  
17 programs which meet the following quality assurances:

18 (1) Accreditation by a nationally recognized accrediting body such as  
19 the commission on accreditation of rehabilitation facilities; or

20 (2) receipt of grants from the state or the federal government and  
21 currently meets standards for independent living under the rehabilitation  
22 act of 1973, title VII, part B, sections (a) through (k), or comparable  
23 standards established by the state; or

24 (3) compliance with requirements established by the federal  
25 government under rehabilitation services administration standards for  
26 centers for independent living;

27 (f) "part-time or intermittent basis" means the providing of home  
28 health services in an interrupted interval sequence on the average of not to  
29 exceed three hours in any twenty-four-hour period;

30 (g) "patient's residence" means the actual place of residence of the  
31 person receiving home health services, including institutional residences as  
32 well as individual dwelling units;

33 (h) "secretary" means secretary of health and environment;

34 (i) "subunit" or "subdivision" means any organizational unit of a  
35 larger organization which can be clearly defined as a separate entity within  
36 the larger structure, which can meet all of the requirements of this act  
37 independent of the larger organization, which can be held accountable for  
38 the care of patients it is serving and which provides to all patients care and  
39 services meeting the standards and requirements of this act; and

40 (j) "attendant care services" shall have the meaning ascribed to such  
41 term under K.S.A. 65-6201, and amendments thereto.

42 Sec. 295. K.S.A. 65-5902 is hereby amended to read as follows: 65-  
43 5902. For the purposes of this act:

1 (a) "Secretary" means the secretary ~~of health and environment for~~  
2 *aging and disability services*.

3 (b) "Department" means the ~~department of health and environment~~  
4 *Kansas department for aging and disability services*.

5 (c) "Licensed dietitian" means a person licensed under this act.

6 (d) "Dietetics practice" means the integration and application of  
7 principles derived from the sciences of nutrition, biochemistry, food,  
8 physiology, management and behavioral and social sciences to achieve and  
9 maintain the health of people through:

10 (1) Assessing the nutritional needs of clients;

11 (2) establishing priorities, goals and objectives that meet nutritional  
12 needs of clients; and

13 (3) advising and assisting individuals or groups on appropriate  
14 nutritional intake by integrating information from a nutritional assessment  
15 with information on food and other sources of nutrients and meal  
16 preparation.

17 (e) "Nutritional assessment" means the evaluation of the nutritional  
18 needs of clients based upon appropriate biochemical, anthropometric,  
19 physical and dietary data to determine nutrient needs and recommend  
20 appropriate nutritional intake including enteral and parenteral nutrition.

21 (f) "Dietitian" means a person engaged in dietetics practice.

22 (g) "Sponsor" means entities approved by the secretary ~~of health and~~  
23 *environment for aging and disability services* to provide continuing  
24 education programs or courses on an ongoing basis under this act and in  
25 accordance with any rules and regulations promulgated by the secretary in  
26 accordance with this act.

27 Sec. 296. K.S.A. 2012 Supp. 65-6205 is hereby amended to read as  
28 follows: 65-6205. (a) A community service provider as defined in K.S.A.  
29 39-1803, and amendments thereto, a mental health center as defined in  
30 K.S.A. 65-4432, and amendments thereto, and an independent living  
31 agency as defined in K.S.A. 65-5101, and amendments thereto, may  
32 request for the purpose of obtaining background information on applicants  
33 for employment with such entity information:

34 (1) From the ~~department of social and rehabilitation services~~ *Kansas*  
35 *department for children and families* as to whether such applicant has  
36 committed an act of physical, mental or emotional abuse or neglect or  
37 sexual abuse as validated by the ~~department of social and rehabilitation~~  
38 *services* *Kansas department for children and families* pursuant to K.S.A.  
39 2012 Supp. 38-2226, and amendments thereto;

40 (2) from the ~~department of social and rehabilitation services~~ *Kansas*  
41 *department for children and families* as to whether such applicant has been  
42 found to have committed an act of abuse, neglect or exploitation of a  
43 resident as contained in the register of reports under K.S.A. 39-1404, and



1 amendments thereto, or an act of abuse, neglect or exploitation of an adult  
2 as contained in the register of reports under K.S.A. 39-1434, and  
3 amendments thereto;

4 (3) from the department ~~of health and environment~~ *for aging and*  
5 *disability services* as to whether such applicant has been found to have  
6 committed an act of abuse, neglect or exploitation of a resident as  
7 contained in the register of reports under K.S.A. *39-936 and* 39-1411, and  
8 amendments thereto;

9 (4) from the department ~~of health and environment~~ *for aging and*  
10 *disability services* any information concerning the applicant in the state  
11 registry which contains information about unlicensed employees of adult  
12 care homes under K.S.A. 39-936, and amendments thereto.

13 (b) No community service provider, mental health center or  
14 independent living agency shall be liable for civil damages to any person  
15 refused employment, discharged from employment or whose terms of  
16 employment are affected because of actions taken by the community  
17 service provider, mental health center or independent living agency in  
18 good faith based on information received under this section.

19 Sec. 297. K.S.A. 2012 Supp. 65-6207 is hereby amended to read as  
20 follows: 65-6207. As used in K.S.A. 2012 Supp. 65-6207 to 65-6220,  
21 inclusive, and amendments thereto, the following have the meaning  
22 respectively ascribed thereto, unless the context requires otherwise:

23 (a) "Department" means the ~~Kansas department of social and~~  
24 ~~rehabilitation for aging and disability services or the Kansas department~~  
25 *of health and environment, or both.*

26 (b) "Fund" means the health care access improvement fund.

27 (c) "Health maintenance organization" has the meaning provided in  
28 K.S.A. 40-3202, and amendments thereto.

29 (d) "Hospital" has the meaning provided in K.S.A. 65-425, and  
30 amendments thereto.

31 (e) "Hospital provider" means a person licensed by the department of  
32 health and environment to operate, conduct or maintain a hospital,  
33 regardless of whether the person is a federal medicaid provider.

34 (f) "Pharmacy provider" means an area, premises or other site where  
35 drugs are offered for sale, where there are pharmacists, as defined in  
36 K.S.A. 65-1626, and amendments thereto, and where prescriptions, as  
37 defined in K.S.A. 65-1626, and amendments thereto, are compounded and  
38 dispensed.

39 (g) "Assessment revenues" means the revenues generated directly by  
40 the assessments imposed by K.S.A. 2012 Supp. 65-6208 and 65-6213, and  
41 amendments thereto, any penalty assessments and all interest credited to  
42 the fund under this act, and any federal matching funds obtained through  
43 the use of such assessments, penalties and interest amounts.

1 Sec. 298. K.S.A. 2012 Supp. 65-6210 is hereby amended to read as  
2 follows: 65-6210.(a) The assessment imposed by K.S.A. 2012 Supp. 65-  
3 6208, and amendments thereto, for any state fiscal year to which this  
4 statute applies shall be due and payable in equal installments on or before  
5 June 30 and December 31, commencing with whichever date first occurs  
6 after the hospital has received payments for 150 days after the effective  
7 date of the payment methodology approved by the centers for medicare  
8 and medicaid services. No installment payment of an assessment under  
9 this act shall be due and payable, however, until after:

10 (1) The hospital provider receives written notice from the department  
11 that the payment methodologies to hospitals required under this act have  
12 been approved by the centers for medicare and medicaid services of the  
13 United States department of health and human services under 42 C.F.R. §  
14 433.68 for the assessment imposed by K.S.A. 2012 Supp. 65-6208, and  
15 amendments thereto, has been granted by the centers for medicare and  
16 medicaid services of the United States department of health and human  
17 services; and

18 (2) in the case of a hospital provider, the hospital has received  
19 payments for 150 days after the effective date of the payment methodology  
20 approved by the centers for medicare and medicaid services.

21 (b) The department is authorized to establish delayed payment  
22 schedules for hospital providers that are unable to make installment  
23 payments when due under this section due to financial difficulties, as  
24 determined by the department.

25 (c) If a hospital provider fails to pay the full amount of an installment  
26 when due, including any extensions granted under this section, there shall  
27 be added to the assessment imposed by K.S.A. 2012 Supp. 65-6208, and  
28 amendments thereto, unless waived by the department for reasonable  
29 cause, a penalty assessment equal to the lesser of:

30 (1) An amount equal to 5% of the installment amount not paid on or  
31 before the due date plus 5% of the portion thereof remaining unpaid on the  
32 last day of each month thereafter; or

33 (2) an amount equal to 100% of the installment amount not paid on or  
34 before the due date.

35 For purposes of subsection (c), payments will be credited first to unpaid  
36 installment amounts, rather than to penalty or interest amounts, beginning  
37 with the most delinquent installment.

38 (d) The effective date for the payment methodology applicable to  
39 hospital providers approved by the centers for medicare and medicaid  
40 services shall be the date of July 1 or January 1, whichever date is  
41 designated in the state plan submitted by the *Kansas* department of ~~social~~  
42 ~~and rehabilitation services~~ *health and environment* for approval by the  
43 centers for medicare and medicaid services.

1       Sec. 299. K.S.A. 2012 Supp. 65-6214 is hereby amended to read as  
2 follows: 65-6214.(a) The assessment imposed by K.S.A. 2012 Supp. 65-  
3 6213, and amendments thereto, for any state fiscal year to which this  
4 statute applies shall be due and payable in equal installments on or before  
5 June 30 and December 31, commencing with whichever date first occurs  
6 after the health maintenance organization has received payments for 150  
7 days after the effective date of the payment methodology approved by the  
8 centers for medicare and medicaid services. No installment payment of an  
9 assessment under this act shall be due and payable, however, until after:

10       (1) The health maintenance organization receives written notice from  
11 the department that the payment methodologies to health maintenance  
12 organizations required under this act have been approved by the centers for  
13 medicare and medicaid services of the United States department of health  
14 and human services and the state plan amendment for the assessment  
15 imposed by K.S.A. 2012 Supp. 65-6213, and amendments thereto, has  
16 been granted by the centers for medicare and medicaid services of the  
17 United States department of health and human services; and

18       (2) the health maintenance organization has received payments for  
19 150 days after the effective date of the payment methodology approved by  
20 the centers for medicare and medicaid services.

21       (b) The department is authorized to establish delayed payment  
22 schedules for health maintenance organizations that are unable to make  
23 installment payments when due under this section due to financial  
24 difficulties, as determined by the department.

25       (c) If a health maintenance organization fails to pay the full amount  
26 of an installment when due, including any extensions of time for delayed  
27 payment granted under this section, there shall be added to the assessment  
28 imposed by K.S.A. 2012 Supp. 65-6213, and amendments thereto, unless  
29 waived by the department for reasonable cause, a penalty assessment equal  
30 to the lesser of:

31       (1) An amount equal to 5% of the installment amount not paid on or  
32 before the due date plus 5% of the portion thereof remaining unpaid on the  
33 last day of each month thereafter; or

34       (2) an amount equal to 100% of the installment amount not paid on or  
35 before the due date.

36       For purposes of this subsection (c), payments shall be credited first to  
37 unpaid installment amounts, rather than to penalty or interest amounts,  
38 beginning with the most delinquent installment.

39       (d) The effective date for the payment methodology applicable to  
40 health maintenance organizations approved by the centers for medicare  
41 and medicaid services shall be the date of July 1 or January 1, whichever  
42 date is designated in the state plan submitted by the *Kansas* department of  
43 ~~social and rehabilitation services~~ *health and environment* for approval by

1 the centers for medicare and medicaid services.

2 Sec. 300. K.S.A. 2012 Supp. 65-6217 is hereby amended to read as  
3 follows: 65-6217. (a) There is hereby created in the state treasury the  
4 health care access improvement fund, which shall be administered by the  
5 ~~secretary of social and rehabilitation~~ *for aging and disability* services. All  
6 moneys received for the assessments imposed by K.S.A. 2012 Supp. 65-  
7 6208 and 65-6213, and amendments thereto, including any penalty  
8 assessments imposed thereon, shall be remitted to the state treasurer in  
9 accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt  
10 of each such remittance, the state treasurer shall deposit the entire amount  
11 in the state treasury to the credit of the health care access improvement  
12 fund. All expenditures from the health care access improvement fund shall  
13 be made in accordance with appropriation acts upon warrants of the  
14 director of accounts and reports issued pursuant to vouchers approved by  
15 the ~~secretary of social and rehabilitation~~ *for aging and disability* services  
16 or the secretary's designee.

17 (b) The fund shall not be used to replace any moneys appropriated by  
18 the legislature for the department's medicaid program.

19 (c) The fund is created for the purpose of receiving moneys in  
20 accordance with this act and disbursing moneys only for the purpose of  
21 improving health care delivery and related health activities,  
22 notwithstanding any other provision of law.

23 (d) On or before the 10<sup>th</sup> day of each month, the director of accounts  
24 and reports shall transfer from the state general fund to the health care  
25 access improvement fund interest earnings based on:

26 (1) The average daily balance of moneys in the health care access  
27 improvement fund for the preceding month; and

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

30 (e) The fund shall consist of the following:

31 (1) All moneys collected or received by the department from the  
32 hospital provider assessment and the health maintenance organization  
33 assessment imposed by this act;

34 (2) any interest or penalty levied in conjunction with the  
35 administration of this act; and

36 (3) all other moneys received for the fund from any other source.

37 (f) (1) On July 1 of each fiscal year, the director of accounts and  
38 reports shall record a debit to the state treasurer's receivables for the health  
39 care access improvement fund and shall record a corresponding credit to  
40 the health care access improvement fund in an amount certified by the  
41 director of the budget which shall be equal to the sum of 80% of the  
42 moneys estimated by the director of the budget to be received from the  
43 assessment imposed on hospital providers pursuant to K.S.A. 2012 Supp.

1 65-6208, and amendments thereto, and credited to the health care access  
2 improvement fund during such fiscal year, plus 53% of the moneys  
3 estimated by the director of the budget to be received from the assessment  
4 imposed on health maintenance organizations pursuant to K.S.A. 2012  
5 Supp. 65-6213, and amendments thereto, and credited to the health care  
6 access improvement fund during such fiscal year, except that such amount  
7 shall be proportionally adjusted during such fiscal year with respect to any  
8 change in the moneys estimated by the director of the budget to be  
9 received for such assessments, deposited in the state treasury and credited  
10 to the health care access improvement fund during such fiscal year. Among  
11 other appropriate factors, the director of the budget shall take into  
12 consideration the estimated and actual receipts from such assessments for  
13 the current fiscal year and the preceding fiscal year in determining the  
14 amount to be certified under this subsection (f). All moneys received for  
15 the assessments imposed pursuant to K.S.A. 2012 Supp. 65-6208 and 65-  
16 6213, and amendments thereto, deposited in the state treasury and credited  
17 to the health care access improvement fund during a fiscal year shall  
18 reduce the amount debited and credited to the health care access  
19 improvement fund under this subsection (f) for such fiscal year.

20 (2) On June 30 of each fiscal year, the director of accounts and  
21 reports shall adjust the amounts debited and credited to the state treasurer's  
22 receivables and to the health care access improvement fund pursuant to  
23 this subsection (f), to reflect all moneys actually received for the  
24 assessments imposed pursuant to K.S.A. 2012 Supp. 65-6208 and 65-  
25 6213, and amendments thereto, deposited in the state treasury and credited  
26 to the health care access improvement fund during the current fiscal year.

27 (3) The director of accounts and reports shall notify the state treasurer  
28 of all amounts debited and credited to the health care access improvement  
29 fund pursuant to this subsection (f) and all reductions and adjustments  
30 thereto made pursuant to this subsection (f). The state treasurer shall enter  
31 all such amounts debited and credited and shall make reductions and  
32 adjustments thereto on the books and records kept and maintained for the  
33 health care access improvement fund by the state treasurer in accordance  
34 with the notice thereof.

35 Sec. 301. K.S.A. 2012 Supp. 65-6218 is hereby amended to read as  
36 follows: 65-6218. (a) Assessment revenues generated from the hospital  
37 provider assessments shall be disbursed as follows:

38 (1) Not less than 80% of assessment revenues shall be disbursed to  
39 hospital providers through a combination of medicaid access improvement  
40 payments and increased medicaid rates on designated diagnostic related  
41 groupings, procedures or codes;

42 (2) not more than 20% of assessment revenues shall be disbursed to  
43 providers who are persons licensed to practice medicine and surgery or

1 dentistry through increased medicaid rates on designated procedures and  
2 codes; and

3 (3) not more than 3.2% of hospital provider assessment revenues  
4 shall be used to fund health care access improvement programs in  
5 undergraduate, graduate or continuing medical education, including the  
6 medical student loan act.

7 (b) Assessment revenues generated from the health maintenance  
8 organization assessment shall be disbursed as follows:

9 (1) Not less than 53% of health maintenance organization assessment  
10 revenues shall be disbursed to health maintenance organizations that have  
11 a contract with the department through increased medicaid capitation  
12 payments;

13 (2) not more than 30% of health maintenance organization  
14 assessment revenues shall be disbursed to fund activities to increase access  
15 to dental care, primary care safety net clinics, increased medicaid rates on  
16 designated procedures and codes for providers who are persons licensed to  
17 practice dentistry, and home and community-based services;

18 (3) not more than 17% of health maintenance organization  
19 assessment revenues shall be disbursed to pharmacy providers through  
20 increased medicaid rates.

21 (c) For the purposes of administering and selecting the disbursements  
22 described in subsections (a) and (b) of this section, the health care access  
23 improvement panel is hereby established. The panel shall consist of the  
24 following: Three members appointed by the Kansas hospital association,  
25 two members who are persons licensed to practice medicine and surgery  
26 appointed by the Kansas medical society, one member appointed by each  
27 health maintenance organization that has a medicaid managed care  
28 contract with the ~~department of social and rehabilitation~~ *Kansas*  
29 *department for aging and disability* services, one member appointed by the  
30 Kansas association for the medically underserved, and one representative  
31 of the ~~Kansas department of social and rehabilitation services~~ *health and*  
32 *environment* appointed by the governor. The panel shall meet as soon as  
33 possible subsequent to the effective date of this act and shall elect a  
34 chairperson from among the members appointed by the Kansas hospital  
35 association. A representative of the panel shall be required to make an  
36 annual report to the legislature regarding the collection and distribution of  
37 all funds received and distributed under this act.

38 Sec. 302. K.S.A. 2012 Supp. 65-6220 is hereby amended to read as  
39 follows: 65-6220. The secretary ~~of social and rehabilitation~~ *for aging and*  
40 *disability* services with the advice and subject to the approval of the health  
41 care access improvement panel may adopt rules and regulations necessary  
42 to implement this act.

43 Sec. 303. K.S.A. 2012 Supp. 65-6501 is hereby amended to read as

1 follows: 65-6501. As used in this act, the following words and phrases  
2 shall have the meanings respectively ascribed to them in this section:

3 (a) "Secretary" means the secretary ~~of aging~~ *for aging and disability*  
4 *services*.

5 (b) "Speech-language pathology" means the application of principles,  
6 methods and procedures related to the development and disorders of  
7 human communication. Disorders include any and all conditions, whether  
8 of organic or nonorganic origin, that impede the normal process of human  
9 communication including disorders and related disorders of speech,  
10 articulation, fluency, voice, verbal and written language, auditory  
11 comprehension, cognition/communication, and oral pharyngeal or  
12 laryngeal sensorimotor competencies, or both. Speech-language pathology  
13 does not mean diagnosis or treatment of medical conditions as defined by  
14 K.S.A. 65-2869, and amendments thereto.

15 (c) "Practice of speech-language pathology" means:

16 (1) Rendering or offering to render to individuals or groups of  
17 individuals who have or are suspected of having disorders of  
18 communication, any service in speech-language pathology including  
19 prevention, identification, evaluation, consultation, habilitation and  
20 rehabilitation;

21 (2) determining the need for personal augmentative communication  
22 systems, recommending such systems and providing training in utilization  
23 of such systems; and

24 (3) planning, directing, conducting or supervising such services.

25 (d) "Speech-language pathologist" means a person who engages in  
26 the practice of speech-language pathology and who meets the  
27 qualifications set forth in this act.

28 (e) "Audiology" means the application of principles, methods and  
29 procedures related to hearing and the disorders of hearing and to related  
30 language and speech disorders. Disorders include any and all conditions,  
31 whether of organic or nonorganic origin, peripheral or central, that impede  
32 the normal process of human communication including, but not limited to,  
33 disorders of auditory sensitivity, acuity, function or processing. Audiology  
34 does not mean diagnosis or treatment of medical conditions as defined by  
35 K.S.A. 65-2869, and amendments thereto.

36 (f) "Practice of audiology" means:

37 (1) Rendering or offering to render to individuals or groups of  
38 individuals who have or are suspected of having disorders of hearing, any  
39 service in audiology, including prevention, identification, evaluation,  
40 consultation and habilitation or rehabilitation (other than hearing aid or  
41 other assistive listening device dispensing);

42 (2) participating in hearing conservation;

43 (3) providing auditory training and speech reading;

- 1 (4) conducting tests of vestibular function;  
2 (5) evaluating tinnitus; and  
3 (6) planning, directing, conducting or supervising services.  
4 (g) "Audiologist" means any person who engages in the practice of  
5 audiology and who meets the qualifications set forth in this act.  
6 (h) "Speech-language pathology assistant" means an individual who  
7 meets minimum qualifications established by the secretary which are less  
8 than those established by this act as necessary for licensing as a speech-  
9 language pathologist; does not act independently; and works under the  
10 direction and supervision of a speech-language pathologist licensed under  
11 this act.  
12 (i) "Audiology assistant" means an individual who meets minimum  
13 qualifications established by the secretary, which are less than those  
14 established by this act as necessary for licensing as an audiologist; does  
15 not act independently; and works under the direction and supervision of an  
16 audiologist licensed under this act.  
17 (j) "Sponsor" means entities approved by the secretary ~~of aging for~~  
18 *aging and disability services* to provide continuing education programs or  
19 courses on an ongoing basis under this act and in accordance with any  
20 rules and regulations promulgated by the secretary in accordance with this  
21 act.

22 Sec. 304. K.S.A. 2012 Supp. 65-6502 is hereby amended to read as  
23 follows: 65-6502. (a) There is hereby established a speech-language  
24 pathology and audiology board. Such board shall be advisory to the  
25 secretary *for aging and disability services* in all matters concerning  
26 standards, rules and regulations and all matters relating to this act.

27 (b) The board shall be composed of five persons appointed by the  
28 secretary who have been residents of this state for at least two years. Two  
29 members shall be licensed, or initially eligible for licensure, as speech-  
30 language pathologists; one member shall be licensed, or initially eligible  
31 for licensure, as an audiologist; one member shall be a person licensed to  
32 practice medicine and surgery; and one member shall be a member of the  
33 general public who is not a health care provider. The secretary may make  
34 appointments from a list submitted by professional organizations  
35 representing speech pathologists and audiologists.

36 (c) Members of the board attending meetings of such board or  
37 attending a subcommittee meeting thereof authorized by such board shall  
38 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and  
39 amendments thereto.

40 (d) Board members shall be appointed for a term of two years and  
41 until their successors are appointed and qualified, except that of the initial  
42 appointments, which shall be made within 60 days after the effective date  
43 of this act, two members first appointed, as specified by the secretary, shall



1 serve on the board for terms of one year and thereafter, upon expiration of  
2 such one-year terms, successors shall be appointed in the same manner as  
3 the original appointments. The chairperson of the board shall be elected  
4 annually from among the members of the board. Whenever a vacancy  
5 occurs on the board by reason other than the expiration of a term of office,  
6 the secretary shall appoint a successor of like qualifications for the  
7 remainder of the unexpired term. No person shall be appointed to serve  
8 more than three successive two-year terms.

9 (e) Appointments to fill vacancies shall be made in the same manner  
10 as original appointments for the unexpired portion of the term. The  
11 secretary may terminate the appointment of any member for cause which  
12 in the opinion of the secretary reasonably justifies such termination.

13 Sec. 305. K.S.A. 2012 Supp. 65-6503 is hereby amended to read as  
14 follows: 65-6503. (a) The secretary shall:

15 (1) Issue to each person who has met the education and training  
16 requirements listed in K.S.A. 65-6505, and amendments thereto, and such  
17 other reasonable qualifications as may be established by rules and  
18 regulations promulgated by the secretary, the appropriate license as a  
19 speech-language pathologist or audiologist;

20 (2) establish by rules and regulations the methods and procedures for  
21 examination of candidates for licensure;

22 (3) appoint employees necessary to administer this act and fix their  
23 compensation within the limits of appropriations made for that purpose;

24 (4) keep a record of the board's proceedings and a register of all  
25 applicants for and recipients of licenses; and

26 (5) make all such reasonable rules and regulations as deemed  
27 necessary to carry out and enforce the provisions of this act.

28 (b) All rules and regulations, orders and directives of the secretary of  
29 health and environment concerning speech-language pathologists and  
30 audiologists in existence on the effective date of this act shall continue to  
31 be effective and shall be deemed to be duly adopted rules and regulations,  
32 orders and directives of the secretary ~~of aging for aging and disability~~  
33 *services* until revised, amended, revoked or nullified pursuant to law.

34 (c) All records of the department of health and environment  
35 concerning speech-language pathologists and audiologists in existence on  
36 the effective date of this act are hereby transferred to the secretary ~~of aging~~  
37 *for aging and disability services*.

38 (d) Whenever a reference or designation is made to the department of  
39 health and environment concerning speech-language pathologists or  
40 audiologists by a contract or other document, such reference or designation  
41 shall be deemed to apply to the secretary ~~of aging for aging and disability~~  
42 *services*.

43 Sec. 306. K.S.A. 2012 Supp. 65-6610 is hereby amended to read as

1 follows: 65-6610. (a) An applicant for licensure as an addiction counselor  
2 shall furnish evidence that the applicant:

3 (1) Has attained the age of 21; and

4 (2) (A) has completed at least a baccalaureate degree from an  
5 addiction counseling program that is part of a college or university  
6 approved by the board; or

7 (B) has completed at least a baccalaureate degree from a college or  
8 university approved by the board in a related field that includes a  
9 minimum number of semester hours of coursework on substance use  
10 disorders as approved by the board; or

11 (C) has completed at least a baccalaureate degree from a college or  
12 university approved by the board in a related field with additional  
13 coursework in addiction counseling from a college or university approved  
14 by the board, and such degree program and the additional coursework  
15 includes a minimum number of semester hours of coursework on  
16 substance use disorders as approved by the board; or

17 (D) is currently licensed in Kansas as a licensed baccalaureate social  
18 worker and has completed a minimum number of semester hours of  
19 coursework on substance use disorders as approved by the board; or

20 (E) is currently licensed in Kansas as a licensed master social worker,  
21 licensed professional counselor, licensed marriage and family therapist or  
22 licensed masters level psychologist; and

23 (3) has passed an examination approved by the board; and

24 (4) has satisfied the board that the applicant is a person who merits  
25 the public trust; and

26 (5) each applicant has paid the application fee established by the  
27 board under K.S.A. 2012 Supp. 65-6618, and amendments thereto.

28 (b) Applications for licensure as a clinical addiction counselor shall  
29 be made to the board on a form and in the manner prescribed by the board.  
30 Each applicant shall furnish evidence satisfactory to the board that the  
31 applicant:

32 (1) Has attained the age of 21; and

33 (2) (A) (i) has completed at least a master's degree from an addiction  
34 counseling program that is part of a college or university approved by the  
35 board; and

36 (ii) has completed not less than two years of postgraduate supervised  
37 professional experience in accordance with a clinical supervision plan  
38 approved by the board of not less than 4,000 hours of supervised  
39 professional experience including at least 1,500 hours of direct client  
40 contact conducting substance abuse assessments and treatment with  
41 individuals, couples, families or groups and not less than 150 hours of  
42 clinical supervision, including not less than 50 hours of person-to-person  
43 individual supervision, integrating diagnosis and treatment of substance

1 use disorders with use of the diagnostic and statistical manual of mental  
2 disorders of the American psychiatric association; or has completed not  
3 less than two years of postgraduate supervised professional experience in  
4 accordance with a clinical supervision plan approved by the board of not  
5 less than 2,000 hours of supervised professional experience including at  
6 least 750 hours of direct client contact conducting substance abuse  
7 assessments and treatment with individuals, couples, families or groups  
8 and not less than 75 hours of clinical supervision, including not less than  
9 25 hours of person-to-person individual supervision, integrating diagnosis  
10 and treatment of substance use disorders with use of the diagnostic and  
11 statistical manual of mental disorders of the American psychiatric  
12 association, and such person has a doctoral degree in addiction counseling  
13 or a related field as approved by the board; or

14 (B) (i) has completed a master's degree from a college or university  
15 approved by the board in a related field that includes a minimum number  
16 of semester hours of coursework supporting the diagnosis and treatment of  
17 substance use disorders as approved by the board; and

18 (ii) has completed not less than two years of postgraduate supervised  
19 professional experience in accordance with a clinical supervision plan  
20 approved by the board of not less than 4,000 hours of supervised  
21 professional experience including at least 1,500 hours of direct client  
22 contact conducting substance abuse assessments and treatment with  
23 individuals, couples, families or groups and not less than 150 hours of  
24 clinical supervision, including not less than 50 hours of person-to-person  
25 individual supervision, integrating diagnosis and treatment of substance  
26 use disorders with use of the diagnostic and statistical manual of mental  
27 disorders of the American psychiatric association; or has completed not  
28 less than two years of postgraduate supervised professional experience in  
29 accordance with a clinical supervision plan approved by the board of not  
30 less than 2,000 hours of supervised professional experience including at  
31 least 750 hours of direct client contact conducting substance abuse  
32 assessments and treatment with individuals, couples, families or groups  
33 and not less than 75 hours of clinical supervision, including not less than  
34 25 hours of person-to-person individual supervision, integrating diagnosis  
35 and treatment of substance use disorders with use of the diagnostic and  
36 statistical manual of mental disorders of the American psychiatric  
37 association, and such person has a doctoral degree in addiction counseling  
38 or a related field as approved by the board; or

39 (C) (i) has completed a master's degree from a college or university  
40 approved by the board in a related field with additional coursework in  
41 addiction counseling from a college or university approved by the board  
42 and such degree program and additional coursework includes a minimum  
43 number of semester hours of coursework supporting the diagnosis and

1 treatment of substance use disorders as approved by the board; and

2 (ii) has completed not less than two years of postgraduate supervised  
3 professional experience in accordance with a clinical supervision plan  
4 approved by the board of not less than 4,000 hours of supervised  
5 professional experience including at least 1,500 hours of direct client  
6 contact conducting substance abuse assessments and treatment with  
7 individuals, couples, families or groups and not less than 150 hours of  
8 clinical supervision, including not less than 50 hours of person-to-person  
9 individual supervision, integrating diagnosis and treatment of substance  
10 use disorders with use of the diagnostic and statistical manual of mental  
11 disorders of the American psychiatric association; or has completed not  
12 less than two years of postgraduate supervised professional experience in  
13 accordance with a clinical supervision plan approved by the board of not  
14 less than 2,000 hours of supervised professional experience including at  
15 least 750 hours of direct client contact conducting substance abuse  
16 assessments and treatment with individuals, couples, families or groups  
17 and not less than 75 hours of clinical supervision, including not less than  
18 25 hours of person-to-person individual supervision, integrating diagnosis  
19 and treatment of substance use disorders with use of the diagnostic and  
20 statistical manual of mental disorders of the American psychiatric  
21 association, and such person has a doctoral degree in addiction counseling  
22 or a related field as approved by the board; or

23 (D) (i) has completed a master's degree in a related field from a  
24 college or university approved by the board and is licensed by the board as  
25 a licensed addiction counselor; and

26 (ii) has completed not less than two years of postgraduate supervised  
27 professional experience in accordance with a clinical supervision plan  
28 approved by the board of not less than 4,000 hours of supervised  
29 professional experience including at least 1,500 hours of direct client  
30 contact conducting substance abuse assessments and treatment with  
31 individuals, couples, families or groups and not less than 150 hours of  
32 clinical supervision, including not less than 50 hours of person-to-person  
33 individual supervision, integrating diagnosis and treatment of substance  
34 use disorders with use of the diagnostic and statistical manual of mental  
35 disorders of the American psychiatric association; or has completed not  
36 less than two years of postgraduate supervised professional experience in  
37 accordance with a clinical supervision plan approved by the board of not  
38 less than 2,000 hours of supervised professional experience including at  
39 least 750 hours of direct client contact conducting substance abuse  
40 assessments and treatment with individuals, couples, families or groups  
41 and not less than 75 hours of clinical supervision, including not less than  
42 25 hours of person-to-person individual supervision, integrating diagnosis  
43 and treatment of substance use disorders with use of the diagnostic and

1 statistical manual of mental disorders of the American psychiatric  
2 association, and such person has a doctoral degree in addiction counseling  
3 or a related field as approved by the board; or

4 (E) is currently licensed in Kansas as a licensed psychologist,  
5 licensed specialist clinical social worker, licensed clinical professional  
6 counselor, licensed clinical psychotherapist or licensed clinical marriage  
7 and family therapist and provides to the board an attestation from a  
8 professional licensed to diagnose and treat mental disorders, or substance  
9 use disorders, or both, in independent practice or licensed to practice  
10 medicine and surgery stating that the applicant is competent to diagnose  
11 and treat substance use disorders; and

12 (3) has passed an examination approved by the board; and

13 (4) has satisfied the board that the applicant is a person who merits  
14 the public trust; and

15 (5) has paid the application fee fixed under K.S.A. 2012 Supp. 65-  
16 6618, and amendments thereto.

17 (c) A person who was registered by the behavioral sciences  
18 regulatory board as an alcohol and other drug counselor or credentialed by  
19 ~~the department of social and rehabilitation~~ *Kansas department for aging*  
20 *and disability* services as an alcohol and drug credentialed counselor or  
21 credentialed by the Kansas association of addiction professionals as an  
22 alcohol and other drug abuse counselor in Kansas at any time prior to the  
23 effective date of this act, who was registered in Kansas as an alcohol and  
24 other drug counselor, an alcohol and drug credentialed counselor or a  
25 credentialed alcohol and other drug abuse counselor within three years  
26 prior to the effective date of this act and whose last registration or  
27 credential in Kansas prior to the effective date of this act was not  
28 suspended or revoked, upon application to the board, payment of fees and  
29 completion of applicable continuing education requirements, shall be  
30 licensed as a licensed addiction counselor by providing demonstration  
31 acceptable to the board of competence to perform the duties of an  
32 addiction counselor.

33 (d) Any person who was registered by the behavioral sciences  
34 regulatory board as an alcohol and other drug counselor or credentialed by  
35 the department of social and rehabilitation services as an alcohol and drug  
36 credentialed counselor or credentialed by the Kansas association of  
37 addiction professionals as an alcohol and other drug abuse counselor in  
38 Kansas at any time prior to the effective date of this act, and who is also  
39 licensed to practice independently as a mental health practitioner or person  
40 licensed to practice medicine and surgery, and who was registered or  
41 credentialed in Kansas as an alcohol and other drug counselor within three  
42 years prior to the effective date of this act and whose last registration or  
43 credential in Kansas prior to the effective date of this act was not

1 suspended or revoked, upon application to the board, payment of fees and  
2 completion of applicable continuing education requirements, shall be  
3 licensed as a licensed clinical addiction counselor and may engage in the  
4 independent practice of addiction counseling and is authorized to diagnose  
5 and treat substance use disorders specified in the edition of the diagnostic  
6 and statistical manual of mental disorders of the American psychiatric  
7 association designated by the board by rules and regulations.

8 (e) Any person who was credentialed by the department of social and  
9 rehabilitation services as an alcohol and drug counselor and has been  
10 actively engaged in the practice, supervision or administration of addiction  
11 counseling in Kansas for not less than four years and holds a master's  
12 degree in a related field from a college or university approved by the board  
13 and whose last registration or credential in Kansas prior to the effective  
14 date of this act was not suspended or revoked, upon application to the  
15 board, payment of fees and completion of applicable continuing education  
16 requirements, shall be licensed as a clinical addiction counselor and may  
17 engage in the independent practice of addiction counseling and is  
18 authorized to diagnose and treat substance use disorders specified in the  
19 edition of the diagnostic and statistical manual of mental disorders of the  
20 American psychiatric association designated by the board by rules and  
21 regulations.

22 (f) A licensed addiction counselor shall engage in the practice of  
23 addiction counseling only in a state licensed or certified alcohol and other  
24 drug treatment program, unless otherwise exempt from licensure under  
25 subsection (m) of K.S.A. 59-29b46, and amendments thereto.

26 Sec. 307. K.S.A. 2012 Supp. 72-962 is hereby amended to read as  
27 follows: 72-962. As used in this act:

28 (a) "School district" means any public school district.

29 (b) "Board" means the board of education of any school district.

30 (c) "State board" means the state board of education.

31 (d) "Department" means the state department of education.

32 (e) "State institution" means any institution under the jurisdiction of a  
33 state agency.

34 (f) "State agency" means the ~~department of social and rehabilitation~~  
35 ~~services~~ *Kansas department for children and families, the department for*  
36 *aging and disability services*, the department of corrections and the  
37 juvenile justice authority.

38 (g) "Exceptional children" means persons who are children with  
39 disabilities or gifted children and are school age, to be determined in  
40 accordance with rules and regulations adopted by the state board, which  
41 age may differ from the ages of children required to attend school under  
42 the provisions of K.S.A. 72-1111, and amendments thereto.

43 (h) "Gifted children" means exceptional children who are determined

1 to be within the gifted category of exceptionality as such category is  
2 defined by the state board.

3 (i) "Special education" means specially designed instruction provided  
4 at no cost to parents to meet the unique needs of an exceptional child,  
5 including:

6 (1) Instruction conducted in the classroom, in the home, in hospitals  
7 and institutions, and in other settings; and

8 (2) instruction in physical education.

9 (j) "Special teacher" means a person, employed by or under contract  
10 with a school district or a state institution to provide special education or  
11 related services, who is: (1) Qualified to provide special education or  
12 related services to exceptional children as determined pursuant to  
13 standards established by the state board; or (2) qualified to assist in the  
14 provision of special education or related services to exceptional children as  
15 determined pursuant to standards established by the state board.

16 (k) "State plan" means the state plan for special education and related  
17 services authorized by this act.

18 (l) "Agency" means boards and the state agencies.

19 (m) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a  
20 person acting as parent; (4) a legal guardian; (5) an education advocate; or  
21 (6) a foster parent, if the foster parent has been appointed the education  
22 advocate of an exceptional child.

23 (n) "Person acting as parent" means a person such as a grandparent,  
24 stepparent or other relative with whom a child lives or a person other than  
25 a parent who is legally responsible for the welfare of a child.

26 (o) "Education advocate" means a person appointed by the state board  
27 in accordance with the provisions of K.S.A. 2012 Supp. 38-2218, and  
28 amendments thereto. A person appointed as an education advocate for a  
29 child shall not be: (1) An employee of the agency which is required by law  
30 to provide special education or related services for the child; (2) an  
31 employee of the state board, the department, or any agency which is  
32 directly involved in providing educational services for the child; or (3) any  
33 person having a professional or personal interest which would conflict  
34 with the interests of the child.

35 (p) "Free appropriate public education" means special education and  
36 related services that: (1) Are provided at public expense, under public  
37 supervision and direction, and without charge; (2) meet the standards of  
38 the state board; (3) include an appropriate preschool, elementary, or  
39 secondary school education; and (4) are provided in conformity with an  
40 individualized education program.

41 (q) "Federal law" means the individuals with disabilities education  
42 act, as amended.

43 (r) "Individualized education program" or "IEP" means a written

1 statement for each exceptional child that is developed, reviewed, and  
2 revised in accordance with the provisions of K.S.A. 72-987, and  
3 amendments thereto.

4 (s) (1) "Related services" means transportation, and such  
5 developmental, corrective, and other supportive services, including  
6 speech-language pathology and audiology services, interpreting services,  
7 psychological services, physical and occupational therapy, recreation,  
8 including therapeutic recreation, social work services, school nurse  
9 services designed to enable a child with a disability to receive a free  
10 appropriate public education as described in the child's IEP, counseling  
11 services, including rehabilitation counseling, orientation and mobility  
12 services, and medical services, except that such medical services shall be  
13 for diagnostic and evaluation purposes only, as may be required to assist  
14 an exceptional child to benefit from special education, and includes the  
15 early identification and assessment of disabling conditions in children.

16 (2) "Related services" shall not mean any medical device that is  
17 surgically implanted or the replacement of any such device.

18 (t) "Supplementary aids and services" means aids, services, and other  
19 supports that are provided in regular education classes or other education-  
20 related settings to enable children with disabilities to be educated with  
21 nondisabled children to the maximum extent appropriate.

22 (u) "Individualized education program team" or "IEP team" means a  
23 group of individuals composed of: (1) The parents of a child; (2) at least  
24 one regular education teacher of the child, if the child is, or may be,  
25 participating in the regular education environment; (3) at least one special  
26 education teacher or, where appropriate, at least one special education  
27 provider of the child; (4) a representative of the agency directly involved  
28 in providing educational services for the child who: (A) Is qualified to  
29 provide, or supervise the provision of, specially designed instruction to  
30 meet the unique needs of exceptional children; (B) is knowledgeable about  
31 the general curriculum; and (C) is knowledgeable about the availability of  
32 resources of the agency; (5) an individual who can interpret the  
33 instructional implications of evaluation results; (6) at the discretion of the  
34 parent or the agency, other individuals who have knowledge or special  
35 expertise regarding the child, including related services personnel as  
36 appropriate; and (7) whenever appropriate, the child.

37 (v) "Evaluation" means a multisourced and multidisciplinary  
38 examination, conducted in accordance with the provisions of K.S.A. 72-  
39 986, and amendments thereto, to determine whether a child is an  
40 exceptional child.

41 (w) "Independent educational evaluation" means an examination  
42 which is obtained by the parent of an exceptional child and performed by  
43 an individual or group of individuals who meet state and local standards to



1 conduct such an examination.

2 (x) "Elementary school" means any nonprofit institutional day or  
3 residential school that offers instruction in any or all of the grades  
4 kindergarten through nine.

5 (y) "Secondary school" means any nonprofit institutional day or  
6 residential school that offers instruction in any or all of the grades nine  
7 through 12.

8 (z) "Children with disabilities" means: (1) Children with intellectual  
9 disability, hearing impairments including deafness, speech or language  
10 impairments, visual impairments including blindness, emotional  
11 disturbance, orthopedic impairments, autism, traumatic brain injury, other  
12 health impairments, or specific learning disabilities and who, by reason  
13 thereof, need special education and related services; and (2) children  
14 experiencing one or more developmental delays and, by reason thereof,  
15 need special education and related services if such children are ages three  
16 through nine.

17 (aa) "Substantial change in placement" means the movement of an  
18 exceptional child, for more than 25% of the child's school day, from a less  
19 restrictive environment to a more restrictive environment or from a more  
20 restrictive environment to a less restrictive environment.

21 (bb) "Material change in services" means an increase or decrease of  
22 25% or more of the duration or frequency of a special education service, a  
23 related service or a supplementary aid or a service specified on the IEP of  
24 an exceptional child.

25 (cc) "Developmental delay" means such a deviation from average  
26 development in one or more of the following developmental areas, as  
27 determined by appropriate diagnostic instruments and procedures, as  
28 indicates that special education and related services are required: (1)  
29 Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5)  
30 social or emotional development.

31 (dd) "Homeless children" means "homeless children and youths" as  
32 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.  
33 § 11434a.

34 (ee) "Limited English proficient" means an individual who meets the  
35 qualifications specified in section 9101 of the federal elementary and  
36 secondary education act of 1965, as amended.

37 Sec. 308. K.S.A. 2012 Supp. 72-973 is hereby amended to read as  
38 follows: 72-973. (a) (1) Except as hereinafter provided, within 15 days of  
39 receipt of a due process complaint notice from a parent, the agency shall  
40 convene a meeting with the parent and the member or members of the IEP  
41 team who have specific knowledge of the facts identified in the complaint,  
42 and a representative of the agency who has the authority to make binding  
43 decisions on behalf of the agency. This meeting shall not include the

1 agency's attorney unless the parent is accompanied by an attorney.

2 (2) At this meeting, the parent of the child shall discuss and explain  
3 the complaint, including the facts that form the basis of the complaint and  
4 the agency shall be provided the opportunity to resolve the complaint.

5 (3) If the meeting of the parties results in a resolution of the  
6 complaint, the parties shall execute a written agreement that both the  
7 parent and the representative of the agency shall sign and that, at a  
8 minimum, includes the following statements:

9 (A) The agreed upon resolution of each issue presented in the  
10 complaint;

11 (B) that each party understands that the agreement is legally binding  
12 upon them, unless the party provides written notice to the other party,  
13 within three days of signing the agreement, that the party giving notice is  
14 voiding the agreement; and

15 (C) if not voided, each party understands that the agreement may be  
16 enforced in state or federal court.

17 (4) If a resolution of the complaint is not reached at the meeting held  
18 under this subsection and the agency has not resolved the complaint to the  
19 satisfaction of the parent within 30 days of the agency's receipt of the  
20 complaint, the due process hearing procedures shall be implemented and  
21 all of the applicable timelines for a due process hearing shall commence.  
22 All discussions that occurred during the meeting shall be confidential and  
23 may not be used as evidence in any subsequent hearing or civil  
24 proceeding.

25 (5) A meeting shall not be required under this subsection if the parent  
26 and the agency agree, in writing, to waive such a meeting, or they agree to  
27 use mediation to attempt to resolve the complaint.

28 (b) Any due process hearing provided for under this act, shall be held  
29 at a time and place reasonably convenient to the parent of the involved  
30 child, be a closed hearing unless the parent requests an open hearing and  
31 be conducted in accordance with procedural due process rights, including  
32 the following:

33 (1) The right of the parties to be accompanied and advised by counsel  
34 and by individuals with special knowledge or training with respect to the  
35 problems of children with disabilities;

36 (2) the right of the parties to be present at the hearing;

37 (3) the right of the parties to confront and cross-examine witnesses  
38 who appear in person at the hearing, either voluntarily or as a result of the  
39 issuance of a subpoena;

40 (4) the right of the parties to present witnesses in person or their  
41 testimony by affidavit, including expert medical, psychological or  
42 educational testimony;

43 (5) the right of the parties to prohibit the presentation of any evidence

1 at the hearing which has not been disclosed to the opposite party at least  
2 five days prior to the hearing, including any evaluations completed by that  
3 date and any recommendations based on such evaluations;

4 (6) the right to prohibit the other party from raising, at the due  
5 process hearing, any issue that was not raised in the due process complaint  
6 notice or in a prehearing conference held prior to the hearing;

7 (7) the right of the parties to have a written or, at the option of the  
8 parent, an electronic, verbatim record of the hearing; and

9 (8) the right to a written or, at the option of the parent, an electronic  
10 decision, including findings of facts and conclusions.

11 (c) Except as provided by subsection (a), each due process hearing,  
12 other than an expedited hearing under K.S.A. 72-993, and amendments  
13 thereto, shall be held not later than 35 days from the date on which the  
14 request therefor is received. The parties shall be notified in writing of the  
15 time and place of the hearing at least five days prior thereto. At any  
16 reasonable time prior to the hearing, the parent and the counsel or advisor  
17 of the involved child shall be given access to all records, tests, reports or  
18 clinical evaluations relating to the proposed action.

19 (d) (1) Except as otherwise provided in K.S.A. 72-993, and  
20 amendments thereto, during the pendency of any proceedings conducted  
21 under this act, unless the agency and parent otherwise agree, the child shall  
22 remain in the then-current educational placement of such child.

23 (2) If proceedings arise in connection with the initial admission of the  
24 child to school, the child shall be placed in the appropriate regular  
25 education classroom or program in compliance with K.S.A. 72-1111, and  
26 amendments thereto, unless otherwise directed pursuant to K.S.A. 2012  
27 Supp. 72-992a, and amendments thereto.

28 (e) Subject to the provisions of K.S.A. 72-973a, and amendments  
29 thereto, the agency shall appoint a hearing officer for the purpose of  
30 conducting the hearing. Members of the state board, the secretary of ~~social~~  
31 ~~and rehabilitation services for children and families~~, the secretary of  
32 corrections, the commissioner of the juvenile justice authority, and  
33 members of any board or agency involved in the education of the child  
34 shall not serve as hearing officers. No hearing officer shall be any person  
35 responsible for recommending the proposed action upon which the hearing  
36 is based, any person having a personal or professional interest which  
37 would conflict with objectivity in the hearing, or any person who is an  
38 employee of the state board or any agency involved in the education of the  
39 child. A person shall not be considered an employee of the agency solely  
40 because the person is paid by the agency to serve as a hearing officer. Each  
41 agency shall maintain a list of hearing officers. Such list shall include a  
42 statement of the qualifications of each hearing officer. Each hearing officer  
43 and each state review officer shall be qualified in accordance with

1 standards and requirements established by the state board and shall have  
2 satisfactorily completed a training program conducted or approved by the  
3 state board.

4 (f) (1) Any party to a due process hearing who has grounds to believe  
5 that the hearing officer cannot afford the party a fair and impartial hearing  
6 due to bias, prejudice or a conflict of interest may file a written request for  
7 the hearing officer to disqualify such officer and have another hearing  
8 officer appointed by the state board. Any such written request shall state  
9 the grounds for the request and the facts upon which the request is based.

10 (2) If a request for disqualification is filed, the hearing officer shall  
11 review the request and determine the sufficiency of the grounds stated in  
12 the request. The hearing officer then shall prepare a written order  
13 concerning the request and serve the order on the parties to the hearing. If  
14 the grounds are found to be insufficient, the hearing officer shall continue  
15 to serve as the hearing officer. If the grounds are found to be sufficient, the  
16 hearing officer immediately shall notify the state board and request the  
17 state board to appoint another hearing officer.

18 (g) (1) Except as provided in paragraph (2), the decision of the  
19 hearing officer in each due process hearing shall be based on substantive  
20 grounds and a determination of whether the child received a free  
21 appropriate public education.

22 (2) In due process hearings in which procedural violations are  
23 alleged, the hearing officer may find that the child did not receive a free  
24 appropriate public education only if the hearing officer concludes the  
25 procedural violations did occur and those violations:

26 (A) Impeded the child's right to a free appropriate public education;

27 (B) significantly impeded the parents' opportunity to participate in the  
28 decision making process regarding the provision of a free appropriate  
29 public education to the parents' child; or

30 (C) caused a deprivation of educational benefits.

31 (3) Nothing in this subsection shall be construed to preclude a hearing  
32 officer from ordering a local educational agency to comply with  
33 procedural requirements under this act.

34 (h) Whenever a hearing officer conducts any hearing, such hearing  
35 officer shall render a decision on the matter, including findings of fact and  
36 conclusions, not later than 10 days after the close of the hearing. The  
37 decision shall be written or, at the option of the parent, shall be an  
38 electronic decision. Any action of the hearing officer in accordance with  
39 this subsection shall be final, subject to appeal and review in accordance  
40 with this act.

41 Sec. 309. K.S.A. 2012 Supp. 72-997 is hereby amended to read as  
42 follows: 72-997. All records of an exceptional child who transfers, or who  
43 is transferred, from one school district to another shall be transferred at the

1 same time that such child transfers, or is transferred, or as soon thereafter  
2 as possible. If the transfer is a result of the change in placement by the  
3 ~~secretary of the department of social and rehabilitation services for~~  
4 ~~children and families~~, it shall be the duty of the secretary to transfer, or  
5 make provision for the transfer, of such records to the district or school to  
6 which the child is transferred. If the transfer is a result of the change in  
7 placement by the commissioner of juvenile justice, it shall be the duty of  
8 the commissioner to transfer, or make provision for the transfer, of such  
9 records to the district or school to which the child is transferred. If the  
10 transfer is a result of the change in placement by the secretary of the  
11 department of corrections, it shall be the duty of the secretary to transfer,  
12 or make provision for the transfer, of such records to the district or school  
13 to which the child is transferred.

14 Sec. 310. K.S.A. 72-1046 is hereby amended to read as follows: 72-  
15 1046. (a) Any child who has attained the age of eligibility for school  
16 attendance may attend school in the district in which the child lives if: (1)  
17 The child lives with a resident of the district and the resident is the parent,  
18 or a person acting as parent, of the child; or (2) subject to the provisions of  
19 subsection (c), the child lives in the district as a result of placement therein  
20 by a district court or by the ~~secretary of social and rehabilitation services~~  
21 ~~for children and families~~; or (3) the child is a homeless child.

22 (b) Any child who has attained the age of eligibility for school  
23 attendance may attend school in a school district in which the child is not a  
24 resident if the school district in which the child resides has entered into an  
25 agreement with such other school district in accordance with and under  
26 authority of K.S.A. 72-8233, and amendments thereto.

27 (c) Any child who has attained the age of eligibility for school  
28 attendance and who lives at the Judge James V. Riddel Boys Ranch as a  
29 result of placement at such ranch by a district court or by the ~~secretary of~~  
30 ~~social and rehabilitation services for children and families~~ shall be deemed  
31 a resident of unified school district No. 259, Sedgwick county, Kansas, and  
32 any such child may attend school which shall be maintained for such child  
33 by the board of education of such school district as in the case of a child  
34 who is a bona fide resident of the district.

35 (d) As used in this section:

36 (1) "Parent" means and includes natural parents, adoptive parents,  
37 stepparents, and foster parents;

38 (2) "person acting as parent" means (A) a guardian or conservator, or  
39 (B) a person, other than a parent, who is liable by law to maintain, care for,  
40 or support the child, or who has actual care and control of the child and is  
41 contributing the major portion of the cost of support of the child, or who  
42 has actual care and control of the child with the written consent of a person  
43 who has legal custody of the child, or who has been granted custody of the

1 child by a court of competent jurisdiction; and

2 (3) "homeless child" means a child who lacks a fixed, regular, and  
3 adequate nighttime residence and whose primary nighttime residence is:  
4 (A) A supervised publicly or privately operated shelter designed to provide  
5 temporary living accommodations (including welfare hotels, congregate  
6 shelters, and transitional housing for the mentally ill); or (B) an institution  
7 that provides a temporary residence for individuals intended to be  
8 institutionalized; or (C) a public or private place not designed for, or  
9 ordinarily used as, a regular sleeping accommodation for human beings.

10 Sec. 311. K.S.A. 2012 Supp. 72-1113 is hereby amended to read as  
11 follows: 72-1113. (a) Each board of education shall designate one or more  
12 employees who shall report to the secretary ~~of social and rehabilitation~~  
13 ~~services for children and families~~, or a designee thereof, or to the  
14 appropriate county or district attorney pursuant to an agreement as  
15 provided in this section, all cases of children who are less than 13 years of  
16 age and are not attending school as required by law, and to the appropriate  
17 county or district attorney, or a designee thereof, all cases of children who  
18 are 13 or more years of age but less than 18 years of age and are not  
19 attending school as required by law. The designation shall be made no later  
20 than September 1 of each school year and shall be certified no later than  
21 10 days thereafter by the board of education to the secretary ~~of social and~~  
22 ~~rehabilitation services for children and families~~, or the designee thereof, to  
23 the county or district attorney, or the designee thereof, and to the  
24 commissioner of education. The commissioner of education shall compile  
25 and maintain a list of the designated employees of each board of  
26 education. The local area office of the ~~department of social and~~  
27 ~~rehabilitation services~~ *Kansas department for children and families* may  
28 enter into an agreement with the appropriate county or district attorney to  
29 provide that the designated employees of such board of education shall  
30 make the report as provided in this section for all cases of children who are  
31 less than 13 years of age and are not attending school as provided by law  
32 to the county or district attorney in lieu of the secretary, or the secretary's  
33 designee. If such agreement is made, the county or district attorney shall  
34 carry out all duties as otherwise provided by this subsection conferred on  
35 the secretary or the secretary's designee. A copy of such agreement shall be  
36 provided to the director of such area office of the ~~department of social and~~  
37 ~~rehabilitation services~~ *Kansas department for children and families* and to  
38 the school districts affected by the agreement.

39 (b) Whenever a child is required by law to attend school, and the  
40 child is not enrolled in a public or nonpublic school, the child shall be  
41 considered to be not attending school as required by law and a report  
42 thereof shall be made in accordance with the provisions of subsection (a)  
43 by a designated employee of the board of education of the school district

1 in which the child resides. The provisions of this subsection are subject to  
2 the provisions of subsection (d).

3 (c) (1) Whenever a child is required by law to attend school and is  
4 enrolled in school, and the child is inexcusably absent therefrom on either  
5 three consecutive school days or five school days in any semester or seven  
6 school days in any school year, whichever of the foregoing occurs first, the  
7 child shall be considered to be not attending school as required by law. A  
8 child is inexcusably absent from school if the child is absent therefrom all  
9 or a significant part of a school day without a valid excuse acceptable to  
10 the school employee designated by the board of education to have  
11 responsibility for the school attendance of such child.

12 (2) Each board of education shall adopt rules for determination of  
13 valid excuse for absence from school and for determination of what shall  
14 constitute a "significant part of a school day" for the purpose of this  
15 section.

16 (3) Each board of education shall designate one or more employees,  
17 who shall each be responsible for determining the acceptability and  
18 validity of offered excuses for absence from school of specified children,  
19 so that a designee is responsible for making such determination for each  
20 child enrolled in school.

21 (4) Whenever a determination is made in accordance with the  
22 provisions of this subsection that a child is not attending school as required  
23 by law, the designated employee who is responsible for such determination  
24 shall make a report thereof in accordance with the provisions of subsection  
25 (a).

26 (5) The provisions of this subsection are subject to the provisions of  
27 subsection (d).

28 (d) (1) Prior to making any report under this section that a child is not  
29 attending school as required by law, the designated employee of the board  
30 of education shall serve written notice thereof, by personal delivery or by  
31 first class mail, upon a parent or person acting as parent of the child. The  
32 notice shall inform the parent or person acting as parent that continued  
33 failure of the child to attend school without a valid excuse will result in a  
34 report being made to the secretary ~~of social and rehabilitation services for~~  
35 *children and families* or to the county or district attorney. Upon failure, on  
36 the school day next succeeding personal delivery of the notice or within  
37 three school days after the notice was mailed, of attendance at school by  
38 the child or of an acceptable response, as determined by the designated  
39 employee, to the notice by a parent or person acting as parent of the child,  
40 the designated employee shall make a report thereof in accordance with  
41 the provisions of subsection (a). The designated employee shall submit  
42 with the report a certificate verifying the manner in which notice was  
43 provided to the parent or person acting as parent.

1 (2) Whenever a law enforcement officer assumes temporary custody  
2 of a child who is found away from home or school without a valid excuse  
3 during the hours school is actually in session, and the law enforcement  
4 officer delivers the child to the school in which the child is enrolled or to a  
5 location designated by the school in which the child is enrolled to address  
6 truancy issues, the designated employee of the board of education shall  
7 serve notice thereof upon a parent or person acting as parent of the child.  
8 The notice may be oral or written and shall inform the parent or person  
9 acting as parent of the child that the child was absent from school without  
10 a valid excuse and was delivered to school by a law enforcement officer.

11 (e) ~~Whenever the secretary of social and rehabilitation services for~~  
12 ~~children and families~~ receives a report required under this section, the  
13 secretary shall investigate the matter. If, during the investigation, the  
14 secretary determines that the reported child is not attending school as  
15 required by law, the secretary shall institute proceedings under the revised  
16 Kansas code for care of children. If, during the investigation, the secretary  
17 determines that a criminal prosecution should be considered, the secretary  
18 shall make a report of the case to the appropriate law enforcement agency.

19 (f) Whenever a county or district attorney receives a report required  
20 under this section, the county or district attorney shall investigate the  
21 matter. If, during the investigation, the county or district attorney  
22 determines that the reported child is not attending school as required by  
23 law, the county or district attorney shall prepare and file a petition alleging  
24 that the child is a child in need of care. If, during the investigation, the  
25 county or district attorney determines that a criminal prosecution is  
26 necessary, the county or district attorney shall commence such action.

27 (g) As used in this section, "board of education" means the board of  
28 education of a school district or the governing authority of a nonpublic  
29 school. The provisions of this act shall apply to both public and nonpublic  
30 schools.

31 Sec. 312. K.S.A. 72-3608 is hereby amended to read as follows: 72-  
32 3608. The state board in cooperation with the ~~state department of social~~  
33 ~~and rehabilitation services~~ *Kansas department for children and families*,  
34 the state department of health and environment, and other appropriate  
35 associations and organizations, may provide any board, upon its request  
36 therefor, with technical advice and assistance regarding the development  
37 and operation of a parent education program or an application for a grant  
38 of state moneys, and may make studies and gather and disseminate  
39 information regarding materials, resources, procedures, and personnel  
40 which are or may become available to assist school districts in the  
41 development and operation of parent education programs.

42 Sec. 313. K.S.A. 72-4311 is hereby amended to read as follows: 72-  
43 4311. The secretary ~~of social and rehabilitation services for children and~~



1 *families* may disburse all funds allotted to the state by the federal  
2 government under any act of congress, and such other funds as may be  
3 made available from public and private sources for the vocational  
4 rehabilitation of persons disabled in industry or otherwise. The secretary  
5 may make studies, investigations, demonstrations, and reports, and provide  
6 training and instruction, including tuition and maintenance necessary in  
7 preparing staff in matters relating to vocational rehabilitation, and establish  
8 and operate rehabilitation facilities and workshops necessary to  
9 vocationally rehabilitate and place in remunerative occupations persons  
10 eligible for the benefits of this act. The secretary may adopt rules and  
11 regulations for the administration of this act including regulations  
12 providing the procedure for fair hearings for applicants or recipients and  
13 for the protection of confidential records and other information.

14 Sec. 314. K.S.A. 72-4314a is hereby amended to read as follows: 72-  
15 4314a. The secretary ~~of social and rehabilitation services~~ *for children and*  
16 *families* may adopt rules and regulations in the field of vocational  
17 rehabilitation.

18 Sec. 315. K.S.A. 72-4316 is hereby amended to read as follows: 72-  
19 4316. The director of accounts and reports shall draw ~~his~~ warrants on the  
20 state treasurer for the purpose mentioned in this act, upon vouchers  
21 approved by the secretary ~~of social and rehabilitation services~~ *for children*  
22 *and families* or a person or persons designated by ~~him~~ *the secretary*.

23 Sec. 316. K.S.A. 2012 Supp. 72-53,106 is hereby amended to read as  
24 follows: 72-53,106. (a) As used in this section:

25 (1) "School" means every school district and every nonpublic school  
26 operating in this state.

27 (2) "School board" means the board of education of a school district  
28 or the governing authority of a nonpublic school.

29 (3) "Proof of identity" means: (A) In the case of a child enrolling in  
30 kindergarten or first grade, a certified copy of the birth certificate of the  
31 child or, as an alternative, for a child who is in the custody of the secretary  
32 ~~of social and rehabilitation services~~ *for children and families*, a certified  
33 copy of the court order placing the child in the custody of the secretary  
34 and, in the case of a child enrolling in any of the grades two through 12, a  
35 certified transcript or other similar pupil records or data; or (B) any  
36 documentary evidence which a school board deems to be satisfactory  
37 proof of identity.

38 (b) Whenever a child enrolls or is enrolled in a school for the first  
39 time, the school board of the school in which the child is enrolling or  
40 being enrolled shall require, in accordance with a policy adopted by the  
41 school board, presentation of proof of identity of the child. If proof of  
42 identity of the child is not presented to the school board within 30 days  
43 after enrollment, the school board shall immediately give written notice

1 thereof to a law enforcement agency having jurisdiction within the home  
2 county of the school. Upon receipt of the written notice, the law  
3 enforcement agency shall promptly conduct an investigation to determine  
4 the identity of the child. No person or persons claiming custody of the  
5 child shall be informed of the investigation while it is being conducted.

6 (c) Schools and law enforcement agencies shall cooperate with each  
7 other in the conducting of any investigation required by this section.  
8 School personnel shall provide law enforcement agencies with access on  
9 school premises to any child whose identity is being investigated. School  
10 personnel shall be present at all times any law enforcement agency  
11 personnel are on school premises for the purpose of conducting any such  
12 investigation unless the school personnel and the law enforcement agency  
13 personnel agree that their joint presence is not in the best interests of the  
14 child. School personnel who are present during the conducting by a law  
15 enforcement agency of an investigation on school premises to determine  
16 the identity of a child in accordance with the requirements of this section  
17 are subject to the confidentiality requirements of the revised Kansas code  
18 for care of children.

19 (d) Upon receipt by a school of a notice from a law enforcement  
20 agency that a child who is or has been enrolled in the school has been  
21 reported as a missing child, the school shall make note of the same in a  
22 conspicuous manner on the school records of the child and shall keep such  
23 school records separate from the school records of all other children  
24 enrolled in the school. Upon receipt by the school of a request for the  
25 school records of the child, the school shall notify the law enforcement  
26 agency of the request.

27 (e) Each school board may designate and authorize one or more of its  
28 school personnel to act on behalf of the school board in complying with  
29 the requirements of this section.

30 (f) Information gathered in the course of the investigation to establish  
31 the identity of a child pursuant to this section shall be confidential and  
32 shall be used only to establish the identity of the child or in support of any  
33 criminal prosecution emanating from the investigation.

34 Sec. 317. K.S.A. 2012 Supp. 72-6407 is hereby amended to read as  
35 follows: 72-6407. (a) (1) "Pupil" means any person who is regularly  
36 enrolled in a district and attending kindergarten or any of the grades one  
37 through 12 maintained by the district or who is regularly enrolled in a  
38 district and attending kindergarten or any of the grades one through 12 in  
39 another district in accordance with an agreement entered into under  
40 authority of K.S.A. 72-8233, and amendments thereto, or who is regularly  
41 enrolled in a district and attending special education services provided for  
42 preschool-aged exceptional children by the district.

43 (2) Except as otherwise provided in paragraph (3) of this subsection,

1 a pupil in attendance full time shall be counted as one pupil. A pupil in  
2 attendance part time shall be counted as that proportion of one pupil (to the  
3 nearest  $\frac{1}{10}$ ) that the pupil's attendance bears to full-time attendance. A  
4 pupil attending kindergarten shall be counted as  $\frac{1}{2}$  pupil. A pupil enrolled  
5 in and attending an institution of postsecondary education which is  
6 authorized under the laws of this state to award academic degrees shall be  
7 counted as one pupil if the pupil's postsecondary education enrollment and  
8 attendance together with the pupil's attendance in either of the grades 11 or  
9 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that  
10 proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's  
11 postsecondary education attendance and attendance in grade 11 or 12, as  
12 applicable, bears to full-time attendance. A pupil enrolled in and attending  
13 an area vocational school, area vocational-technical school or approved  
14 vocational education program shall be counted as one pupil if the pupil's  
15 vocational education enrollment and attendance together with the pupil's  
16 attendance in any of grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise  
17 the pupil shall be counted as that proportion of one pupil (to the nearest  
18  $\frac{1}{10}$ ) that the total time of the pupil's vocational education attendance and  
19 attendance in any of grades nine through 12 bears to full-time attendance.  
20 A pupil enrolled in a district and attending a non-virtual school and also  
21 attending a virtual school shall be counted as that proportion of one pupil  
22 (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance at the non-virtual school  
23 bears to full-time attendance. Except as provided by this section for  
24 preschool-aged exceptional children and virtual school pupils, a pupil  
25 enrolled in a district and attending special education and related services,  
26 provided for by the district shall be counted as one pupil. A pupil enrolled  
27 in a district and attending special education and related services provided  
28 for by the district and also attending a virtual school shall be counted as  
29 that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance  
30 at the non-virtual school bears to full-time attendance. A pupil enrolled in a  
31 district and attending special education and related services for preschool-  
32 aged exceptional children provided for by the district shall be counted as  
33  $\frac{1}{2}$  pupil. A preschool-aged at-risk pupil enrolled in a district and receiving  
34 services under an approved at-risk pupil assistance plan maintained by the  
35 district shall be counted as  $\frac{1}{2}$  pupil. A pupil in the custody of the secretary  
36 ~~of social and rehabilitation services for children and families~~ or in the  
37 custody of the commissioner of juvenile justice and enrolled in unified  
38 school district No. 259, Sedgwick county, Kansas, but housed, maintained,  
39 and receiving educational services at the Judge James V. Riddel Boys  
40 Ranch, shall be counted as two pupils. Except as provided in section 1 of  
41 chapter 76 of the 2009 Session Laws of the state of Kansas, and  
42 amendments thereto, a pupil in the custody of the secretary ~~of social and~~  
43 ~~rehabilitation services for children and families~~ or in the custody of the

1 commissioner of juvenile justice and enrolled in unified school district No.  
2 409, Atchison, Kansas, but housed, maintained and receiving educational  
3 services at the youth residential center located on the grounds of the  
4 former Atchison juvenile correctional facility, shall be counted as two  
5 pupils.

6 (3) A pupil residing at the Flint Hills job corps center shall not be  
7 counted. A pupil confined in and receiving educational services provided  
8 for by a district at a juvenile detention facility shall not be counted. A pupil  
9 enrolled in a district but housed, maintained, and receiving educational  
10 services at a state institution or a psychiatric residential treatment facility  
11 shall not be counted.

12 (b) "Preschool-aged exceptional children" means exceptional  
13 children, except gifted children, who have attained the age of three years  
14 but are under the age of eligibility for attendance at kindergarten.

15 (c) "At-risk pupils" means pupils who are eligible for free meals  
16 under the national school lunch act and who are enrolled in a district which  
17 maintains an approved at-risk pupil assistance plan.

18 (d) "Preschool-aged at-risk pupil" means an at-risk pupil who has  
19 attained the age of four years, is under the age of eligibility for attendance  
20 at kindergarten, and has been selected by the state board in accordance  
21 with guidelines consonant with guidelines governing the selection of  
22 pupils for participation in head start programs.

23 (e) "Enrollment" means: (1) (A) Subject to the provisions of  
24 paragraph (1)(B), for districts scheduling the school days or school hours  
25 of the school term on a trimestral or quarterly basis, the number of pupils  
26 regularly enrolled in the district on September 20 plus the number of  
27 pupils regularly enrolled in the district on February 20 less the number of  
28 pupils regularly enrolled on February 20 who were counted in the  
29 enrollment of the district on September 20; and for districts not specified  
30 in this paragraph (1), the number of pupils regularly enrolled in the district  
31 on September 20; (B) a pupil who is a foreign exchange student shall not  
32 be counted unless such student is regularly enrolled in the district on  
33 September 20 and attending kindergarten or any of the grades one through  
34 12 maintained by the district for at least one semester or two quarters or  
35 the equivalent thereof;

36 (2) if enrollment in a district in any school year has decreased from  
37 enrollment in the preceding school year, enrollment of the district in the  
38 current school year means whichever is the greater of: (A) Enrollment in  
39 the preceding school year minus enrollment in such school year of  
40 preschool-aged at-risk pupils, if any such pupils were enrolled, plus  
41 enrollment in the current school year of preschool-aged at-risk pupils, if  
42 any such pupils are enrolled; or (B) the sum of enrollment in the current  
43 school year of preschool-aged at-risk pupils, if any such pupils are

1 enrolled and the average (mean) of the sum of: (i) Enrollment of the  
2 district in the current school year minus enrollment in such school year of  
3 preschool-aged at-risk pupils, if any such pupils are enrolled; and (ii)  
4 enrollment in the preceding school year minus enrollment in such school  
5 year of preschool-aged at-risk pupils, if any such pupils were enrolled; and  
6 (iii) enrollment in the school year next preceding the preceding school year  
7 minus enrollment in such school year of preschool-aged at-risk pupils, if  
8 any such pupils were enrolled; or

9 (3) the number of pupils as determined under K.S.A. 72-6447 or  
10 K.S.A. 2012 Supp. 72-6448, and amendments thereto.

11 (f) "Adjusted enrollment" means: (1) Enrollment adjusted by adding  
12 at-risk pupil weighting, program weighting, low enrollment weighting, if  
13 any, high density at-risk pupil weighting, if any, medium density at-risk  
14 pupil weighting, if any, nonproficient pupil weighting, if any, high  
15 enrollment weighting, if any, declining enrollment weighting, if any,  
16 school facilities weighting, if any, ancillary school facilities weighting, if  
17 any, cost of living weighting, if any, special education and related services  
18 weighting, and transportation weighting to enrollment; or (2) adjusted  
19 enrollment as determined under K.S.A. 2012 Supp. 72-6457 or 72-6458,  
20 and amendments thereto.

21 (g) "At-risk pupil weighting" means an addend component assigned  
22 to enrollment of districts on the basis of enrollment of at-risk pupils.

23 (h) "Program weighting" means an addend component assigned to  
24 enrollment of districts on the basis of pupil attendance in educational  
25 programs which differ in cost from regular educational programs.

26 (i) "Low enrollment weighting" means an addend component  
27 assigned to enrollment of districts pursuant to K.S.A. 72-6412, and  
28 amendments thereto, on the basis of costs attributable to maintenance of  
29 educational programs by such districts in comparison with costs  
30 attributable to maintenance of educational programs by districts having to  
31 which high enrollment weighting is assigned pursuant to K.S.A. 2012  
32 Supp. 72-6442b, and amendments thereto.

33 (j) "School facilities weighting" means an addend component  
34 assigned to enrollment of districts on the basis of costs attributable to  
35 commencing operation of new school facilities.

36 (k) "Transportation weighting" means an addend component assigned  
37 to enrollment of districts on the basis of costs attributable to the provision  
38 or furnishing of transportation.

39 (l) "Cost of living weighting" means an addend component assigned  
40 to enrollment of districts to which the provisions of K.S.A. 2012 Supp. 72-  
41 6449, and amendments thereto, apply on the basis of costs attributable to  
42 the cost of living in the district.

43 (m) "Ancillary school facilities weighting" means an addend

1 component assigned to enrollment of districts to which the provisions of  
2 K.S.A. 72-6441, and amendments thereto, apply on the basis of costs  
3 attributable to commencing operation of new school facilities. Ancillary  
4 school facilities weighting may be assigned to enrollment of a district only  
5 if the district has levied a tax under authority of K.S.A. 72-6441, and  
6 amendments thereto, and remitted the proceeds from such tax to the state  
7 treasurer. Ancillary school facilities weighting is in addition to assignment  
8 of school facilities weighting to enrollment of any district eligible for such  
9 weighting.

10 (n) "Juvenile detention facility" has the meaning ascribed thereto by  
11 72-8187, and amendments thereto.

12 (o) "Special education and related services weighting" means an  
13 addend component assigned to enrollment of districts on the basis of costs  
14 attributable to provision of special education and related services for  
15 pupils determined to be exceptional children.

16 (p) "Virtual school" means any school or educational program that:  
17 (1) Is offered for credit; (2) uses distance-learning technologies which  
18 predominately use internet-based methods to deliver instruction; (3)  
19 involves instruction that occurs asynchronously with the teacher and pupil  
20 in separate locations; (4) requires the pupil to make academic progress  
21 toward the next grade level and matriculation from kindergarten through  
22 high school graduation; (5) requires the pupil to demonstrate competence  
23 in subject matter for each class or subject in which the pupil is enrolled as  
24 part of the virtual school; and (6) requires age-appropriate pupils to  
25 complete state assessment tests.

26 (q) "Declining enrollment weighting" means an addend component  
27 assigned to enrollment of districts to which the provisions of K.S.A. 2012  
28 Supp. 72-6451, and amendments thereto, apply on the basis of reduced  
29 revenues attributable to the declining enrollment of the district.

30 (r) "High enrollment weighting" means an addend component  
31 assigned to enrollment of districts pursuant to K.S.A. 2012 Supp. 72-  
32 6442b, and amendments thereto, on the basis of costs attributable to  
33 maintenance of educational programs by such districts as a correlate to low  
34 enrollment weighting assigned to enrollment of districts pursuant to  
35 K.S.A. 72-6412, and amendments thereto.

36 (s) "High density at-risk pupil weighting" means an addend  
37 component assigned to enrollment of districts to which the provisions of  
38 K.S.A. 2012 Supp. 72-6455, and amendments thereto, apply.

39 (t) "Nonproficient pupil" means a pupil who is not eligible for free  
40 meals under the national school lunch act and who has scored less than  
41 proficient on the mathematics or reading state assessment during the  
42 preceding school year and who is enrolled in a district which maintains an  
43 approved proficiency assistance plan.

1 (u) "Nonproficient pupil weighting" means an addend component  
2 assigned to enrollment of districts on the basis of enrollment of  
3 nonproficient pupils pursuant to K.S.A. 2012 Supp. 72-6454, and  
4 amendments thereto.

5 (v) "Psychiatric residential treatment facility" has the meaning  
6 ascribed thereto by K.S.A. 72-8187, and amendments thereto.

7 (w) "Medium density at-risk pupil weighting" means an addend  
8 component assigned to enrollment of districts to which the provisions of  
9 K.S.A. 2012 Supp. 72-6459, and amendments thereto, apply.

10 Sec. 318. K.S.A. 2012 Supp. 72-8187 is hereby amended to read as  
11 follows: 72-8187. (a) In each school year, to the extent that appropriations  
12 are available, each school district which has provided educational services  
13 for pupils residing at the Flint Hills job corps center, for pupils housed at a  
14 psychiatric residential treatment facility or for pupils confined in a juvenile  
15 detention facility is eligible to receive a grant of state moneys in an  
16 amount to be determined by the state board of education.

17 (b) In order to be eligible for a grant of state moneys provided for by  
18 this section, each school district which has provided educational services  
19 for pupils residing at the Flint Hills job corps center, for pupils housed at a  
20 psychiatric residential treatment facility or for pupils confined in a juvenile  
21 detention facility shall submit to the state board of education an  
22 application for a grant and shall certify the amount expended, and not  
23 reimbursed or otherwise financed, in the school year for the services  
24 provided. The application and certification shall be prepared in such form  
25 and manner as the state board shall require and shall be submitted at a time  
26 to be determined and specified by the state board. Approval by the state  
27 board of applications for grants of state moneys is prerequisite to the  
28 award of grants.

29 (c) Each school district which is awarded a grant under this section  
30 shall make such periodic and special reports of statistical and financial  
31 information to the state board as it may request.

32 (d) All moneys received by a school district under authority of this  
33 section shall be deposited in the general fund of the school district and  
34 shall be considered reimbursement of the district for the purpose of the  
35 school district finance and quality performance act.

36 (e) The state board of education shall approve applications of school  
37 districts for grants, determine the amount of grants and be responsible for  
38 payment of grants to school districts. In determining the amount of a grant  
39 which a school district is eligible to receive, the state board shall compute  
40 the amount of state financial aid the district would have received on the  
41 basis of enrollment of pupils residing at the Flint Hills job corps center,  
42 housed at a psychiatric residential treatment facility or confined in a  
43 juvenile detention facility if such pupils had been counted as two pupils

1 under the school district finance and quality performance act and compare  
2 such computed amount to the amount certified by the district under  
3 subsection (b). The amount of the grant the district is eligible to receive  
4 shall be an amount equal to the lesser of the amount computed under this  
5 subsection or the amount certified under subsection (b). If the amount of  
6 appropriations for the payment of grants under this section is insufficient  
7 to pay in full the amount each school district is determined to be eligible to  
8 receive for the school year, the state board shall prorate the amount  
9 appropriated among all school districts which are eligible to receive grants  
10 of state moneys in proportion to the amount each school district is  
11 determined to be eligible to receive.

12 (f) On or before July 1 of each year, the secretary ~~of social and~~  
13 ~~rehabilitation for aging and disability~~ services shall submit to the Kansas  
14 department of education a list of facilities which have been certified and  
15 licensed as psychiatric residential treatment facilities.

16 (g) As used in this section:

17 (1) "Enrollment" means the number of pupils who are: (A) Residing  
18 at the Flint Hills job corps center, confined in a juvenile detention facility  
19 or residing at a psychiatric residential treatment facility; and (B) for whom  
20 a school district is providing educational services on September 20, on  
21 November 20, or on April 20 of a school year, whichever is the greatest  
22 number of pupils;

23 (2) "juvenile detention facility" means any public or private facility  
24 which is used for the lawful custody of accused or adjudicated juvenile  
25 offenders and which shall not be a jail; and

26 (3) "psychiatric residential treatment facility" means a facility which  
27 provides psychiatric services to individuals under the age of 21 and which  
28 conforms with the regulations of the centers for medicare/medicaid  
29 services, is licensed ~~by the Kansas department of health and environment~~  
30 ~~and is certified by the Kansas department of social and rehabilitation~~ and  
31 *certified by the Kansas department for aging and disability* services  
32 pursuant to subsection (f).

33 Sec. 319. K.S.A. 2012 Supp. 72-8223 is hereby amended to read as  
34 follows: 72-8223. (a) The secretary ~~of social and rehabilitation services for~~  
35 *children and families* shall pay tuition to the board of education of any  
36 school district for children in any institution under the jurisdiction of the  
37 secretary who attend any of the schools of such school district. The  
38 amount of tuition shall be determined on the basis of the average operating  
39 cost per pupil of the school district, less the proportionate amount of state  
40 aid received by such school district as determined by the state board of  
41 education. Whenever feasible, the board of education of such school  
42 district shall work with the ~~department of social and rehabilitation services~~  
43 *Kansas department for children and families* to maximize federal



1 matching funds.

2 (b) Payments of tuition received under this section by the board of  
3 education of any school district for attendance of children at school in  
4 regular educational programs shall be deposited in the tuition  
5 reimbursement fund.

6 (c) There is hereby established in every district a fund which shall be  
7 called the tuition reimbursement fund, which fund shall consist of all  
8 moneys deposited therein or transferred thereto according to law. The  
9 expenses of a district attributable to the costs of providing educational  
10 services to a child in an institution under the jurisdiction of the secretary  
11 who attends the school shall be paid from the tuition reimbursement fund.

12 Sec. 320. K.S.A. 72-8239 is hereby amended to read as follows: 72-

13 8239. (a) The board of education of each school district in this state may  
14 establish a school attendance review board or may enter into a cooperative  
15 or interlocal cooperation agreement with one or more other boards of  
16 education for the joint establishment of a school attendance review board.

17 Each school attendance review board shall include, but need not be limited to,  
18 one or more persons representing each of the following: (1) Parents of  
19 pupils of the district or districts; (2) ~~the department of social and~~  
20 ~~rehabilitation services~~ *Kansas department for children and families*; (3)  
21 the superintendent of schools of each participating school district; (4)  
22 teachers of the school district or districts; (5) school guidance personnel;  
23 (6) law enforcement agencies having jurisdiction in the district or districts;  
24 and (7) community-based agencies providing services to youth.

25 (b) The superintendent of schools of the school district that has  
26 established a school attendance review board as provided in subsection (a),  
27 at the beginning of each school year, shall convene a meeting of the school  
28 attendance review board for the purpose of adopting plans to promote  
29 interagency and community cooperation and to reduce the duplication of  
30 services provided to youth who have serious school attendance problems.  
31 If more than one board of education is participating in a school attendance  
32 review board, the superintendent of schools of the school district having  
33 the most pupils shall convene the meeting provided for by this subsection.

34 (c) The school attendance review board may elect from among its  
35 members a chairperson having responsibility for coordinating the services  
36 of the board and may elect such other officers as determined by the board.

37 (d) The school attendance review board may adopt rules and  
38 regulations as necessary to govern its procedure and to enable the board to  
39 carry out the provisions of this act.

40 Sec. 321. K.S.A. 72-8243 is hereby amended to read as follows: 72-

41 8243. (a) If a pupil is required by law to attend school and is irregular in  
42 attendance at school, the pupil may be referred to the school attendance  
43 review board. Each board of education shall designate one or more

1 employees to make such referrals. Upon making a referral, the employee  
2 shall notify the pupil and the pupil's parents or guardians, in writing, of the  
3 name and address of the school attendance review board and of the reason  
4 for the referral. The notice shall indicate that the pupil and parents or  
5 guardians of the pupil will be required, along with the referring person, to  
6 meet with the school attendance review board to consider a proper  
7 disposition of the referral.

8 (b) If the school attendance review board determines that available  
9 community services can resolve the problem of the referred pupil, the  
10 board shall direct the pupil or the pupil's parents or guardians, or both, to  
11 make use of those community services. The school attendance review  
12 board may require, at such time as it determines proper, the pupil or  
13 parents or guardians of the pupil, or both, to furnish satisfactory evidence  
14 of participation in the available community services.

15 (c) If the school attendance review board determines that available  
16 community services cannot resolve the problem of the referred pupil or if  
17 the pupil or the pupil's parents or guardians, or both, have failed to respond  
18 to directives of the school attendance review board or to services provided,  
19 the school attendance review board may notify the secretary ~~of social and~~  
20 ~~rehabilitation services for children and families~~ or the appropriate county  
21 or district attorney. If the case is referred to the district court, the school  
22 attendance review board shall submit to the district court documentation of  
23 efforts to secure attendance as well as the board's recommendations on  
24 what action the district court shall take in order to bring about proper  
25 disposition of the case.

26 Sec. 322. K.S.A. 72-89a02 is hereby amended to read as follows: 72-  
27 89a02. (a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-  
28 8902, and amendments thereto, and subject to the other provisions of this  
29 section, each board of education in this state shall adopt a written policy  
30 requiring the expulsion from school for a period of not less than one year  
31 any pupil determined to be in possession of a weapon at school, on school  
32 property, or at a school supervised activity. The policy shall be filed with  
33 the state board of education in such manner as the state board shall require  
34 and at a time to be determined and specified by the state board.

35 (b) To the extent that the provisions contained in article 89 of chapter  
36 72 of Kansas Statutes Annotated, *and amendments thereto*, do not conflict  
37 with the requirements of this act, such provisions shall apply to and be  
38 incorporated in the policy required to be adopted under subsection (a).

39 (c) If a pupil required to be expelled pursuant to a policy adopted  
40 under subsection (a) is confined in the custody of the secretary ~~of social~~  
41 ~~and rehabilitation services for children and families~~, the commissioner of  
42 juvenile justice or the secretary of corrections as a result of the violation  
43 upon which the expulsion is to be based, the hearing required under the

1 provisions of article 89 of chapter 72 of Kansas Statutes Annotated, *and*  
2 *amendments thereto*, shall be delayed until the pupil is released from  
3 custody.

4 (d) A hearing afforded a pupil required to be expelled pursuant to a  
5 policy adopted under subsection (a) shall be conducted by the chief  
6 administrative officer or other certificated employee of the school in which  
7 the pupil is enrolled, by any committee of certificated employees of the  
8 school in which the pupil is enrolled, or by a hearing officer appointed by  
9 the board of education of the school in which the pupil is enrolled.

10 (e) The chief administrative officer of the school in which a pupil  
11 required to be expelled pursuant to a policy adopted under subsection (a) is  
12 enrolled may modify the expulsion requirement in a manner which is  
13 consistent with the requirements of federal law. Nothing in this subsection  
14 shall be applied or construed in any manner so as to require the chief  
15 administrative officer of a school to modify the expulsion requirement of a  
16 policy adopted by a board of education pursuant to the provisions of  
17 subsection (a).

18 (f) The policy adopted by a board of education under subsection (a)  
19 shall contain a procedure for the referral of any pupil determined to be in  
20 possession of a weapon at school, on school property, or at a school  
21 supervised activity to the appropriate state and local law enforcement  
22 agencies and, if the pupil is a juvenile, to the secretary ~~of social and~~  
23 ~~rehabilitation services for children and families~~ or the commissioner of  
24 juvenile justice.

25 (g) Each board of education shall prepare an annual report on a form  
26 prescribed and furnished by the state board of education that contains a  
27 description of the circumstances surrounding any expulsions imposed on  
28 pupils pursuant to a policy adopted under subsection (a), including the  
29 name of the school or schools concerned, the number of pupils expelled,  
30 and the type of weapons concerned. The report shall be submitted to the  
31 state board of education in such manner as the state board shall require and  
32 at a time to be determined and specified by the state board.

33 (h) The provisions of this section do not apply to the possession by  
34 pupils of weapons at school, on school property, or at a school supervised  
35 activity if the possession of weapons by pupils is connected with a  
36 weapons safety course of instruction or a weapons education course  
37 approved and authorized by the school or if the possession of weapons by  
38 pupils is specifically authorized in writing by the chief administrative  
39 officer of the school.

40 Sec. 323. K.S.A. 72-89b03 is hereby amended to read as follows: 72-  
41 89b03. (a) If a school employee has information that a pupil is a pupil to  
42 whom the provisions of this subsection apply, the school employee shall  
43 report such information and identify the pupil to the superintendent of

1 schools. The superintendent of schools shall investigate the matter and,  
2 upon determining that the identified pupil is a pupil to whom the  
3 provisions of this subsection apply, shall provide the reported information  
4 and identify the pupil to all school employees who are directly involved or  
5 likely to be directly involved in teaching or providing other school related  
6 services to the pupil. The provisions of this subsection apply to:

7 (1) Any pupil who has been expelled for the reason provided by  
8 subsection (c) of K.S.A. 72-8901, and amendments thereto, for conduct  
9 which endangers the safety of others;

10 (2) any pupil who has been expelled for the reason provided by  
11 subsection (d) of K.S.A. 72-8901, and amendments thereto;

12 (3) any pupil who has been expelled under a policy adopted pursuant  
13 to K.S.A. 72-89a02, and amendments thereto;

14 (4) any pupil who has been adjudged to be a juvenile offender and  
15 whose offense, if committed by an adult, would constitute a felony under  
16 the laws of Kansas or the state where the offense was committed, except  
17 any pupil adjudicated as a juvenile offender for a felony theft offense  
18 involving no direct threat to human life; and

19 (5) any pupil who has been tried and convicted as an adult of any  
20 felony, except any pupil convicted of a felony theft crime involving no  
21 direct threat to human life.

22 A school employee and the superintendent of schools shall not be  
23 required to report information concerning a pupil specified in this  
24 subsection if the expulsion, adjudication as a juvenile offender or  
25 conviction of a felony occurred more than 365 days prior to the school  
26 employee's report to the superintendent of schools.

27 (b) Each board of education shall adopt a policy that includes:

28 (1) A requirement that an immediate report be made to the  
29 appropriate state or local law enforcement agency by or on behalf of any  
30 school employee who knows or has reason to believe that an act has been  
31 committed at school, on school property, or at a school supervised activity  
32 and that the act involved conduct which constitutes the commission of a  
33 felony or misdemeanor or which involves the possession, use or disposal  
34 of explosives, firearms or other weapons; and

35 (2) the procedures for making such a report.

36 (c) School employees shall not be subject to the provisions of  
37 subsection (b) of K.S.A. 72-89b04, and amendments thereto, if:

38 (1) They follow the procedures from a policy adopted pursuant to the  
39 provisions of subsection (b); or

40 (2) their board of education fails to adopt such policy.

41 (d) Each board of education shall annually compile and report to the  
42 state board of education at least the following information relating to  
43 school safety and security: The types and frequency of criminal acts that

1 are required to be reported pursuant to the provisions of subsection (b),  
2 disaggregated by occurrences at school, on school property and at school  
3 supervised activities. The report shall be incorporated into and become  
4 part of the current report required under the quality performance  
5 accreditation system.

6 (e) Each board of education shall make available to pupils and their  
7 parents, to school employees and, upon request, to others, district policies  
8 and reports concerning school safety and security, except that the  
9 provisions of this subsection shall not apply to reports made by a  
10 superintendent of schools and school employees pursuant to subsection  
11 (a).

12 (f) Nothing in this section shall be construed or operate in any  
13 manner so as to prevent any school employee from reporting criminal acts  
14 to school officials and to appropriate state and local law enforcement  
15 agencies.

16 (g) The state board of education shall extract the information relating  
17 to school safety and security from the quality performance accreditation  
18 report and transmit the information to the governor, the legislature, the  
19 attorney general, the secretary of health and environment, the secretary of  
20 ~~social and rehabilitation services for children and families~~ and the  
21 commissioner of juvenile justice.

22 (h) No board of education, member of any such board, superintendent  
23 of schools or school employee shall be liable for damages in a civil action  
24 resulting from a person's good faith acts or omissions in complying with  
25 the requirements or provisions of the Kansas school safety and security  
26 act.

27 Sec. 324. K.S.A. 2012 Supp. 73-1209 is hereby amended to read as  
28 follows: 73-1209. The executive director of the Kansas veterans'  
29 commission, in accordance with general policies established by the  
30 commission, shall:

31 (1) Collect data and information as to the facilities, benefits and  
32 services now or hereafter available to veterans and their relatives and  
33 dependents, and furnish such information to veterans and their relatives  
34 and dependents and local service officers of veterans' organizations.

35 (2) Prepare plans for a comprehensive statewide veterans' service  
36 program.

37 (3) Coordinate the program of state agencies which may properly be  
38 utilized in the administration of various aspects of the problems of  
39 veterans, and relatives and dependents of veterans, such as the ~~department~~  
40 ~~of social and rehabilitation services~~ *Kansas department for children and*  
41 *families*, the department of labor, the state board of education, the board of  
42 regents and any other state office, department, board or commission  
43 furnishing service to veterans or their relatives or dependents.

1 (4) Provide a central contact between federal and state agencies  
2 dealing with the problems of veterans and their relatives and dependents.

3 (5) Maintain records of cases handled by the executive director which  
4 shall show at least the following information: (a) The name of the veteran;  
5 (b) claim or case number of the veteran; and (c) amount of monthly benefit  
6 received by the veteran, so as to facilitate the necessary interchange of  
7 case histories among state administrative agencies and provide a  
8 clearinghouse of information.

9 (6) Provide such services to veterans and their relatives and  
10 dependents as are not otherwise offered by federal agencies.

11 (7) Provide a central agency to which veterans and their relatives and  
12 dependents may turn for information and assistance.

13 (8) Provide and maintain such field services as shall be necessary to  
14 properly care for the needs of veterans and their relatives and dependents  
15 which shall not be operated in connection with the ~~social and rehabilitation~~  
16 *Kansas department for children and families* services.

17 Sec. 325. K.S.A. 2012 Supp. 74-32,151 is hereby amended to read as  
18 follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-  
19 32,159, and amendments thereto, shall be known and may be cited as the  
20 workforce development loan program act.

21 (b) As used in the workforce development loan act, "postsecondary  
22 educational institution" shall have the meaning ascribed thereto by K.S.A.  
23 74-3201b, and amendments thereto.

24 (c) Within the limits of appropriations and private contributions  
25 therefor, and in accordance with the provisions of this act, the state board  
26 of regents may award such loans to Kansas residents who are enrolled in  
27 or admitted to a technical college, community college, the institute of  
28 technology at Washburn university or associate degree programs at  
29 postsecondary educational institutions and who enter into a written  
30 agreement with the state board of regents as provided in K.S.A. 74-32,152,  
31 and amendments thereto.

32 (d) The board of regents may accept any private contributions to the  
33 program. The chief executive officer of the board of regents shall turn such  
34 contributions over to the state treasurer who shall deposit such moneys  
35 into the workforce development loan fund.

36 (e) After consultation with the secretaries of the ~~departments of social~~  
37 ~~and rehabilitation services~~ *Kansas department for children and families*  
38 and *the department of commerce*, the board may establish a list of  
39 education programs in which an applicant must enroll to be eligible for a  
40 loan under this program.

41 (f) The loans shall be awarded on a priority basis to qualified  
42 applicants who have the greatest financial need with the highest priority  
43 given to those applicants with the greatest financial need who were in

1 foster care on their 18<sup>th</sup> birthday or were released from foster care prior to  
2 their 18<sup>th</sup> birthday after having graduated from high school or completing  
3 the requirements for a general educational development (GED) certificate  
4 while in foster care. All loans shall be awarded to resident students  
5 attending technical colleges, community colleges, the institute of  
6 technology at Washburn university or associate degree programs at  
7 postsecondary educational institutions. Special preference shall also be  
8 established for residents drawing unemployment compensation or such  
9 residents who were laid off from employment within the prior six months.  
10 The board may also establish preferences for workers deemed to be  
11 eligible for North American free trade agreement transition assistance  
12 under United States department of labor standards or the Kansas  
13 department of labor standards.

14 (g) Loans awarded under this program shall be awarded on an annual  
15 basis and shall be in effect for one year unless otherwise terminated before  
16 the expiration of such period of time. Such loans shall be awarded for the  
17 payment of tuition, fees, books, room and board and any other necessary  
18 school related expenses.

19 Sec. 326. K.S.A. 2012 Supp. 74-32,160 is hereby amended to read as  
20 follows: 74-32,160. Financing of the workforce development loan program  
21 act shall be from moneys made available from the Kansas department of  
22 commerce received from the United States department of labor and the  
23 Kansas department of social and rehabilitation services *for children and*  
24 *families* received from the United States department of health and human  
25 services in accordance with the provisions of this section and in  
26 accordance with and subject to the provisions of Kansas appropriation  
27 acts.

28 The Kansas department of commerce shall provide funding for the  
29 purpose of this act which shall be limited to the use of federal department  
30 of labor workforce investment act funds which are returned to the state as  
31 unspent local WIA program year adult, youth and dislocated worker funds.  
32 Such unspent funds shall be converted to and identified as state-level set-  
33 aside funds for use in carrying out activities as provided under this act. The  
34 annual amount of such funds shall not exceed \$500,000. The WIA set-  
35 aside funds shall be made available subject to the written approval from  
36 the United States department of labor authorizing the use of such for the  
37 purpose of this act and appropriated by the United States congress.  
38 Funding for this act by the Kansas department of commerce shall be  
39 contingent on the availability of WIA funding and shall terminate on or  
40 before the final WIA authorization date of June 30, 2005. Due to  
41 restrictions placed on the transfer of unspent federal funds to the state  
42 treasury and the need for timely disbursement of federal funds for WIA  
43 expenditures, the Kansas department of commerce shall develop in

1 cooperation with the Kansas board of regents, a system for the  
2 reimbursement of actual expenses incurred pursuant to this act. Such  
3 reimbursement procedures shall be in compliance with acceptable federal  
4 department of labor and office of management and budget procedures  
5 established for the draw down and disbursement of federal WIA funds.

6 ~~The secretary of the department of social and rehabilitation services for~~  
7 ~~children and families~~ shall cooperate in the administration of the  
8 workforce development loan program act which may be funded with the  
9 \$500,000 which is to be contributed annually by the Kansas department of  
10 ~~social and rehabilitation services for children and families~~ in accordance  
11 with and subject to the provisions of appropriation acts. When there is a  
12 candidate that appears to meet the eligibility guidelines for federal funding  
13 administered by the Kansas department of ~~social and rehabilitation~~  
14 ~~services for children and families~~, the Kansas board of regents shall notify  
15 the Kansas department of ~~social and rehabilitation services for children~~  
16 ~~and families~~. Upon the Kansas department of ~~social and rehabilitation~~  
17 ~~services for children and families'~~ approval of the candidate's eligibility,  
18 the director of accounts and reports shall transfer funding from the  
19 appropriate federal source as identified by the Kansas department of ~~social~~  
20 ~~and rehabilitation services for children and families~~ to the Kansas state  
21 treasurer. All receipts and interest collected from repayments of federal  
22 funds transferred under the authority of this section shall be returned to the  
23 director of accounts and reports for reposit to the originating federal  
24 funding source.

25 Sec. 327. K.S.A. 2012 Supp. 74-32,161 is hereby amended to read as  
26 follows: 74-32,161. (a) As used in this section:

27 (1) "Kansas educational institution" means a postsecondary  
28 educational institution as defined by K.S.A. 74-3201b, and amendments  
29 thereto.

30 (2) "State board" means the state board of regents.

31 (b) Subject to appropriations therefor and except as otherwise  
32 provided by this section, every Kansas educational institution shall provide  
33 for enrollment without charge of tuition, undergraduate fees, including  
34 registration, matriculation and laboratory fees for any eligible applicant.  
35 No Kansas educational institution shall be required by this section to  
36 provide for the enrollment of more than five new applicants in any  
37 academic year. An applicant who was in the custody of ~~social and~~  
38 ~~rehabilitation the department for children and families~~ services on the date  
39 such applicant reached 18 years of age, who has graduated from a high  
40 school or fulfilled the requirements for a general educational development  
41 (GED) certificate while in foster care, was released from the custody of the  
42 Kansas department of ~~social and rehabilitation services for children and~~  
43 ~~families~~ prior to age 18 after having graduated from a high school or



1 fulfilled the requirements for a general educational development (GED)  
2 certificate while in foster care placement and in the custody of the Kansas  
3 ~~department of social and rehabilitation services for children and families,~~  
4 or an applicant who was adopted from a foster care placement on or after  
5 such applicant's 16<sup>th</sup> birthday, and who is accepted to a Kansas educational  
6 institution within two years following the date such applicant graduated  
7 from a high school or fulfilled the requirements for a general educational  
8 development (GED) certificate shall be eligible for enrollment at a Kansas  
9 educational institution without charge of tuition or such fees through the  
10 semester the eligible applicant reaches 21 years of age not to exceed eight  
11 semesters of undergraduate instruction, or the equivalent thereof, at all  
12 such institutions.

13 (c) Subject to appropriations therefor, any Kansas educational  
14 institution which at the time of enrollment did not charge tuition or fees as  
15 prescribed by subsection (b), and amendments thereto, of the eligible  
16 applicant may file a claim with the state board for reimbursement of the  
17 amount of such tuition and fees. The state board shall be responsible for  
18 payment of reimbursements to Kansas educational institutions upon  
19 certification by each such institution of the amount of reimbursement to  
20 which the educational institution is entitled. Such payments to Kansas  
21 educational institutions shall be made upon vouchers approved by the state  
22 board and upon warrants of the director of accounts and reports. Payments  
23 may be made by issuance of a single warrant to each Kansas educational  
24 institution at which one or more eligible applicants are enrolled for the  
25 total amount of tuition and fees not charged eligible applicants for  
26 enrollment at that institution. The director of accounts and reports shall  
27 cause such warrant to be delivered to the Kansas educational institution at  
28 which such eligible applicant or applicants are enrolled. If an eligible  
29 applicant discontinues attendance before the end of any semester, after the  
30 Kansas educational institution has received payment under this subsection,  
31 the institution shall pay to the state the entire amount which such eligible  
32 applicant would otherwise qualify to have refunded, not to exceed the  
33 amount of the payment made by the state on behalf of such applicant for  
34 the semester. All amounts paid to the state by Kansas educational  
35 institutions under this subsection shall be deposited in the state treasury  
36 and credited to the tuition waiver gifts, grants and reimbursements fund  
37 unless such amount was from federal funds transferred under the authority  
38 of subsection (g) which funds shall be returned to the director of accounts  
39 and reports for reposit to the originating federal funding source.

40 (d) The chief executive officer of the state board shall submit a report  
41 to the house and senate committees on education during the 2005 and 2007  
42 regular session of the legislature on the results, outcomes and effectiveness  
43 of the tuition waiver program authorized by this section.

1 (e) The state board is authorized to receive any grants, gifts,  
2 contributions or bequests made for the purpose of supporting the tuition  
3 waiver program authorized by this section and to expend the same.

4 (f) There is hereby established in the state treasury the tuition waiver  
5 gifts, grants and reimbursements fund. Expenditures from the fund may be  
6 made for the purpose of payment of claims of Kansas educational  
7 institutions pursuant to this section and for such purposes as may be  
8 specified with regard to any grant, gift, contribution or bequest. All such  
9 expenditures shall be authorized by the chief executive officer of the state  
10 board, or such officer's designee and made upon warrants of the director of  
11 accounts and reports issued pursuant to vouchers approved by the chief  
12 executive officer of the state board, or such officer's designee.

13 (g) During each year, the chief executive officer of the state board  
14 shall make one or more certifications of the amount or amounts required to  
15 pay claims received from Kansas educational institutions for tuition and  
16 fees under this section to the director of accounts and reports and the  
17 ~~secretary of social and rehabilitation services~~ *for children and families*.  
18 Each certification made by the chief executive officer shall include a  
19 provision stating that 20% of the total amount or amounts required to pay  
20 claims received from Kansas educational institutions for tuition and fees  
21 under this section are either cash, in-kind contributions, state general funds  
22 or other nonfederal sources not used to match other funds, and that the  
23 remaining 80% shall be paid from the federal award from the foster care  
24 assistance federal fund. Upon receipt of each such certification, the  
25 director of accounts shall transfer the amount certified from moneys  
26 received under the federal Chafee foster care independence grant and  
27 credited to the foster care assistance federal fund of the ~~department of~~  
28 ~~social and rehabilitation services~~ *Kansas department for children and*  
29 *families* to the tuition waiver gifts, grants and reimbursements fund of the  
30 state board. Annual expenditures for the tuition waiver program made by  
31 the Kansas ~~department of social and rehabilitation services~~ *for children*  
32 *and families* shall not exceed a maximum of more than 30% of the amount  
33 of the federal award in effect on July 1 of each state fiscal year.

34 (h) On or before the 10<sup>th</sup> of each month, the director of accounts and  
35 reports shall transfer from the state general fund to the tuition waiver gifts  
36 and grants fund interest earnings based on:

37 (1) The average daily balance of moneys in the tuition waiver gifts  
38 and grants fund for the preceding month; and

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

41 (i) Applicants eligible for the benefits under this section shall be  
42 exempt from the provisions of K.S.A. 76-717, and amendments thereto.

43 (j) The state board shall adopt rules and regulations requiring eligible

1 applicants to be enrolled as a full-time undergraduate student in good  
2 academic standing and to maintain part-time employment to remain  
3 eligible and other rules and regulations, as appropriate, for administration  
4 of the applicable provisions of this section. When there is a candidate that  
5 appears to meet the eligibility guidelines for federal Chafee funding  
6 administered by the Kansas department ~~of social and rehabilitation~~  
7 ~~services for children and families~~, the state board shall notify the Kansas  
8 department ~~of social and rehabilitation services for children and families~~.  
9 The Kansas department ~~of social and rehabilitation services for children~~  
10 ~~and families~~ shall notify the state board of approval of the candidate's  
11 eligibility.

12 (k) The provisions of this section shall expire on June 30, 2006,  
13 except that any eligible applicant who received a tuition waiver before  
14 June 30, 2006, and is deemed by the state board to be eligible pursuant to  
15 this section shall be allowed to remain eligible until such applicant  
16 completes such applicant's course of study or becomes ineligible pursuant  
17 to the provisions of this section.

18 Sec. 328. K.S.A. 2012 Supp. 74-4902 is hereby amended to read as  
19 follows: 74-4902. As used in articles 49 and 49a of chapter 74 *of the*  
20 *Kansas Statutes Annotated*, and amendments thereto, unless otherwise  
21 provided or the context otherwise requires:

22 (1) "Accumulated contributions" means the sum of all contributions  
23 by a member to the system which are credited to the member's account,  
24 with interest allowed thereon;

25 (2) "acts" means the provisions of articles 49 and 49a of the Kansas  
26 Statutes Annotated, and amendments thereto;

27 (3) "actuarial equivalent" means an annuity or benefit of equal value  
28 to the accumulated contributions, annuity or benefit, when computed upon  
29 the basis of the actuarial tables in use by the system. Whenever the amount  
30 of any benefit is to be determined on the basis of actuarial assumptions,  
31 the assumptions shall be specified in a way that precludes employer  
32 discretion;

33 (4) "actuarial tables" means the actuarial tables approved and in use  
34 by the board at any given time;

35 (5) "actuary" means the actuary or firm of actuaries employed or  
36 retained by the board at any given time;

37 (6) "agent" means the individual designated by each participating  
38 employer through whom system transactions and communication are  
39 directed;

40 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,  
41 and amendments thereto, any natural person or persons, estate or trust, or  
42 any combination thereof, named by a member to receive any benefits as  
43 provided for by this act. Designations of beneficiaries by a member who is

1 a member of more than one retirement system made on or after July 1,  
2 1987, shall be the basis of any benefits payable under all systems unless  
3 otherwise provided by law. Except as otherwise provided by subsection  
4 (33) of this section, if there is no named beneficiary living at *the* time of  
5 *the* member's death, any benefits provided for by this act shall be paid to:  
6 (A) The member's surviving spouse; (B) the member's dependent child or  
7 children; (C) the member's dependent parent or parents; (D) the member's  
8 nondependent child or children; (E) the member's nondependent parent or  
9 parents; (F) the estate of the deceased member; in the order of preference  
10 as specified in this subsection;

11 (8) "board of trustees," "board" or "trustees" means the managing  
12 body of the system which is known as the Kansas public employees  
13 retirement system board of trustees;

14 (9) "compensation" means, except as otherwise provided, all salary,  
15 wages and other remuneration payable to a member for personal services  
16 performed for a participating employer, including maintenance or any  
17 allowance in lieu thereof provided a member as part of compensation, but  
18 not including reimbursement for travel or moving expenses or on and after  
19 July 1, 1994, payment pursuant to an early retirement incentive program  
20 made prior to the retirement of the member. Beginning with the employer's  
21 fiscal year which begins in calendar year 1991 or for employers other than  
22 the state of Kansas, beginning with the fiscal year which begins in  
23 calendar year 1992, when the compensation of a member who remains in  
24 substantially the same position during any two consecutive years of  
25 participating service used in calculating final average salary is increased  
26 by an amount which exceeds 15%, then the amount of such increase which  
27 exceeds 15% shall not be included in compensation, except that: (A) Any  
28 amount of compensation for accumulated sick leave or vacation or annual  
29 leave paid to the member; (B) any increase in compensation for any  
30 member due to a reclassification or reallocation of such member's position  
31 or a reassignment of such member's job classification to a higher range or  
32 level; and (C) any increase in compensation as provided in any contract  
33 entered into prior to January 1, 1991, and still in force on the effective date  
34 of this act, pursuant to an early retirement incentive program as provided  
35 in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in  
36 the amount of compensation of such member used in determining such  
37 member's final average salary and shall not be subject to the 15%  
38 limitation provided in this subsection. Any contributions by such member  
39 on the amount of such increase which exceeds 15% which is not included  
40 in compensation shall be returned to the member. Unless otherwise  
41 provided by law, beginning with the employer's fiscal year coinciding with  
42 or following July 1, 1985, compensation shall include any amounts for tax  
43 sheltered annuities or deferred compensation plans. Beginning with the

1 employer's fiscal year which begins in calendar year 1991, compensation  
2 shall include amounts under sections 403b, 457 and 125 of the federal  
3 internal revenue code of 1986 and, as the board deems appropriate, any  
4 other section of the federal internal revenue code of 1986 which defers or  
5 excludes amounts from inclusion in income. For purposes of applying  
6 limits under the federal internal revenue code "compensation" shall have  
7 the meaning as provided in K.S.A. 74-49,123, and amendments thereto.  
8 For purposes of this subsection and application to the provisions of  
9 subsection (4) of K.S.A. 74-4927, and amendments thereto,  
10 "compensation" shall not include any payments made by the state board of  
11 regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a,  
12 and amendments thereto, to a member of the faculty or other person  
13 defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto;

14 (10) "credited service" means the sum of participating service and  
15 prior service and in no event shall credited service include any service  
16 which is credited under another retirement plan authorized under any law  
17 of this state;

18 (11) "dependent" means a parent or child of a member who is  
19 dependent upon the member for at least  $\frac{1}{2}$  of such parent or child's  
20 support;

21 (12) "effective date" means the date upon which the system becomes  
22 effective by operation of law;

23 (13) "eligible employer" means the state of Kansas, and any county,  
24 city, township, special district or any instrumentality of any one or several  
25 of the aforementioned or any noncommercial public television or radio  
26 station located in this state which receives state funds allocated by the  
27 Kansas public broadcasting commission whose employees are covered by  
28 social security. If a class or several classes of employees of any above  
29 defined employer are not covered by social security, such employer shall  
30 be deemed an eligible employer only with respect to such class or those  
31 classes of employees who are covered by social security;

32 (14) "employee" means any appointed or elective officer or employee  
33 of a participating employer whose employment is not seasonal or  
34 temporary and whose employment requires at least 1,000 hours of work  
35 per year, and any such officer or employee who is concurrently employed  
36 performing similar or related tasks by two or more participating  
37 employers, who each remit employer and employee contributions on  
38 behalf of such officer or employee to the system, and whose combined  
39 employment is not seasonal or temporary, and whose combined  
40 employment requires at least 1,000 hours of work per year, but not  
41 including: (A) Any employee who is a contributing member of the United  
42 States civil service retirement system; (B) any employee who is a  
43 contributing member of the federal employees retirement system; (C) any

1 employee who is a leased employee as provided in section 414 of the  
2 federal internal revenue code of a participating employer; and (D) any  
3 employee or class of employees specifically exempted by law. After June  
4 30, 1975, no person who is otherwise eligible for membership in the  
5 Kansas public employees retirement system shall be barred from such  
6 membership by reason of coverage by, eligibility for or future eligibility  
7 for a retirement annuity under the provisions of K.S.A. 74-4925, and  
8 amendments thereto, except that no person shall receive service credit  
9 under the Kansas public employees retirement system for any period of  
10 service for which benefits accrue or are granted under a retirement annuity  
11 plan under the provisions of K.S.A. 74-4925, and amendments thereto.  
12 After June 30, 1982, no person who is otherwise eligible for membership  
13 in the Kansas public employees retirement system shall be barred from  
14 such membership by reason of coverage by, eligibility for or future  
15 eligibility for any benefit under another retirement plan authorized under  
16 any law of this state, except that no such person shall receive service credit  
17 under the Kansas public employees retirement system for any period of  
18 service for which any benefit accrues or is granted under any such  
19 retirement plan. Employee shall include persons who are in training at or  
20 employed by, or both, a sheltered workshop for the blind operated by the  
21 ~~secretary of social and rehabilitation services for children and families.~~  
22 The entry date for such persons shall be the beginning of the first pay  
23 period of the fiscal year commencing in calendar year 1986. Such persons  
24 shall be granted prior service credit in accordance with K.S.A. 74-4913,  
25 and amendments thereto. However, such persons classified as home  
26 industry employees shall not be covered by the retirement system.  
27 Employees shall include any member of a board of county commissioners  
28 of any county and any council member or commissioner of a city whose  
29 compensation is equal to or exceeds \$5,000 per year;

30 (15) "entry date" means the date as of which an eligible employer  
31 joins the system. The first entry date pursuant to this act is January 1,  
32 1962;

33 (16) "executive director" means the managing officer of the system  
34 employed by the board under this act;

35 (17) "final average salary" means in the case of a member who retires  
36 prior to January 1, 1977, and in the case of a member who retires after  
37 January 1, 1977, and who has less than five years of participating service  
38 after January 1, 1967, the average highest annual compensation paid to  
39 such member for any five years of the last 10 years of participating service  
40 immediately preceding retirement or termination of employment, or in the  
41 case of a member who retires on or after January 1, 1977, and who has five  
42 or more years of participating service after January 1, 1967, the average  
43 highest annual compensation paid to such member on or after January 1,

1 1967, for any five years of participating service preceding retirement or  
2 termination of employment, or, in any case, if participating service is less  
3 than five years, then the average annual compensation paid to the member  
4 during the full period of participating service, or, in any case, if the  
5 member has less than one calendar year of participating service such  
6 member's final average salary shall be computed by multiplying such  
7 member's highest monthly salary received in that year by 12; in the case of  
8 a member who became a member under subsection (3) of K.S.A. 74-4925,  
9 and amendments thereto, or who became a member with a participating  
10 employer as defined in subsection (3) of K.S.A. 74-4931, and amendments  
11 thereto, and who elects to have compensation paid in other than 12 equal  
12 installments, such compensation shall be annualized as if the member had  
13 elected to receive 12 equal installments for any such periods preceding  
14 retirement; in the case of a member who retires after July 1, 1987, the  
15 average highest annual compensation paid to such member for any four  
16 years of participating service preceding retirement or termination of  
17 employment; in the case of a member who retires on or after July 1, 1993,  
18 whose date of membership in the system is prior to July 1, 1993, and any  
19 member who is in such member's membership waiting period on July 1,  
20 1993, and whose date of membership in the system is on or after July 1,  
21 1993, the average highest annual compensation, as defined in subsection  
22 (9), paid to such member for any four years of participating service  
23 preceding retirement or termination of employment or the average highest  
24 annual salary, as defined in subsection (34), paid to such member for any  
25 three years of participating service preceding retirement or termination of  
26 employment, whichever is greater; and in the case of a member who retires  
27 on or after July 1, 1993, and whose date of membership in the system is on  
28 or after July 1, 1993, the average highest annual salary, as defined in  
29 subsection (34), paid to such member for any three years of participating  
30 service preceding retirement or termination of employment. Final average  
31 salary shall not include any purchase of participating service credit by a  
32 member as provided in subsection (2) of K.S.A. 74-4919h, and  
33 amendments thereto, which is completed within five years of retirement.  
34 For any application to purchase or repurchase service credit for a certain  
35 period of service as provided by law received by the system after May 17,  
36 1994, for any member who will have contributions deducted from such  
37 member's compensation at a percentage rate equal to two or three times the  
38 employee's rate of contribution or will begin paying to the system a lump-  
39 sum amount for such member's purchase or repurchase and such  
40 deductions or lump-sum payment commences after the commencement of  
41 the first payroll period in the third quarter, "final average salary" shall not  
42 include any amount of compensation or salary which is based on such  
43 member's purchase or repurchase. Any application to purchase or

1 repurchase multiple periods of service shall be treated as multiple  
2 applications. For purposes of this subsection, the date that such member is  
3 first hired as an employee for members who are employees of employers  
4 that elected to participate in the system on or after January 1, 1994, shall  
5 be the date that such employee's employer elected to participate in the  
6 system. In the case of any former member who was eligible for assistance  
7 pursuant to K.S.A. 74-4925, and amendments thereto, prior to July 1,  
8 1998, for the purpose of calculating final average salary of such member,  
9 such member's final average salary shall be based on such member's salary  
10 while a member of the system or while eligible for assistance pursuant to  
11 K.S.A. 74-4925, and amendments thereto, whichever is greater;

12 (18) "fiscal year" means, for the Kansas public employees retirement  
13 system, the period commencing July 1 of any year and ending June 30 of  
14 the next;

15 (19) "Kansas public employees retirement fund" means the fund  
16 created by this act for payment of expenses and benefits under the system  
17 and referred to as the fund;

18 (20) "leave of absence" means a period of absence from employment  
19 without pay, authorized and approved by the employer, and which after the  
20 effective date does not exceed one year;

21 (21) "member" means an eligible employee who is in the system and  
22 is making the required employee contributions; any former employee who  
23 has made the required contributions to the system and has not received a  
24 refund if such member is within five years of termination of employment  
25 with a participating employer; or any former employee who has made the  
26 required contributions to the system, has not yet received a refund and has  
27 been granted a vested benefit;

28 (22) "military service" means service in the uniformed forces of the  
29 United States, for which retirement benefit credit must be given under the  
30 provisions of USERRA or service in the armed forces of the United States  
31 or in the commissioned corps of the United States public health service,  
32 which service is immediately preceded by a period of employment as an  
33 employee or by ~~the entering into of~~ an employment contract with a  
34 participating employer and is followed by return to employment as an  
35 employee with the same or another participating employer within 12  
36 months immediately following discharge from such military service,  
37 except that if the board determines that such return within 12 months was  
38 made impossible by reason of a service-connected disability, the period  
39 within which the employee must return to employment with a participating  
40 employer shall be extended not more than two years from the date of  
41 discharge or separation from military service;

42 (23) "normal retirement date" means the date on or after which a  
43 member may retire with full retirement benefits pursuant to K.S.A. 74-



1 4914, and amendments thereto;

2 (24) "participating employer" means an eligible employer who has  
3 agreed to make contributions to the system on behalf of its employees;

4 (25) "participating service" means the period of employment after the  
5 entry date for which credit is granted a member;

6 (26) "prior service" means the period of employment of a member  
7 prior to the entry date for which credit is granted a member under this act;

8 (27) "prior service annual salary" means the highest annual salary, not  
9 including any amounts received as payment for overtime or as  
10 reimbursement for travel or moving expense, received for personal  
11 services by the member from the current employer in any one of the three  
12 calendar years immediately preceding January 1, 1962, or the entry date of  
13 the employer, whichever is later, except that if a member entered the  
14 employment of the state during the calendar year 1961, the prior service  
15 annual salary shall be computed by multiplying such member's highest  
16 monthly salary received in that year by 12;

17 (28) "retirant" means a member who has retired under this system;

18 (29) "retirement benefit" means a monthly income or the actuarial  
19 equivalent thereof paid in such manner as specified by the member  
20 pursuant to this act or as otherwise allowed to be paid at the discretion of  
21 the board, with benefits accruing from the first day of the month  
22 coinciding with or following retirement and ending on the last day of the  
23 month in which death occurs. Upon proper identification a surviving  
24 spouse may negotiate the warrant issued in the name of the retirant. If  
25 there is no surviving spouse, the last warrant shall be payable to the  
26 designated beneficiary;

27 (30) "retirement system" or "system" means the Kansas public  
28 employees retirement system as established by this act and as it may be  
29 amended;

30 (31) "social security" means the old age, survivors and disability  
31 insurance section of the federal social security act;

32 (32) "trust" means an express trust, created by a trust instrument,  
33 including a will, designated by a member to receive payment of the  
34 insured death benefit under K.S.A. 74-4927, and amendments thereto, and  
35 payment of the member's accumulated contributions under subsection (1)  
36 of K.S.A. 74-4916, and amendments thereto. A designation of a trust shall  
37 be filed with the board. If no will is admitted to probate within six months  
38 after the death of the member or no trustee qualifies within such six  
39 months or if the designated trust fails, for any reason whatsoever, the  
40 insured death benefit under K.S.A. 74-4927, and amendments thereto, and  
41 the member's accumulated contributions under subsection (1) of K.S.A.  
42 74-4916, and amendments thereto, shall be paid in accordance with the  
43 provisions of subsection (7) of this section as in other cases where there is

1 no named beneficiary living at the time of the member's death and any  
2 payments so made shall be a full discharge and release to the system from  
3 any further claims;

4 (33) "salary" means all salary and wages payable to a member for  
5 personal services performed for a participating employer, including  
6 maintenance or any allowance in lieu thereof provided a member as part of  
7 salary. Salary shall not include reimbursement for travel or moving  
8 expenses, payment for accumulated sick leave or vacation or annual leave,  
9 severance pay or any other payments to the member determined by the  
10 board to not be payments for personal services performed for a  
11 participating employer constituting salary or on and after July 1, 1994,  
12 payment pursuant to an early retirement incentive program made prior to  
13 the retirement of the member. When the salary of a member who remains  
14 in substantially the same position during any two consecutive years of  
15 participating service used in calculating final average salary is increased  
16 by an amount which exceeds 15%, then the amount of such increase which  
17 exceeds 15% shall not be included in salary. Any contributions by such  
18 member on the amount of such increase which exceeds 15% which is not  
19 included in compensation shall be returned to the member. Unless  
20 otherwise provided by law, salary shall include any amounts for tax  
21 sheltered annuities or deferred compensation plans. Salary shall include  
22 amounts under sections 403b, 457 and 125 of the federal internal revenue  
23 code of 1986 and, as the board deems appropriate, any other section of the  
24 federal internal revenue code of 1986 which defers or excludes amounts  
25 from inclusion in income. For purposes of applying limits under the  
26 federal internal revenue code "salary" shall have the meaning as provided  
27 in K.S.A. 74-49,123, and amendments thereto. In any case, if participating  
28 service is less than three years, then the average annual salary paid to the  
29 member during the full period of participating service, or, in any case, if  
30 the member has less than one calendar year of participating service such  
31 member's final average salary shall be computed by multiplying such  
32 member's highest monthly salary received in that year by 12;

33 (34) "federal internal revenue code" means the federal internal  
34 revenue code of 1954 or 1986, as in effect on July 1, 2008, and as  
35 applicable to a governmental plan; and

36 (35) "USERRA" means the federal uniformed services employment  
37 and reemployment rights act of 1994 as in effect on July 1, 2008.

38 Sec. 329. K.S.A. 2012 Supp. 74-4911f is hereby amended to read as  
39 follows: 74-4911f. (a) Subject to procedures or limitations prescribed by  
40 the governor, any person who is not an employee and who becomes a state  
41 officer may elect to not become a member of the system. The election to  
42 not become a member of the system must be filed within 90 days of  
43 assuming the position of state officer. Such election shall be irrevocable. If

1 such election is not filed by such state officer, such state officer shall be a  
2 member of the system.

3 (b) Any such state officer who is a member of the Kansas public  
4 employees retirement system, on or after the effective date of this act, may  
5 elect to not be a member by filing an election with the office of the  
6 retirement system. The election to not become a member of the system  
7 must be filed within 90 days of assuming the position of state officer. If  
8 such election is not filed by such state officer, such state officer shall be a  
9 member of the system.

10 (c) Subject to limitations prescribed by the board, the state agency  
11 employing any employee who has filed an election as provided under  
12 subsection (a) or (b) and who has entered into an employee participation  
13 agreement, as provided in K.S.A. 2012 Supp. 74-49b10, and amendments  
14 thereto, for deferred compensation pursuant to the Kansas public  
15 employees deferred compensation plan shall contribute to such plan on  
16 such employee's behalf an amount equal to 8% of the employee's salary, as  
17 such salary has been approved pursuant to K.S.A. 75-2935b, and  
18 amendments thereto, or as otherwise prescribed by law. With regard to a  
19 state officer who is a member of the legislature who has retired pursuant to  
20 the Kansas public employees retirement system and who files an election  
21 as provided in this section, employee's salary means per diem  
22 compensation as provided by law as a member of the legislature.

23 (d) As used in this section and K.S.A. 74-4927k, and amendments  
24 thereto, "state officer" means the secretary of administration, secretary ~~on~~  
25 ~~aging for aging and disability services~~, secretary of commerce, secretary  
26 of corrections, secretary of health and environment, secretary of labor,  
27 secretary of revenue, secretary ~~of social and rehabilitation services for~~  
28 ~~children and families~~, secretary of transportation, secretary of wildlife,  
29 parks and tourism, superintendent of the Kansas highway patrol, secretary  
30 of agriculture, executive director of the Kansas lottery, executive director  
31 of the Kansas racing commission, president of the Kansas development  
32 finance authority, state fire marshal, state librarian, securities  
33 commissioner, adjutant general, judges and chief hearing officer of the  
34 state court of tax appeals, members of the state corporation commission,  
35 any unclassified employee on the staff of officers of both houses of the  
36 legislature, any unclassified employee appointed to the governor's or  
37 lieutenant governor's staff, any person employed by the legislative branch  
38 of the state of Kansas, other than any such person receiving service  
39 credited under the Kansas public employees retirement system or any  
40 other retirement system of the state of Kansas therefor, who elected to be  
41 covered by the provisions of this section as provided in subsection (e) of  
42 K.S.A. 46-1302, and amendments thereto, or who is first employed on or  
43 after July 1, 1996, by the legislative branch of the state of Kansas and any

1 member of the legislature who has retired pursuant to the Kansas public  
2 employees retirement system.

3 (e) The provisions of this section shall not apply to any state officer  
4 who has elected to remain eligible for assistance by the state board of  
5 regents as provided in subsection (a) of K.S.A. 74-4925, and amendments  
6 thereto.

7 Sec. 330. K.S.A. 2012 Supp. 74-4927 is hereby amended to read as  
8 follows: 74-4927. (1) The board may establish a plan of death and long-  
9 term disability benefits to be paid to the members of the retirement system  
10 as provided by this section. The long-term disability benefit shall be  
11 payable in accordance with the terms of such plan as established by the  
12 board, except that for any member who is disabled prior to the effective  
13 date of this act, the annual disability benefit amount shall be an amount  
14 equal to  $66\frac{2}{3}\%$  of the member's annual rate of compensation on the date  
15 such disability commenced. Such plan shall provide that:

16 (A) For deaths occurring prior to January 1, 1987, the right to receive  
17 such death benefit shall cease upon the member's attainment of age 70 or  
18 date of retirement whichever first occurs. The right to receive such long-  
19 term disability benefit shall cease (i) for a member who becomes eligible  
20 for such benefit before attaining age 60, upon the date that such member  
21 attains age 65 or the date of such member's retirement, whichever first  
22 occurs, and (ii) for a member who becomes eligible for such benefit at or  
23 after attaining age 60, the date that such member has received such benefit  
24 for a period of five years, or upon the date of such member's retirement,  
25 whichever first occurs.

26 (B) Long-term disability benefit payments shall be in lieu of any  
27 accidental total disability benefit that a member may be eligible to receive  
28 under subsection (3) of K.S.A. 74-4916, and amendments thereto. The  
29 member must make an initial application for social security disability  
30 benefits and, if denied such benefits, the member must pursue and exhaust  
31 all administrative remedies of the social security administration which  
32 include, but are not limited to, reconsideration and hearings. Such plan  
33 may provide that any amount which a member receives as a social security  
34 benefit or a disability benefit or compensation from any source by reason  
35 of any employment including, but not limited to, workers compensation  
36 benefits may be deducted from the amount of long-term disability benefit  
37 payments under such plan. However, in no event shall the amount of long-  
38 term disability benefit payments under such plan be reduced by any  
39 amounts a member receives as a supplemental disability benefit or  
40 compensation from any source by reason of the member's employment,  
41 provided such supplemental disability benefit or compensation is based  
42 solely upon the portion of the member's monthly compensation that  
43 exceeds the maximum monthly compensation taken into account under

1 such plan. As used in this paragraph, "maximum monthly compensation"  
2 means the dollar amount that results from dividing the maximum monthly  
3 disability benefit payable under such plan by the percentage of  
4 compensation that is used to calculate disability benefit payments under  
5 such plan. During the period in which such member is pursuing such  
6 administrative remedies prior to a final decision of the social security  
7 administration, social security disability benefits may be estimated and  
8 may be deducted from the amount of long-term disability benefit payments  
9 under such plan. If the social security benefit, workers compensation  
10 benefit, other income or wages or other disability benefit by reason of  
11 employment other than a supplemental benefit based solely on  
12 compensation in excess of the maximum monthly compensation taken into  
13 account under such plan, or any part thereof, is paid in a lump-sum, the  
14 amount of the reduction shall be calculated on a monthly basis over the  
15 period of time for which the lump-sum is given. As used in this section,  
16 "workers compensation benefits" means the total award of disability  
17 benefit payments under the workers compensation act notwithstanding any  
18 payment of attorney fees from such benefits as provided in the workers  
19 compensation act.

20 (C) The plan may include other provisions relating to qualifications  
21 for benefits; schedules and graduation of benefits; limitations of eligibility  
22 for benefits by reason of termination of employment or membership;  
23 conversion privileges; limitations of eligibility for benefits by reason of  
24 leaves of absence, military service or other interruptions in service;  
25 limitations on the condition of long-term disability benefit payment by  
26 reason of improved health; requirements for medical examinations or  
27 reports; or any other reasonable provisions as established by rule and  
28 regulation of uniform application adopted by the board.

29 (D) Any visually impaired person who is in training at and employed  
30 by a sheltered workshop for the blind operated by the secretary ~~of social~~  
31 ~~and rehabilitation services for children and families~~ and who would  
32 otherwise be eligible for the long-term disability benefit as described in  
33 this section shall not be eligible to receive such benefit due to visual  
34 impairment as such impairment shall be determined to be a preexisting  
35 condition.

36 (2) (A) In the event that a member becomes eligible for a long-term  
37 disability benefit under the plan authorized by this section such member  
38 shall be given participating service credit for the entire period of such  
39 disability. Such member's final average salary shall be computed in  
40 accordance with subsection (17) of K.S.A. 74-4902, and amendments  
41 thereto, except that the years of participating service used in such  
42 computation shall be the years of salaried participating service.

43 (B) In the event that a member eligible for a long-term disability

1 benefit under the plan authorized by this section shall be disabled for a  
2 period of five years or more immediately preceding retirement, such  
3 member's final average salary shall be adjusted upon retirement by the  
4 actuarial salary assumption rates in existence during such period of  
5 disability. Effective July 1, 1993, such member's final average salary shall  
6 be adjusted upon retirement by 5% for each year of disability after July 1,  
7 1993, but before July 1, 1998. Effective July 1, 1998, such member's final  
8 average salary shall be adjusted upon retirement by an amount equal to the  
9 lesser of: (i) The percentage increase in the consumer price index for all  
10 urban consumers as published by the bureau of labor statistics of the  
11 United States department of labor minus 1%; or (ii) four percent per  
12 annum, measured from the member's last day on the payroll to the month  
13 that is two months prior to the month of retirement, for each year of  
14 disability after July 1, 1998.

15 (C) In the event that a member eligible for a long-term disability  
16 benefit under the plan authorized by this section shall be disabled for a  
17 period of five years or more immediately preceding death, such member's  
18 current annual rate shall be adjusted by the actuarial salary assumption  
19 rates in existence during such period of disability. Effective July 1, 1993,  
20 such member's current annual rate shall be adjusted upon death by 5% for  
21 each year of disability after July 1, 1993, but before July 1, 1998. Effective  
22 July 1, 1998, such member's current annual rate shall be adjusted upon  
23 death by an amount equal to the lesser of: (i) The percentage increase in  
24 the consumer price index for all urban consumers published by the bureau  
25 of labor statistics of the United States department of labor minus 1%; or  
26 (ii) four percent per annum, measured from the member's last day on the  
27 payroll to the month that is two months prior to the month of death, for  
28 each year of disability after July 1, 1998.

29 (3) (A) To carry out the legislative intent to provide, within the funds  
30 made available therefor, the broadest possible coverage for members who  
31 are in active employment or involuntarily absent from such active  
32 employment, the plan of death and long-term disability benefits shall be  
33 subject to adjustment from time to time by the board within the limitations  
34 of this section. The plan may include terms and provisions which are  
35 consistent with the terms and provisions of group life and long-term  
36 disability policies usually issued to those employers who employ a large  
37 number of employees. The board shall have the authority to establish and  
38 adjust from time to time the procedures for financing and administering  
39 the plan of death and long-term disability benefits authorized by this  
40 section. Either the insured death benefit or the insured disability benefit or  
41 both such benefits may be financed directly by the system or by one or  
42 more insurance companies authorized and licensed to transact group life  
43 and group accident and health insurance in this state.

1 (B) The board may contract with one or more insurance companies,  
2 which are authorized and licensed to transact group life and group accident  
3 and health insurance in Kansas, to underwrite or to administer or to both  
4 underwrite and administer either the insured death benefit or the long-term  
5 disability benefit or both such benefits. Each such contract with an  
6 insurance company under this subsection shall be entered into on the basis  
7 of competitive bids solicited and administered by the board. Such  
8 competitive bids shall be based on specifications prepared by the board.

9 (i) In the event the board purchases one or more policies of group  
10 insurance from such company or companies to provide either the insured  
11 death benefit or the long-term disability benefit or both such benefits, the  
12 board shall have the authority to subsequently cancel one or more of such  
13 policies and, notwithstanding any other provision of law, to release each  
14 company which issued any such canceled policy from any liability for  
15 future benefits under any such policy and to have the reserves established  
16 by such company under any such canceled policy returned to the system  
17 for deposit in the group insurance reserve of the fund.

18 (ii) In addition, the board shall have the authority to cancel any policy  
19 or policies of group life and long-term disability insurance in existence on  
20 the effective date of this act and, notwithstanding any other provision of  
21 law, to release each company which issued any such canceled policy from  
22 any liability for future benefits under any such policy and to have the  
23 reserves established by such company under any such canceled policy  
24 returned to the system for deposit in the group insurance reserve of the  
25 fund. Notwithstanding any other provision of law, no premium tax shall be  
26 due or payable by any such company or companies on any such policy or  
27 policies purchased by the board nor shall any brokerage fees or  
28 commissions be paid thereon.

29 (4) (A) There is hereby created in the state treasury the group  
30 insurance reserve fund. Investment income of the fund shall be added or  
31 credited to the fund as provided by law. The cost of the plan of death and  
32 long-term disability benefits shall be paid from the group insurance  
33 reserve fund, which shall be administered by the board. Except as  
34 otherwise provided by this subsection, for the period commencing July 1,  
35 2005, and ending June 30, 2006, each participating employer shall  
36 appropriate and pay to the system in such manner as the board shall  
37 prescribe in addition to the employee and employer retirement  
38 contributions an amount equal to .8% of the amount of compensation on  
39 which the members' contributions to the Kansas public employees  
40 retirement system are based for deposit in the group insurance reserve  
41 fund. For the period commencing July 1, 2006, and all periods thereafter,  
42 each participating employer shall appropriate and pay to the system in  
43 such manner as the board shall prescribe in addition to the employee and

1 employer retirement contributions an amount equal to 1.0% of the amount  
2 of compensation on which the members' contributions to the Kansas public  
3 employees retirement system are based for deposit in the group insurance  
4 reserve fund. Notwithstanding the provisions of this subsection, no  
5 participating employer shall appropriate and pay to the system any amount  
6 provided for by this subsection for deposit in the group insurance reserve  
7 fund for the period commencing on April 1, 2012, and ending on June 30,  
8 2012.

9 (B) The director of the budget and the governor shall include in the  
10 budget and in the budget request for appropriations for personal services a  
11 sum to pay the state's contribution to the group insurance reserve fund as  
12 provided by this section and shall present the same to the legislature for  
13 allowances and appropriation.

14 (C) The provisions of subsection (4) of K.S.A. 74-4920, and  
15 amendments thereto, shall apply for the purpose of providing the funds to  
16 make the contributions to be deposited to the group insurance reserve  
17 fund.

18 (D) Any dividend or retrospective rate credit allowed by an insurance  
19 company or companies shall be credited to the group insurance reserve  
20 fund and the board may take such amounts into consideration in  
21 determining the amounts of the benefits under the plan authorized by this  
22 section.

23 (5) The death benefit provided under the plan of death and long-term  
24 disability benefits authorized by this section shall be known and referred to  
25 as insured death benefit. The long-term disability benefit provided under  
26 the plan of death and long-term disability benefits authorized by this  
27 section shall be known and referred to as long-term disability benefit.

28 (6) The board is hereby authorized to establish an optional death  
29 benefit plan for employees and spouses and dependents of employees.  
30 Except as provided in subsection (7), such optional death benefit plan shall  
31 be made available to all employees who are covered or may hereafter  
32 become covered by the plan of death and long-term disability benefits  
33 authorized by this section. The cost of the optional death benefit plan shall  
34 be paid by the applicant either by means of a system of payroll deductions  
35 or direct payment to the board. The board shall have the authority and  
36 discretion to establish such terms, conditions, specifications and coverages  
37 as it may deem to be in the best interest of the state of Kansas and its  
38 employees which should include term death benefits for the person's  
39 period of active state employment regardless of age, but in no case, shall  
40 the maximum allowable coverage be less than \$200,000. The cost of the  
41 optional death benefit plan shall not be established on such a basis as to  
42 unreasonably discriminate against any particular age group. The board  
43 shall have full administrative responsibility, discretion and authority to



1 establish and continue such optional death benefit plan and the director of  
2 accounts and reports of the department of administration shall when  
3 requested by the board and from funds appropriated or available for such  
4 purpose establish a system to make periodic deductions from state payrolls  
5 to cover the cost of the optional death benefit plan coverage under the  
6 provisions of this subsection (6) and shall remit all deductions together  
7 with appropriate accounting reports to the system. There is hereby created  
8 in the state treasury the optional death benefit plan reserve fund.  
9 Investment income of the fund shall be added or credited to the fund as  
10 provided by law. All funds received by the board, whether in the form of  
11 direct payments, payroll deductions or otherwise, shall be accounted for  
12 separately from all other funds of the retirement system and shall be paid  
13 into the optional death benefit plan reserve fund, from which the board is  
14 authorized to make the appropriate payments and to pay the ongoing costs  
15 of administration of such optional death benefit plan as may be incurred in  
16 carrying out the provisions of this subsection (6).

17 (7) Any employer other than the state of Kansas which is currently a  
18 participating employer of the Kansas public employees retirement system  
19 or is in the process of affiliating with the Kansas public employees  
20 retirement system may also elect to affiliate for the purposes of subsection  
21 (6). All such employers shall make application for affiliation with such  
22 system, to be effective on January 1 or July 1 next following application.

23 (8) For purposes of the death benefit provided under the plan of death  
24 and long-term disability benefits authorized by this section and the  
25 optional death benefit plan authorized by subsection (6), commencing on  
26 the effective date of this act, in the case of medical or financial hardship of  
27 the member as determined by the executive director, or otherwise  
28 commencing January 1, 2005, the member may name a beneficiary or  
29 beneficiaries other than the beneficiary or beneficiaries named by the  
30 member to receive other benefits as provided by the provisions of K.S.A.  
31 74-4901 et seq., and amendments thereto.

32 Sec. 331. K.S.A. 74-5502 is hereby amended to read as follows: 74-  
33 5502. (a) The state council shall:

34 (1) Study the problems of prevention, education, rehabilitation and  
35 other programs affecting the general welfare of the developmentally  
36 disabled.

37 (2) Monitor, review and evaluate, at least annually, the  
38 implementation of the state plan for developmental disabilities.

39 (3) Review and comment, to the maximum extent feasible, on all  
40 state plans in the state which relate to programs affecting persons with  
41 developmental disabilities.

42 (4) Submit to the secretary of health and human services, through the  
43 governor, such periodic reports on its activities as the secretary of health

1 and human services may reasonably request and keep such records and  
2 afford such access thereto as the secretary of health and human services  
3 finds necessary to verify such reports. In accordance with federal laws, the  
4 state plan for developmental disabilities shall be prepared jointly by the  
5 division of the ~~department of social and rehabilitation~~ *Kansas department*  
6 *for aging and disability* services that is responsible for programs for  
7 developmental disabilities and the state council.

8 (5) Study the various state programs for the developmentally disabled  
9 and shall have power to make suggestions and recommendations to the  
10 various state departments for the coordination and improvements of such  
11 programs.

12 (b) The council may make proposed legislative recommendations  
13 having as a function the more efficient, economic and effective realization  
14 of intent, purpose and goal of the various programs for the  
15 developmentally disabled.

16 (c) Each state agency represented by membership on the council is  
17 hereby authorized to furnish such information, data, reports and statistics  
18 requested by the council.

19 Sec. 332. K.S.A. 74-5505 is hereby amended to read as follows: 74-  
20 5505. The division of the ~~department of social and rehabilitation~~ *Kansas*  
21 *department for aging and disability* services that is responsible for  
22 programs for developmental disabilities is hereby designated as the agency  
23 to receive and administer federal funds under the federal developmental  
24 disabilities assistance and bill of rights act (42 U.S.C. §§ 6000 et seq.), as  
25 amended. The state plan for developmental disabilities shall provide for  
26 such fiscal control and fund accounting procedures as may be necessary to  
27 assure the proper disbursement of and accounting for funds paid to the  
28 state under such act.

29 Sec. 333. K.S.A. 2012 Supp. 74-5602 is hereby amended to read as  
30 follows: 74-5602. As used in the Kansas law enforcement training act:

31 (a) "Training center" means the law enforcement training center  
32 within the university of Kansas, created by K.S.A. 74-5603, and  
33 amendments thereto.

34 (b) "Commission" means the Kansas commission on peace officers'  
35 standards and training, created by K.S.A. 74-5606, and amendments  
36 thereto, or the commission's designee.

37 (c) "Chancellor" means the chancellor of the university of Kansas, or  
38 the chancellor's designee.

39 (d) "Director of police training" means the director of police training  
40 at the law enforcement training center.

41 (e) "Director" means the executive director of the Kansas commission  
42 on peace officers' standards and training.

43 (f) "Law enforcement" means the prevention or detection of crime

1 and the enforcement of the criminal or traffic laws of this state or of any  
2 municipality thereof.

3 (g) "Police officer" or "law enforcement officer" means a full-time or  
4 part-time salaried officer or employee of the state, a county or a city,  
5 whose duties include the prevention or detection of crime and the  
6 enforcement of the criminal or traffic laws of this state or of any  
7 municipality thereof. Such terms shall include, but not be limited to: The  
8 sheriff, undersheriff and full-time or part-time salaried deputies in the  
9 sheriff's office in each county; deputy sheriffs deputized pursuant to  
10 K.S.A. 19-2858, and amendments thereto; conservation officers of the  
11 Kansas department of wildlife, parks and tourism; university police  
12 officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus  
13 police officers, as defined in K.S.A. 22-2401a, and amendments thereto;  
14 law enforcement agents of the director of alcoholic beverage control; law  
15 enforcement agents designated by the secretary of revenue pursuant to  
16 K.S.A. 2012 Supp. 75-5157, and amendments thereto; law enforcement  
17 agents of the Kansas lottery; law enforcement agents of the Kansas racing  
18 commission; deputies and assistants of the state fire marshal having law  
19 enforcement authority; capitol police, existing under the authority of  
20 K.S.A. 75-4503, and amendments thereto; special investigators of the  
21 juvenile justice authority; and law enforcement officers appointed by the  
22 adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such  
23 terms shall also include railroad policemen appointed pursuant to K.S.A.  
24 66-524, and amendments thereto; school security officers designated as  
25 school law enforcement officers pursuant to K.S.A. 72-8222, and  
26 amendments thereto; the manager and employees of the horsethief  
27 reservoir benefit district pursuant to K.S.A. 2012 Supp. 82a-2212, and  
28 amendments thereto; and the director of the Kansas commission on peace  
29 officers' standards and training and any other employee of such  
30 commission designated by the director pursuant to K.S.A. 74-5603, and  
31 amendments thereto, as a law enforcement officer. Such terms shall not  
32 include any elected official, other than a sheriff, serving in the capacity of  
33 a law enforcement or police officer solely by virtue of such official's  
34 elected position; any attorney-at-law having responsibility for law  
35 enforcement and discharging such responsibility solely in the capacity of  
36 an attorney; any employee of the commissioner of juvenile justice who is  
37 employed solely to perform correctional, administrative or operational  
38 duties related to juvenile correctional facilities; any employee of the  
39 secretary of corrections, any employee of the secretary of ~~social and~~  
40 ~~rehabilitation services for children and families~~; any deputy conservation  
41 officer of the Kansas department of wildlife, parks and tourism; or any  
42 employee of a city or county who is employed solely to perform  
43 correctional duties related to jail inmates and the administration and

1 operation of a jail; or any full-time or part-time salaried officer or  
2 employee whose duties include the issuance of a citation or notice to  
3 appear provided such officer or employee is not vested by law with the  
4 authority to make an arrest for violation of the laws of this state or any  
5 municipality thereof, and is not authorized to carry firearms when  
6 discharging the duties of such person's office or employment. Such term  
7 shall include any officer appointed or elected on a provisional basis.

8 (h) "Full-time" means employment requiring at least 1,000 hours of  
9 law enforcement related work per year.

10 (i) "Part-time" means employment on a regular schedule or  
11 employment which requires a minimum number of hours each payroll  
12 period, but in any case requiring less than 1,000 hours of law enforcement  
13 related work per year.

14 (j) "Misdemeanor crime of domestic violence" means a violation of  
15 domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or  
16 K.S.A. 2012 Supp. 21-5414, and amendments thereto, or any other  
17 misdemeanor under federal, municipal or state law that has as an element  
18 the use or attempted use of physical force, or the threatened use of a  
19 deadly weapon, committed by a current or former spouse, parent, or  
20 guardian of the victim, by a person with whom the victim shares a child in  
21 common, by a person who is cohabiting with or has cohabited with the  
22 victim as a spouse, parent or guardian, or by a person similarly situated to  
23 a spouse, parent or guardian of the victim.

24 (k) "Auxiliary personnel" means members of organized nonsalaried  
25 groups who operate as an adjunct to a police or sheriff's department,  
26 including reserve officers, posses and search and rescue groups.

27 (l) "Active law enforcement certificate" means a certificate which  
28 attests to the qualification of a person to perform the duties of a law  
29 enforcement officer and which has not been suspended or revoked by  
30 action of the Kansas commission on peace officers' standards and training  
31 and has not lapsed by operation of law as provided in K.S.A. 74-5622, and  
32 amendments thereto.

33 Sec. 334. K.S.A. 2012 Supp. 74-6703 is hereby amended to read as  
34 follows: 74-6703. In addition to the members appointed by the governor  
35 under K.S.A. 74-6702, and amendments thereto, the following persons, or  
36 the designees of such persons, shall serve as members ex officio of the  
37 commission:

38 (a) The secretary of health and environment;

39 (b) the chairperson of the Kansas ~~planning~~ council on developmental  
40 disabilities ~~services~~;

41 (c) the commissioner of ~~mental health and developmental disabilities~~  
42 ~~of community services and programs in the department of social and~~  
43 ~~rehabilitation~~ Kansas department for aging and disability services;

- 1 (d) the commissioner of rehabilitation services of the ~~department of~~  
 2 ~~social and rehabilitation services~~ *Kansas department for children and*  
 3 *families*;
- 4 (e) the secretary of commerce;
- 5 (f) the director of special education of the state board of education;
- 6 (g) the secretary of transportation;
- 7 (h) the secretary of ~~aging~~ *for aging and disability services*;
- 8 (i) the secretary of labor;
- 9 (j) the secretary of administration;
- 10 (k) the secretary of ~~social and rehabilitation services~~ *for children and*  
 11 *families*;
- 12 (l) the president of the Kansas senate;
- 13 (m) the minority leader of the Kansas senate;
- 14 (n) the speaker of the Kansas house of representatives; and
- 15 (o) the minority leader of the Kansas house of representatives.

16 Sec. 335. K.S.A. 74-6901 is hereby amended to read as follows: 74-  
 17 6901. There is hereby established in the ~~department of social and~~  
 18 ~~rehabilitation services~~ *Kansas department for children and families*, the  
 19 state economic opportunity office, the director of which shall be  
 20 responsible for providing technical assistance and coordination to local,  
 21 regional and state organizations which operate programs under the  
 22 provisions of the federal economic opportunity act. The head of such  
 23 office shall be the director of economic opportunity. The director of  
 24 economic opportunity shall be appointed by the secretary of ~~social and~~  
 25 ~~rehabilitation services~~ *for children and families*. The director shall be in  
 26 the classified service of the Kansas civil service act and shall receive an  
 27 annual salary to be fixed by the secretary with the approval of the  
 28 governor. The person employed as director immediately prior to the  
 29 effective date of this act shall continue as director and shall obtain  
 30 permanent status in the classified position of director without examination  
 31 and without a probationary period and shall retain all retirement benefits  
 32 which such person had prior to the effective date of this act, and such  
 33 person's service shall be deemed to have been continuous.

34 Sec. 336. K.S.A. 74-6904 is hereby amended to read as follows: 74-  
 35 6904. Effective July 1, 1977, officers and employees who were engaged  
 36 prior to ~~said~~ *such* date in the performance of powers, duties and functions  
 37 of the state economic opportunity office established in the office of the  
 38 governor and who, in the opinion of the director of economic opportunity,  
 39 are necessary to perform the powers, duties and functions of the state  
 40 office of economic opportunity established in the ~~department of social and~~  
 41 ~~rehabilitation services~~ *Kansas department for children and families* shall  
 42 become officers and employees of the state economic opportunity office  
 43 established in the ~~department of social and rehabilitation services~~ *Kansas*

1 *department for children and families*. Such officers and employees shall  
2 retain all retirement benefits which such officers and employees had before  
3 July 1, 1977, and their services shall be deemed to have been continuous.  
4 Within the limitations of appropriations made therefor, the secretary shall  
5 appoint such other personnel as ~~he or she~~ *the secretary* shall deem  
6 necessary to carry out the provisions of this act. Such personnel shall be in  
7 the classified service of the Kansas civil service act and shall exercise all  
8 functions and perform all duties prescribed or imposed under the  
9 provisions of this act, at the direction and under the supervision of the  
10 director. Such personnel employed immediately prior to the effective date  
11 of this act who are continued in employment under this section shall attain  
12 permanent status in their classified position without examination and  
13 without a probationary period.

14 Sec. 337. K.S.A. 74-7801 is hereby amended to read as follows: 74-  
15 7801. (a) The coordinating council on early childhood developmental  
16 services shall consist of not less than 16 nor more than 25 members as  
17 follows:

- 18 (1) A representative of the governor;
  - 19 (2) ~~the secretary of social and rehabilitation services for children and~~  
20 *families* or a representative of the secretary selected by the secretary;
  - 21 (3) the secretary of health and environment or a representative of the  
22 secretary selected by the secretary;
  - 23 (4) a member of the state board of education selected by the  
24 chairperson of the state board of education or, at the discretion of the  
25 chairperson of the state board, the commissioner of education;
  - 26 (5) a representative of the board of regents selected by the  
27 chairperson of the board of regents;
  - 28 (6) the commissioner of insurance or a representative of the  
29 commissioner selected by the commissioner;
  - 30 (7) two members of the state legislature selected by the legislative  
31 coordinating council so that one is a member of the senate and one is a  
32 member of the house of representatives and such members are not  
33 members of the same political party; and
  - 34 (8) not less than eight members nor more than 17 members appointed  
35 by the governor which members shall be selected to ensure that the  
36 requirements of 20 U.S.C. § 1482, and amendments thereto, are met.
- 37 (b) The members appointed by the governor under subsection (a)(8)  
38 shall serve for a term of four years. Members are eligible for  
39 reappointment.
- 40 (c) Any vacancy occurring in the appointive membership of the  
41 council shall be filled in the same manner and from the same class as the  
42 original appointment.
- 43 (d) A chairperson shall be designated annually by the governor. A

1 vice-chairperson shall be designated by the chairperson to serve in the  
2 absence of the chairperson.

3 (e) Final decisions of the council shall be by majority vote of the  
4 members.

5 (f) The council shall meet at least quarterly.

6 Sec. 338. K.S.A. 2012 Supp. 74-8917 is hereby amended to read as  
7 follows: 74-8917. The provisions of subsection (a) of K.S.A. 74-8905, and  
8 amendments thereto, shall not prohibit the issuance of bonds by the  
9 Kansas development finance authority for the purpose of making loans to  
10 organizations which provide community mental health, intellectual  
11 disability and drug and alcohol abuse services to the Kansas department of  
12 ~~social and rehabilitation~~ *for aging and disability* services, and any such  
13 issuance of bonds is exempt from the provisions of subsection (a) of  
14 K.S.A. 74-8905, and amendments thereto.

15 Sec. 339. K.S.A. 2012 Supp. 74-9501 is hereby amended to read as  
16 follows: 74-9501. (a) There is hereby established the Kansas criminal  
17 justice coordinating council.

18 (b) The council shall consist of the governor or designee, the chief  
19 justice of the supreme court or designee, the attorney general or designee,  
20 the secretary of corrections, the superintendent of the highway patrol, the  
21 commissioner of juvenile justice and the director of the Kansas bureau of  
22 investigation.

23 (c) The governor shall designate staff to the Kansas criminal justice  
24 coordinating council. The staff shall attend all meetings of the council, be  
25 responsible for keeping a record of council meetings, prepare reports of  
26 the council and perform such other duties as directed by the council.

27 (d) The council shall elect a chairperson and vice-chairperson from  
28 among the members of the council.

29 (e) The council shall:

30 (1) Appoint a standing local government advisory group to consult  
31 and advise the council concerning local government criminal justice issues  
32 and the impact of state criminal justice policy and decisions on local units  
33 of government. The advisory group shall consist of a sheriff, chief of  
34 police, county or district attorney, a member of a city governing body and  
35 a county commissioner. Appointees to such advisory group shall serve  
36 without compensation or reimbursement for travel and subsistence or any  
37 other expenses.

38 (2) Define and analyze issues and processes in the criminal justice  
39 system, identify alternative solutions and make recommendations for  
40 improvements.

41 (3) Perform such criminal justice studies or tasks as requested by the  
42 governor, the attorney general, the legislature or the chief justice, as  
43 deemed appropriate or feasible by the council.

1 (4) Oversee development and management of a criminal justice  
2 database. All criminal justice agencies as defined in subsection (c)  
3 K.S.A. 22-4701, and amendments thereto, and the juvenile justice  
4 authority shall provide any data or information, including juvenile offender  
5 information which is requested by the council, in a form and manner  
6 established by the council, in order to facilitate the development and  
7 management of the criminal justice council database.

8 (5) Develop and oversee reporting of all criminal justice federal  
9 funding available to the state or local units of government including  
10 assuming the designation and functions of administering the United States  
11 bureau of justice assistance grants.

12 (6) Form such task groups as necessary and appoint individuals who  
13 appropriately represent law enforcement, the judiciary, legal profession,  
14 state, local, or federal government, the public, or other professions or  
15 groups as determined by the council, to represent the various aspects of the  
16 issue being analyzed or studied, when analyzing criminal justice issues and  
17 performing criminal justice studies. Members of the legislature may be  
18 appointed ex officio members to such task groups. A member of the  
19 council shall serve as the chairperson of each task group appointed by the  
20 council. The council may appoint other members of the council to any task  
21 group formed by the council.

22 (7) Review reports submitted by each task group named by the  
23 council and shall submit the report with the council's recommendations  
24 pertaining thereto to the governor, the attorney general, the chief justice of  
25 the supreme court, the chief clerk of the house of representatives and the  
26 secretary of the senate.

27 ~~(8) (A) Establish the sex offender policy board to consult and advise~~  
28 ~~the council concerning issues and policies pertaining to the treatment,~~  
29 ~~sentencing, rehabilitation, reintegration and supervision of sex offenders.~~

30 ~~(B) The sex offender policy board shall consist of the secretary of~~  
31 ~~corrections, the commissioner of juvenile justice, the secretary of social~~  
32 ~~and rehabilitation services, the director of the Kansas bureau of~~  
33 ~~investigation and the chief justice of the supreme court or the chief~~  
34 ~~justice's designee and two persons appointed by the criminal justice~~  
35 ~~coordinating council. Of the persons appointed by the criminal justice~~  
36 ~~coordinating council, one shall be a mental health service provider and the~~  
37 ~~other shall be engaged in the provision of services involving child welfare~~  
38 ~~or crime victims.~~

39 ~~(C) Each member of the board shall receive compensation,~~  
40 ~~subsistence allowances, mileage and other expenses as provided for in~~  
41 ~~K.S.A. 75-3223, and amendments thereto, except that the public members~~  
42 ~~of the board shall receive compensation in the amount provided for~~  
43 ~~legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each~~



1 day or part thereof actually spent on board activities. No per diem  
2 compensation shall be paid under this subsection to salaried state, county  
3 or city officers or employees.

4 ~~(D) The sex offender policy board shall elect a chairperson from its~~  
5 ~~membership and shall meet upon the call of its chairperson as necessary to~~  
6 ~~carry out its duties.~~

7 ~~(E) Each appointed member of the sex offender policy board shall be~~  
8 ~~appointed for a term of two years and shall continue to serve during that~~  
9 ~~time as long as the member occupies the position which made the member~~  
10 ~~eligible for the appointment. Each member shall continue in office until a~~  
11 ~~successor is appointed and qualifies. Members shall be eligible for~~  
12 ~~reappointment, and appointment may be made to fill an unexpired term.~~

13 ~~(F) The board shall submit its reports to the criminal justice~~  
14 ~~coordinating council and to the governor, the attorney general, the chief~~  
15 ~~justice of the supreme court, the chief clerk of the house of representatives~~  
16 ~~and the secretary of the senate.~~

17 ~~(i) The board shall submit a report regarding public notification~~  
18 ~~pertaining to sex offenders, restrictions on the residence of released sex~~  
19 ~~offenders, utilization of electronic monitoring, and the management of~~  
20 ~~juvenile sex offenders by the first day of the 2007 legislative session.~~

21 ~~(ii) The board shall submit a report regarding treatment and~~  
22 ~~supervision standards for sex offenders, suitability of lifetime release~~  
23 ~~supervision and safety education and prevention strategies for the public~~  
24 ~~by the first day of the 2008 legislative session.~~

25 ~~(iii) The board shall submit reports regarding any other studies, issues~~  
26 ~~or policy recommendations as completed.~~

27 ~~(G) The sex offender policy board established pursuant to subsection~~  
28 ~~(e)(8) of this section shall expire on June 30, 2011.~~

29 ~~(9) (A) Establish the substance abuse policy board to consult and~~  
30 ~~advise the council concerning issues and policies pertaining to the~~  
31 ~~treatment, sentencing, rehabilitation and supervision of substance abuse~~  
32 ~~offenders. The board shall specifically analyze and study driving under the~~  
33 ~~influence and the use of drug courts by other states.~~

34 ~~(B) The substance abuse policy board shall consist of the secretary of~~  
35 ~~corrections, the commissioner of juvenile justice, the secretary of social~~  
36 ~~and rehabilitation for aging and disability services, the director of the~~  
37 ~~Kansas bureau of investigation, the chief justice of the supreme court or~~  
38 ~~the chief justice's designee, a member of the Kansas sentencing~~  
39 ~~commission, a prosecutor appointed by the Kansas county and district~~  
40 ~~attorneys association, and two persons appointed by the Kansas~~  
41 ~~association of addiction professionals. Of the persons appointed by the~~  
42 ~~Kansas association of addiction professionals, one shall be an addiction~~  
43 ~~counselor and the other shall be a professional program administrator.~~

1 (C) Each member of the board shall receive compensation,  
2 subsistence allowances, mileage and other expenses as provided for in  
3 K.S.A. 75-3223, and amendments thereto, except that the public members  
4 of the board shall receive compensation in the amount provided for  
5 legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each  
6 day or part thereof actually spent on board activities. No per diem  
7 compensation shall be paid under this subsection to salaried state, county  
8 or city officers or employees.

9 (D) The substance abuse policy board shall elect a chairperson from  
10 its membership and shall meet upon the call of its chairperson as necessary  
11 to carry out its duties.

12 (E) Each appointed member of the substance abuse policy board shall  
13 be appointed for a term of two years and shall continue to serve during that  
14 time as long as the member occupies the position which made the member  
15 eligible for the appointment. Each member shall continue in office until a  
16 successor is appointed and qualifies. Members shall be eligible for  
17 reappointment, and appointment may be made to fill an unexpired term.

18 (F) The board shall submit its reports to the criminal justice  
19 coordinating council and to the governor, the attorney general, the chief  
20 justice of the supreme court, the chief clerk of the house of representatives  
21 and the secretary of the senate.

22 Sec. 340. K.S.A. 2012 Supp. 75-723 is hereby amended to read as  
23 follows: 75-723. (a) There is hereby created in the office of the attorney  
24 general an abuse, neglect and exploitation of persons unit.

25 (b) Except as provided by subsection (h), the information obtained  
26 and the investigations conducted by the unit shall be confidential as  
27 required by state or federal law. Upon request of the unit, the unit shall  
28 have access to all records of reports, investigation documents and written  
29 reports of findings related to confirmed cases of abuse, neglect or  
30 exploitation of persons or cases in which there is reasonable suspicion to  
31 believe abuse, neglect or exploitation of persons has occurred which are  
32 received or generated by the ~~department of social and rehabilitation~~  
33 ~~services, department on aging~~ *Kansas department for children and*  
34 *families, Kansas department for aging and disability services* or  
35 department of health and environment.

36 (c) Except for reports alleging only self-neglect, such state agency  
37 receiving reports of abuse, neglect or exploitation of persons shall forward  
38 to the unit:

39 (1) Within 10 days of confirmation, reports of findings concerning the  
40 confirmed abuse, neglect or exploitation of persons; and

41 (2) within 10 days of such denial, each report of an investigation in  
42 which such state agency was denied the opportunity or ability to conduct  
43 or complete a full investigation of abuse, neglect or exploitation of

1 persons.

2 (d) On or before the first day of the regular legislative session each  
3 year, the unit shall submit to the legislature a written report of the unit's  
4 activities, investigations and findings for the preceding fiscal year.

5 (e) The attorney general shall adopt rules and regulations as deemed  
6 appropriate for the administration of this section.

7 (f) No state funds appropriated to support the provisions of the abuse,  
8 neglect or exploitation of persons unit and expended to contract with any  
9 third party shall be used by a third party to file any civil action against the  
10 state of Kansas or any agency of the state of Kansas. Nothing in this  
11 section shall prohibit the attorney general from initiating or participating in  
12 any civil action against any party.

13 (g) The attorney general may contract with other agencies or  
14 organizations to provide services related to the investigation or litigation of  
15 findings related to abuse, neglect or exploitation of persons.

16 (h) Notwithstanding any other provision of law, nothing shall prohibit  
17 the attorney general or the unit from distributing or utilizing only that  
18 information obtained pursuant to a confirmed case of abuse, neglect or  
19 exploitation or cases in which there is reasonable suspicion to believe  
20 abuse, neglect or exploitation has occurred pursuant to this section with  
21 any third party contracted with by the attorney general to carry out the  
22 provisions of this section.

23 Sec. 341. K.S.A. 2012 Supp. 75-725 is hereby amended to read as  
24 follows: 75-725. (a) There is hereby created within the office of the  
25 attorney general a medicaid fraud and abuse division.

26 (b) The medicaid fraud and abuse division shall be the same entity to  
27 which all cases of suspected medicaid fraud shall be referred by the  
28 ~~Kansas department of social and rehabilitation for children and families,~~  
29 ~~Kansas department for aging and disability services and Kansas~~  
30 ~~department of health and environment, or its such departments'~~ fiscal  
31 ~~agent agents,~~ for the purpose of investigation, criminal prosecution or  
32 referral to the district or county attorney for criminal prosecution.

33 (c) In carrying out these responsibilities, the attorney general shall  
34 have:

35 (1) All the powers necessary to comply with the federal laws and  
36 regulations relative to the operation of the medicaid fraud and abuse  
37 division;

38 (2) the power to investigate and criminally prosecute violations of  
39 K.S.A. 2012 Supp. 21-5926 through 21-5934, 75-725 and 75-726, and  
40 amendments thereto;

41 (3) the power to cross-designate assistant United States attorneys as  
42 assistant attorneys general;

43 (4) the power to issue, serve or cause to be issued or served

1 subpoenas or other process in aid of investigations and prosecutions;

2 (5) the power to administer oaths and take sworn statements under  
3 penalty of perjury;

4 (6) the power to serve and execute in any county, search warrants  
5 which relate to investigations authorized by K.S.A. 2012 Supp. 21-5926  
6 through 21-5934, 75-725 and 75-726, and amendments thereto; and

7 (7) the powers of a district or county attorney.

8 Sec. 342. K.S.A. 2012 Supp. 75-2935 is hereby amended to read as  
9 follows: 75-2935. The civil service of the state of Kansas is hereby divided  
10 into the unclassified and the classified services.

11 (1) The unclassified service comprises positions held by state officers  
12 or employees who are:

13 (a) Chosen by election or appointment to fill an elective office;

14 (b) members of boards and commissions, heads of departments  
15 required by law to be appointed by the governor or by other elective  
16 officers, and the executive or administrative heads of offices, departments,  
17 divisions and institutions specifically established by law;

18 (c) except as otherwise provided under this section, one personal  
19 secretary to each elective officer of this state, and in addition thereto, 10  
20 deputies, clerks or employees designated by such elective officer;

21 (d) all employees in the office of the governor;

22 (e) officers and employees of the senate and house of representatives  
23 of the legislature and of the legislative coordinating council and all officers  
24 and employees of the office of revisor of statutes, of the legislative  
25 research department, of the division of legislative administrative services,  
26 of the division of post audit and the legislative counsel;

27 (f) chancellor, president, deans, administrative officers, student health  
28 service physicians, pharmacists, teaching and research personnel, health  
29 care employees and student employees in the institutions under the state  
30 board of regents, the executive officer of the board of regents and the  
31 executive officer's employees other than clerical employees, and, at the  
32 discretion of the state board of regents, directors or administrative officers  
33 of departments and divisions of the institution and county extension  
34 agents, except that this subsection (1)(f) shall not be construed to include  
35 the custodial, clerical or maintenance employees, or any employees  
36 performing duties in connection with the business operations of any such  
37 institution, except administrative officers and directors; as used in this  
38 subsection (1)(f), "health care employees" means employees of the  
39 university of Kansas medical center who provide health care services at  
40 the university of Kansas medical center and who are medical technicians  
41 or technologists or respiratory therapists, who are licensed professional  
42 nurses or licensed practical nurses, or who are in job classes which are  
43 designated for this purpose by the chancellor of the university of Kansas

1 upon a finding by the chancellor that such designation is required for the  
2 university of Kansas medical center to recruit or retain personnel for  
3 positions in the designated job classes; and employees of any institution  
4 under the state board of regents who are medical technologists;

5 (g) operations, maintenance and security personnel employed to  
6 implement agreements entered into by the adjutant general and the federal  
7 national guard bureau, and officers and enlisted persons in the national  
8 guard and the naval militia;

9 (h) persons engaged in public work for the state but employed by  
10 contractors when the performance of such contract is authorized by the  
11 legislature or other competent authority;

12 (i) persons temporarily employed or designated by the legislature or  
13 by a legislative committee or commission or other competent authority to  
14 make or conduct a special inquiry, investigation, examination or  
15 installation;

16 (j) officers and employees in the office of the attorney general and  
17 special counsel to state departments appointed by the attorney general,  
18 except that officers and employees of the division of the Kansas bureau of  
19 investigation shall be in the classified or unclassified service as provided  
20 in K.S.A. 75-711, and amendments thereto;

21 (k) all employees of courts;

22 (l) client, patient and inmate help in any state facility or institution;

23 (m) all attorneys for boards, commissions and departments;

24 (n) the secretary and assistant secretary of the Kansas state historical  
25 society;

26 (o) physician specialists, dentists, dental hygienists, pharmacists,  
27 medical technologists and long term care workers employed by the  
28 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
29 *disability* services;

30 (p) physician specialists, dentists and medical technologists employed  
31 by any board, commission or department or by any institution under the  
32 jurisdiction thereof;

33 (q) student employees enrolled in public institutions of higher  
34 learning;

35 (r) administrative officers, directors and teaching personnel of the  
36 state board of education and the state department of education and of any  
37 institution under the supervision and control of the state board of  
38 education, except that this subsection (1)(r) shall not be construed to  
39 include the custodial, clerical or maintenance employees, or any  
40 employees performing duties in connection with the business operations of  
41 any such institution, except administrative officers and directors;

42 (s) all officers and employees in the office of the secretary of state;

43 (t) one personal secretary and one special assistant to the following:

1 The secretary of administration, the secretary ~~of aging~~ *for aging and*  
2 *disability services*, the secretary of agriculture, the secretary of commerce,  
3 the secretary of corrections, the secretary of health and environment, the  
4 superintendent of the Kansas highway patrol, the secretary of labor, the  
5 secretary of revenue, the secretary ~~of social and rehabilitation services for~~  
6 *children and families*, the secretary of transportation, the secretary of  
7 wildlife, parks and tourism and the commissioner of juvenile justice;

8 (u) one personal secretary and one special assistant to the chancellor  
9 and presidents of institutions under the state board of regents;

10 (v) one personal secretary and one special assistant to the executive  
11 vice chancellor of the university of Kansas medical center;

12 (w) one public information officer and one chief attorney for the  
13 following: The department of administration, the ~~department on aging~~  
14 *Kansas department for aging and disability services*, the department of  
15 agriculture, the department of commerce, the department of corrections,  
16 the department of health and environment, the department of labor, the  
17 department of revenue, the ~~department of social and rehabilitation services~~  
18 *Kansas department for children and families*, the department of  
19 transportation, the Kansas department of wildlife, parks and tourism and  
20 the commissioner of juvenile justice;

21 (x) civil service examination monitors;

22 (y) one executive director, one general counsel and one director of  
23 public affairs and consumer protection in the office of the state corporation  
24 commission;

25 (z) specifically designated by law as being in the unclassified service;

26 (aa) any position that is classified as a position in the information  
27 resource manager job class series, that is the chief position responsible for  
28 all information resources management for a state agency, and that becomes  
29 vacant on or after the effective date of this act. Nothing in this section shall  
30 affect the classified status of any employee in the classified service who is  
31 employed on the date immediately preceding the effective date of this act  
32 in any position that is a classified position in the information resource  
33 manager job class series and the unclassified status as prescribed by this  
34 subsection shall apply only to a person appointed to any such position on  
35 or after the effective date of this act that is the chief position responsible  
36 for all information resources management for a state agency; and

37 (bb) positions at state institutions of higher education that have been  
38 converted to unclassified positions pursuant to K.S.A. 2012 Supp. 76-  
39 715a, and amendments thereto.

40 (2) The classified service comprises all positions now existing or  
41 hereafter created which are not included in the unclassified service.  
42 Appointments in the classified service shall be made according to merit  
43 and fitness from eligible pools which so far as practicable shall be

1 competitive. No person shall be appointed, promoted, reduced or  
2 discharged as an officer, clerk, employee or laborer in the classified  
3 service in any manner or by any means other than those prescribed in the  
4 Kansas civil service act and the rules adopted in accordance therewith.

5 (3) For positions involving unskilled, or semiskilled duties, the  
6 secretary of administration, as provided by law, shall establish rules and  
7 regulations concerning certifications, appointments, layoffs and  
8 reemployment which may be different from the rules and regulations  
9 established concerning these processes for other positions in the classified  
10 service.

11 (4) Officers authorized by law to make appointments to positions in  
12 the unclassified service, and appointing officers of departments or  
13 institutions whose employees are exempt from the provisions of the  
14 Kansas civil service act because of the constitutional status of such  
15 departments or institutions shall be permitted to make appointments from  
16 appropriate pools of eligibles maintained by the division of personnel  
17 services.

18 Sec. 343. K.S.A. 75-2935c is hereby amended to read as follows: 75-  
19 2935c. Subject to available appropriations, the governor is hereby  
20 authorized and directed to approve a salary plan for physicians at  
21 institutions under the secretary ~~of social and rehabilitation~~ *for aging and*  
22 *disability services*, as defined by subsection (b) of K.S.A. 76-12a01, *and*  
23 *amendments thereto*. Such salary plan for physicians shall be effective on  
24 the first day of the first payroll period chargeable to the fiscal year ending  
25 on June 30, 1982, and shall be subject to modification and approval by the  
26 governor and to any enactments of the legislature applicable thereto.

27 Sec. 344. K.S.A. 75-3303 is hereby amended to read as follows: 75-  
28 3303. The commissioner of mental health and developmental disabilities  
29 shall be allowed all actual traveling and necessary expenses incurred by  
30 the commissioner while in the discharge of official duties outside of the  
31 city of Topeka. The commissioner shall:

32 (1) Be the executive and administrative officer of mental health and  
33 developmental disabilities;

34 (2) be directly responsible for carrying out all the general policies of  
35 the secretary *for aging and disability services* and the duties of the  
36 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
37 *disability services* relating to the management, operation and maintenance  
38 of the institutions operated by the commissioner, and the treatment,  
39 education, care and housing of the patients and residents in the institutions  
40 and the recruitment and training of the staff for the institutions;

41 (3) cooperate with the commissioners of adult and youth services for  
42 the purpose of coordinating the various social services with the work and  
43 programs of the institutions in accordance with policies established by the

1 secretary;

2 (4) have, and may exercise, such other powers and perform such  
3 other duties as the secretary shall confer or impose upon the commissioner.

4 In case there is any apparent conflict between the powers of the  
5 superintendents or acting superintendents, and the powers of the secretary  
6 or the commissioner, the determination of such question by the secretary  
7 shall be final.

8 Sec. 345. K.S.A. 75-3303a is hereby amended to read as follows: 75-  
9 3303a. The director of mental health and developmental disabilities, in  
10 cooperation with the secretary of health and environment, and with the  
11 approval of the secretary ~~of social and rehabilitation~~ *for aging and*  
12 *disability* services, may assist a county in the establishment of outpatient  
13 mental health treatment centers or clinics by providing personnel in  
14 accordance with rules and regulations adopted by the secretary ~~of social~~  
15 ~~and rehabilitation~~ *for aging and disability* services.

16 Sec. 346. K.S.A. 75-3304 is hereby amended to read as follows: 75-  
17 3304. The secretary ~~of social and rehabilitation~~ *services for children and*  
18 *families* may adopt rules and regulations relating to all forms of social  
19 welfare.

20 Sec. 347. K.S.A. 75-3304a is hereby amended to read as follows: 75-  
21 3304a. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
22 services is hereby designated as the state agency charged with the  
23 administration of the mental health program of the state of Kansas, and  
24 such secretary shall have primary responsibility for the state's mental  
25 health program, including preventive mental hygiene activities.

26 Sec. 348. K.S.A. 2012 Supp. 75-3306 is hereby amended to read as  
27 follows: 75-3306. (a) The secretary ~~of social and rehabilitation~~ *services for*  
28 *children and families*, except as set forth in the Kansas administrative  
29 procedure act and subsections (f), (g), (h) and (i), shall provide a fair  
30 hearing for any person who is an applicant, client, inmate, other interested  
31 person or taxpayer who appeals from the decision or final action of any  
32 agent or employee of the secretary. The hearing shall be conducted in  
33 accordance with the provisions of the Kansas administrative procedure act.

34 It shall be the duty of the secretary ~~of social and rehabilitation~~ *services*  
35 *for children and families* to have available in all intake offices, during all  
36 office hours, forms for filing complaints for hearings, and appeal forms  
37 with which to appeal from the decision of the agent or employee of the  
38 secretary. The forms shall be prescribed by the secretary ~~of social and~~  
39 ~~rehabilitation~~ *services for children and families* and shall have printed on  
40 or as a part of them the basic procedure for hearings and appeals  
41 prescribed by state law and the secretary ~~of social and rehabilitation~~  
42 *services for children and families*.

43 (b) The secretary ~~of social and rehabilitation~~ *services for children*



1 *and families* shall have authority to investigate: (1) Any claims and  
2 vouchers and persons or businesses who provide services to the secretary  
3 ~~of social and rehabilitation services for children and families~~ or to welfare  
4 recipients; (2) the eligibility of persons to receive assistance; and (3) the  
5 eligibility of providers of services.

6 (c) The secretary ~~of social and rehabilitation services for children and~~  
7 *families* shall have authority, when conducting investigations as provided  
8 for in this section, to issue subpoenas; compel the attendance of witnesses  
9 at the place designated in this state; compel the production of any records,  
10 books, papers or other documents considered necessary; administer oaths;  
11 take testimony; and render decisions. If a person refuses to comply with  
12 any subpoena issued under this section or to testify to any matter regarding  
13 which the person may lawfully be questioned, the district court of any  
14 county, on application of the secretary, may issue an order requiring the  
15 person to comply with the subpoena and to testify, and any failure to obey  
16 the order of the court may be punished by the court as a contempt of court.  
17 Unless incapacitated, the person placing a claim or defending a privilege  
18 before the secretary shall appear in person or by authorized representative  
19 and may not be excused from answering questions and supplying  
20 information, except in accordance with the person's constitutional rights  
21 and lawful privileges.

22 (d) The presiding officer may close any portion of a hearing  
23 conducted under the Kansas administrative procedure act when matters  
24 made confidential, pursuant to federal or state law or regulation are under  
25 consideration.

26 (e) Except as provided in subsection (d) of K.S.A. 77-511, and  
27 amendments thereto, and notwithstanding the other provisions of the  
28 Kansas administrative procedure act, the secretary may enforce any order  
29 prior to the disposition of a person's application for an adjudicative  
30 proceeding unless prohibited from such action by federal or state statute,  
31 regulation or court order.

32 (f) Except as provided in this subsection, decisions and final actions  
33 relating to the administration of the support enforcement program set forth  
34 in K.S.A. 39-753 et seq., and amendments thereto, shall be exempt from  
35 the provisions of the Kansas administrative procedure act and subsection  
36 (a). Decisions and final actions relating to the support enforcement  
37 program may be reviewed pursuant to this section if the decision or final  
38 action relates directly to federal debt set-off activities or the person is  
39 specifically permitted by statute to request a fair hearing under this  
40 section.

41 (g) Decisions relating to administrative disqualification hearings shall  
42 be exempt from the provisions of the Kansas administrative procedure act  
43 and subsection (a).

1       (h) ~~The department of social and rehabilitation services~~ *Kansas*  
2 *department for children and families* shall not have jurisdiction to  
3 determine the facial validity of a state or federal statute. An administrative  
4 law judge from the office of administrative hearings shall not have  
5 jurisdiction to determine the facial validity of an agency rule and  
6 regulation.

7       (i) ~~The department of social and rehabilitation services~~ *Kansas*  
8 *department for children and families* shall not be required to provide a  
9 hearing if: (1) ~~The department of social and rehabilitation services~~ *Kansas*  
10 *department for children and families* lacks jurisdiction of the subject  
11 matter; (2) resolution of the matter does not require the ~~department of~~  
12 ~~social and rehabilitation services~~ *Kansas department for children and*  
13 *families* to issue an order that determines the applicant's legal rights,  
14 duties, privileges, immunities or other legal interests; (3) the matter was  
15 not timely submitted to the ~~department of social and rehabilitation services~~  
16 *Kansas department for children and families* pursuant to ~~regulation rules~~  
17 *and regulations* or other provision of law; or (4) the matter was not  
18 submitted in a form substantially complying with any applicable provision  
19 of law.

20       Sec. 349. K.S.A. 75-3307 is hereby amended to read as follows: 75-  
21 3307. All deeds or other documents pertaining to titles to real estate in  
22 connection with institutions as defined in K.S.A. 76-12a01, *and*  
23 *amendments thereto*, shall be placed and remain in the custody of the  
24 secretary of state. The ~~secretary of social and rehabilitation~~ *for aging and*  
25 *disability* services shall have custody and control of such land and the  
26 same shall belong to the state of Kansas. The ~~secretary of social and~~  
27 ~~rehabilitation~~ *for aging and disability* services may enter into lease  
28 agreements for real estate surplus to the immediate or long term need of  
29 any such institution.

30       Sec. 350. K.S.A. 2012 Supp. 75-3307b is hereby amended to read as  
31 follows: 75-3307b. (a) The enforcement of the laws relating to the  
32 hospitalization of mentally ill persons of this state in a psychiatric hospital  
33 and the diagnosis, care, training or treatment of persons in community  
34 mental health centers or facilities for persons with mental illness,  
35 developmental disabilities or other persons with disabilities is entrusted to  
36 the ~~secretary of social and rehabilitation~~ *for aging and disability* services.  
37 The secretary may adopt rules and regulations on the following matters, so  
38 far as the same are not inconsistent with any laws of this state:

39       (1) The licensing, certification or accrediting of private hospitals as  
40 suitable for the detention, care or treatment of mentally ill persons, and the  
41 withdrawal of licenses granted for causes shown;

42       (2) the forms to be observed relating to the hospitalization, admission,  
43 transfer, custody and discharge of patients;

1 (3) the visitation and inspection of psychiatric hospitals and of all  
2 persons detained therein;

3 (4) the setting of standards, the inspection and the licensing of all  
4 community mental health centers which receive or have received any state  
5 or federal funds, and the withdrawal of licenses granted for causes shown;

6 (5) the setting of standards, the inspection and licensing of all  
7 facilities for persons with mental illness, developmental disabilities or  
8 other persons with disabilities receiving assistance through the ~~department~~  
9 ~~of social and rehabilitation~~ *Kansas department for aging and disability*  
10 services which receive or have received after June 30, 1967, any state or  
11 federal funds, or facilities where persons with mental illness or  
12 developmental disabilities reside who require supervision or require  
13 limited assistance with the taking of medication, and the withdrawal of  
14 licenses granted for causes shown. The secretary may adopt rules and  
15 regulations that allow the facility to assist a resident with the taking of  
16 medication when the medication is in a labeled container dispensed by a  
17 pharmacist. No license for a residential facility for eight or more persons  
18 may be issued under this paragraph unless the secretary of health and  
19 environment has approved the facility as meeting the licensing standards  
20 for a lodging establishment under the food service and lodging act. No  
21 license for a residential facility for the elderly or for a residential facility  
22 for persons with disabilities not related to mental illness or developmental  
23 disability, or both, or related conditions shall be issued under this  
24 paragraph;

25 (6) reports and information to be furnished to the secretary by the  
26 superintendents or other executive officers of all psychiatric hospitals,  
27 community mental health centers or facilities for persons with  
28 developmental disabilities and facilities serving other persons with  
29 disabilities receiving assistance through the ~~department of social and~~  
30 ~~rehabilitation~~ *Kansas department for aging and disability* services.

31 (b) An entity holding a license as a community mental health center  
32 under paragraph (4) of subsection (a) on the day immediately preceding  
33 the effective date of this act, but which does not meet the definition of a  
34 community mental health center set forth in this act, shall continue to be  
35 licensed as a community mental health center as long as the entity remains  
36 affiliated with a licensed community mental health center and continues to  
37 meet the licensing standards established by the secretary.

38 (c) Notwithstanding the existence or pursuit of any other remedy, the  
39 secretary ~~of social and rehabilitation~~ *for aging and disability* services, as  
40 the licensing agency, in the manner provided by the Kansas judicial review  
41 act, may maintain an action in the name of the state of Kansas for  
42 injunction against any person or facility to restrain or prevent the operation  
43 of a psychiatric hospital, community mental health center or facility for

1 persons with mental illness, developmental disabilities or other persons  
2 with disabilities operating without a license.

3 (d) ~~The secretary of social and rehabilitation~~ *for aging and disability*  
4 services shall license and inspect any facility or provider of residential  
5 services which serves two or more residents who are not self-directing  
6 their services and which is subject to licensure under subsection (a)(5) of  
7 this section, unless the provider of services is already licensed to provide  
8 such services.

9 Sec. 351. K.S.A. 75-3315 is hereby amended to read as follows: 75-  
10 3315. Any property, real or personal, acquired under the provisions of  
11 K.S.A. 76-12a08 or 75-3314, *and amendments thereto*, may be sold and  
12 *the* title thereto conveyed to the purchaser by the secretary ~~of social and~~  
13 ~~rehabilitation~~ *for aging and disability* services when the same is approved  
14 by concurrent resolution, appropriation act or other act of the legislature.  
15 Before any such sale of real estate, or any interest therein, shall be made,  
16 such secretary shall cause the interest in ~~said~~ *the* real estate proposed to be  
17 sold to be appraised by three disinterested persons, acquainted with land  
18 values in the county where ~~said~~ *the* land is located. Such appraisement  
19 shall be in writing and filed with the secretary. Thereafter, the secretary  
20 shall solicit sealed bids by public notice inserted in one publication in a  
21 newspaper of general circulation in the county where ~~said~~ *the* land is  
22 situated, and authorized by law to publish legal notices.

23 ~~Said~~ *The* sale shall be made to the highest responsible bidder who  
24 submits ~~his or her~~ *such person's* bid within ~~thirty~~ 30 days after publication  
25 of such notice, except that in no case shall ~~said~~ *the* real estate be sold for  
26 less than ~~three-fourths~~ <sup>3/4</sup> of the appraised value thereof. The secretary may  
27 reject any and all bids, and, in any case, new bids may be called for as in  
28 the first instance. When a bid has been accepted, the acceptance thereof  
29 shall be made a part of the records of the secretary. Upon acceptance of  
30 any such bid, a deed conveying such real estate shall be executed by the  
31 secretary, and duly acknowledged by ~~him or her~~ *the secretary* before any  
32 officer authorized by law to take acknowledgements. ~~Said~~ *The* deed shall  
33 contain a recital of all proceedings in compliance with this act, and ~~said~~  
34 *the* recital shall be prima facie evidence that ~~said~~ *the* proceedings were had  
35 in the manner and form recited.

36 Sec. 352. K.S.A. 75-3323 is hereby amended to read as follows: 75-  
37 3323. (a) ~~The secretary of social and rehabilitation services for children~~  
38 *and families* is hereby authorized and empowered, upon the conditions  
39 hereinafter provided, to lease, for a term not exceeding 20 years, by proper  
40 written instrument, upon behalf of the state of Kansas, signed by the  
41 secretary ~~of social and rehabilitation services for children and families~~  
42 approved by the attorney general and the director of purchases of the  
43 department of administration of the state of Kansas, unto the wheatbelt

1 area girl scout council of Kansas, inc. the following described tract or  
2 parcel of land located in Pawnee county, Kansas, containing approximately  
3 42.93 acres, more or less, and being a part of the Larned state hospital  
4 grounds in such county and state, and more definitely described as follows,  
5 to wit:

6 A tract of land lying within the southwest quarter (SW1/4) of section  
7 thirty-five (35), township twenty-one (21) south, and the northwest quarter  
8 (NW1/4) of section two (2), township twenty-two (22) south, both range  
9 seventeen (17) west of the 6th P.M. in Pawnee county, Kansas, described  
10 as follows, to wit: Commencing at a point on the southern end of a line  
11 whose approximate bearing is S 5°15' east, and whose northern end lies  
12 525 feet east of the west quarter section corner of section 35, and whose  
13 southern end lies 2841.5 feet southeast of the east and west quarter section  
14 line of section 35 (this southern point being the southeast corner of the  
15 present boy scout camp and lies approximately 825 feet east of the west  
16 line of section 2 and approximately 200 feet south of the south line of  
17 section 35) for a place of beginning; thence northeast on a line having an  
18 interior angle of 54°21' for a distance of 1165 feet to a point 3 1/2 feet east  
19 of a drain ditch bank; thence northwest on a line having an interior angle  
20 of 101°47' for a distance of 420 feet to a point 15" east of same drain ditch  
21 bank; thence northwest on a line having an interior angle of 182°49' for a  
22 distance of 330 feet to a point 3 1/2 feet east of same drain ditch bank;  
23 thence northwest on a line having an interior angle of 197°22' for a  
24 distance of 450 feet to a point 3 1/2 feet east of same drain ditch bank;  
25 thence north on a line having an interior angle of 162°23' for a distance of  
26 930 feet to a point on the east and west quarter section line of section 35;  
27 thence west along the said quarter section line for a distance of 799 feet  
28 (this point falling 457 feet east of the west quarter section corner of section  
29 35); thence south 35 feet; thence southeast along the present fence  
30 boundary of the boy scout camp for a distance of 2806.5 feet to place of  
31 beginning; for the purpose of a camp site for use in conducting camping  
32 programs under responsible and trained camp supervisors for the girl  
33 scouts of America. Such lease shall contain a provision authorizing the  
34 state of Kansas to sell or lease and reserving all mine and mineral rights to  
35 such lands and a termination clause that in the event such lands ever shall  
36 cease to be used for the camping purposes above specified, which  
37 purposes shall be set forth in such lease, then the lease shall expire and  
38 become null and void and the possession thereof shall immediately revert  
39 to the state of Kansas. Notwithstanding the above condition relating to the  
40 use of such land for camping purposes, the lessee shall be entitled to  
41 sublease a portion of such land to any licensed day care center for an  
42 amount not to exceed the reasonable costs of maintaining any structures  
43 located on such land which are used by such day care center and the

1 reasonable costs of utility services provided to such day care center, the  
2 payment of which is to be assumed by the girl scout council or the lessee  
3 may sublease such land to Pawnee county for park and recreational  
4 purposes deemed appropriate by the board of county commissioners.

5 (b) Upon the expiration of any lease entered pursuant to subsection  
6 (a), the secretary ~~of social and rehabilitation services for children and~~  
7 ~~families~~ shall convey by deed such tract of land described in subsection (a)  
8 to Pawnee county for park and recreational purposes deemed appropriate  
9 by the board of county commissioners. Such deed shall contain a  
10 reversionary clause that in the event that such land ever shall cease to be  
11 used for such purposes, which purposes shall be set forth in such deed,  
12 then the title thereto and the possession thereof immediately shall revert to  
13 the state of Kansas.

14 (c) Liability for damages resulting from the use of the property  
15 described in this section shall be subject to the limitation of subsection (o)  
16 of K.S.A. 75-6104, and amendments thereto.

17 Sec. 353. K.S.A. 75-3328 is hereby amended to read as follows: 75-  
18 3328. Whenever it is found by the secretary ~~of social and rehabilitation for~~  
19 ~~aging and disability~~ services that any person admitted to any institution  
20 operated by the commissioner of ~~mental health and developmental~~  
21 ~~disabilities community services and programs~~ or by the commissioner of  
22 youth services requires specialized diagnosis, treatment or care not  
23 available at the institution where the person resides and that the specialized  
24 diagnosis, treatment or care is available at another institution operated by  
25 the secretary ~~of social and rehabilitation for aging and disability~~ services,  
26 such person upon the order of the commissioner of ~~mental health and~~  
27 ~~developmental disabilities community services and programs~~ or the  
28 commissioner of youth services, as appropriate, shall be transferred to  
29 such other institution for the purpose of receiving the specialized  
30 diagnosis, treatment or care available there and when the purposes for  
31 which the person was transferred have been fulfilled, the person shall be  
32 returned to the original institution.

33 Any person transferred as provided in this section shall remain subject  
34 to the same statutory provisions as were applicable at the institution from  
35 which that person was transferred and in addition thereto shall abide by  
36 and be subject to all the rules and regulations of the institution to which  
37 such person has been transferred. The person's next of kin and guardian, if  
38 one has been appointed, shall be notified of the transfer and if the person  
39 has been committed to the original institution by a court notice shall be  
40 sent to the committing court. Except in cases of emergency, the notice  
41 shall be given at least two weeks prior to the date of the transfer. If the  
42 person objects to the transfer to another institution, either personally or  
43 through a guardian, then the regular procedure for admission or

1 commitment to the receiving institution shall be followed.

2 Sec. 354. K.S.A. 2012 Supp. 75-3329 is hereby amended to read as  
3 follows: 75-3329. As used in this act:

4 (a) "Board" means the ~~secretary of social and rehabilitation~~ *for aging*  
5 *and disability* services.

6 (b) "State institution" means institution as defined in K.S.A. 76-  
7 12a01, and amendments thereto.

8 (c) "Child" or "children" means a person or persons under the age of  
9 18.

10 (d) "Private children's home" means any licensed home, institution or  
11 charitable organization which is operated by a corporation organized under  
12 the laws of this state which the secretary finds has and maintains adequate  
13 facilities and is properly staffed to provide adequate care, custody,  
14 education, training and treatment for any child which the secretary may  
15 place therein under the authority of this act, or a licensed foster care home,  
16 boarding home, personal care home or nursing home.

17 Sec. 355. K.S.A. 75-3337 is hereby amended to read as follows: 75-  
18 3337. For the purpose of providing blind persons with remunerative  
19 employment, enlarging the economic opportunities of the blind, and  
20 stimulating the blind to greater efforts in striving to make themselves self-  
21 supporting, blind persons licensed under the provisions of 20 U.S.C. §  
22 107, of 1936, and ~~acts amendatory~~ *amendments* thereto, an act of the  
23 congress of the United States of America commonly known as the  
24 Randolph-Sheppard vending stand act, shall be authorized to operate  
25 vending facilities on any state, county; and city or other property. In  
26 authorizing the operation of vending facilities on state, county; and city  
27 property preference shall be given, so far as feasible, to blind persons  
28 licensed by the division of services for the blind of the ~~department of~~  
29 ~~social and rehabilitation services~~ *Kansas department for children and*  
30 *families*; and the head of each department or agency in control of the  
31 maintenance, operation; and protection of state property shall, after  
32 consultation with the ~~secretary of social and rehabilitation services~~  
33 *children and families*, prescribe regulations designed to assure such  
34 preference, including exclusive assignment of vending machine income to  
35 achieve and protect such preference for such licensed blind persons  
36 without adversely affecting the interests of the state of Kansas.

37 Sec. 356. K.S.A. 75-3338 is hereby amended to read as follows: 75-  
38 3338. As used in this act, unless the context otherwise requires: (a) The  
39 term "state of Kansas" shall include political subdivisions of the state of  
40 Kansas, except schools, cities of the third class and townships.

41 (b) The term "blind person" means a person whose central visual  
42 acuity does not exceed 20 over 200, in the better eye with correcting lens  
43 or whose visual acuity if better than 20 over 200, is accompanied by a

1 limit to the field of vision in the better eye to such a degree that its widest  
2 diameter subtends an angle of no greater than 20 degrees.

3 (c) The term "vending facility" includes, but is not limited to,  
4 automatic vending machines, cafeterias, snack bars, cart service, shelters,  
5 counters; and such other appropriate auxiliary equipment as rules and  
6 regulations of the division of services for the blind of the ~~department of~~  
7 ~~social and rehabilitation services~~ *Kansas department for children and*  
8 *families* prescribe and as are necessary for the sale of the articles or  
9 services referred to in paragraph (4) of subsection (a) of K.S.A. 75-3339,  
10 *and amendments thereto*, which are, or may be operated by blind licensees.

11 Sec. 357. K.S.A. 2012 Supp. 75-3339 is hereby amended to read as  
12 follows: 75-3339. (a) The division of services for the blind of the  
13 ~~department of social and rehabilitation services~~ *Kansas department for*  
14 *children and families* shall:

15 (1) Make surveys of concession vending opportunities for blind  
16 persons on state, county, city and other property;

17 (2) make surveys throughout the state of Kansas of industries with a  
18 view to obtaining information that will assist blind persons to obtain  
19 employment;

20 (3) make available to the public, especially to persons and  
21 organizations engaged in work for the blind, information obtained as a  
22 result of such surveys;

23 (4) issue licenses to blind persons who are citizens of the United  
24 States for the operating of vending facilities on state, county, city and other  
25 property for the vending of foods, beverages and other such articles or  
26 services dispensed automatically or manually and prepared on or off the  
27 premises in accordance with all applicable health laws, as determined by  
28 the licensing agency; and

29 (5) take such other steps, including the adoption of rules and  
30 regulations, as may be necessary and proper to carry out the provisions of  
31 this act.

32 (b) The division of services for the blind, in issuing each such license  
33 for the operation of a vending facility, shall give preference to blind  
34 persons who are in need of employment. Each such license shall be issued  
35 for an indefinite period but may be terminated by such division if it is  
36 satisfied that the facility is not being operated in accordance with the rules  
37 and regulations prescribed by such division. Such licenses shall be issued  
38 only to applicants who are blind as defined by subsection (b) of K.S.A. 75-  
39 3338, and amendments thereto.

40 (c) The division of services for the blind, with the approval of the  
41 head of the department or agency in control of the maintenance, operation,  
42 and protection of the state, county and city or other property on which the  
43 vending facility is to be located but subject to rules and regulations



1 prescribed pursuant to the provisions of this act, shall select a location for  
2 such vending facility and the type of facility to be provided.

3 (d) In the design, construction or substantial alteration or renovation  
4 of each public building after July 1, 1970, for use by any department,  
5 agency or instrumentality of the state of Kansas, except the Kansas  
6 department of wildlife, parks and tourism and the Kansas turnpike  
7 authority, there shall be included, after consultation with the division of  
8 services for the blind a satisfactory site or sites with space and electrical  
9 and plumbing outlets and other necessary requirements suitable for the  
10 location and operation of a vending facility or facilities by a blind person  
11 or persons. No space shall be rented, leased or otherwise acquired for use  
12 by any department, agency or instrumentality of the state of Kansas after  
13 July 1, 1970, except the Kansas department of wildlife, parks and tourism  
14 and the Kansas turnpike authority, unless such space includes, after  
15 consultation with the division of services for the blind, a satisfactory site  
16 or sites with space and electrical and plumbing outlets and other necessary  
17 requirements suitable for the location and operation of a vending facility or  
18 facilities by a blind person or persons. All departments, agencies and  
19 instrumentalities of the state of Kansas, except the Kansas department of  
20 wildlife, parks and tourism and the Kansas turnpike authority, shall consult  
21 with the ~~secretary of social and rehabilitation services for children and~~  
22 *families* or the secretary's designee and the division of services for the  
23 blind in the design, construction or substantial alteration or renovation of  
24 each public building used by them, and in the renting, leasing or otherwise  
25 acquiring of space for their use, to insure that the requirements set forth in  
26 this subsection are satisfied. This subsection shall not apply when the  
27 ~~secretary of social and rehabilitation services for children and families~~ or  
28 the secretary's designee and the division of services for the blind determine  
29 that the number of people using the property is insufficient to support a  
30 vending facility.

31 Sec. 358. K.S.A. 75-3339a is hereby amended to read as follows: 75-  
32 3339a. There is hereby established the vending facilities account, to which  
33 shall be credited all moneys received by or for the ~~secretary of social and~~  
34 ~~rehabilitation services for children and families~~ in connection with the  
35 program authorized by K.S.A. 75-3337 et seq., *and amendments thereto*.  
36 All such moneys shall be deposited in a bank account designated by the  
37 pooled money investment board. Checks may be written upon such bank  
38 account for such program upon the signature of a person or persons  
39 designated by the ~~secretary of social and rehabilitation services for~~  
40 *children and families*. Moneys of the vending facilities account shall not  
41 be in or a part of the state treasury but shall be subject to post audit under  
42 article 11 of chapter 46 of Kansas Statutes Annotated, *and amendments*  
43 *thereto*.

1 Sec. 359. K.S.A. 75-3340 is hereby amended to read as follows: 75-  
2 3340. (a) The division of services for the blind of the ~~department of social~~  
3 ~~and rehabilitation services~~ *Kansas department for children and families*  
4 shall:

5 (1) Provide for each licensed blind person such vending facility  
6 equipment, and adequate initial stock of suitable articles to be vended  
7 therefrom as may be necessary. Such equipment and stock may be owned  
8 by the division of services for the blind, or by the blind individual to  
9 whom the license is issued. If ownership of such equipment is vested in  
10 the blind licensee:

11 (A) The division of services for the blind shall retain a first option to  
12 repurchase such equipment; and

13 (B) in the event such individual dies or for any other reason ceases to  
14 be a licensee or transfers to another vending facility, ownership of such  
15 equipment shall become vested in the division of services for the blind, for  
16 transfer to a successor licensee, subject to an obligation on the part of the  
17 division of services for the blind to pay to such individual or to such  
18 individual's estate the fair value of such individual's interest therein as later  
19 determined in accordance with *rules and* regulations of the division of  
20 services for the blind and after opportunity for a fair hearing.

21 (2) If any funds are set aside, or caused to be set aside, from the  
22 proceeds of the operation of the vending facilities such funds shall be set  
23 aside, or caused to be set aside, only to the extent necessary for and may  
24 be used only for the purposes of: (A) Maintenance and replacement of  
25 equipment; (B) the purchase of new equipment; (C) management services;  
26 and (D) assuring a fair minimum return to operators of vending facilities.  
27 In no event shall the amount of such funds to be set aside from the  
28 proceeds of any vending facility exceed a reasonable amount as  
29 determined by the provisions of 20 U.S.C. § 107, of 1936, and ~~acts~~  
30 ~~amendatory amendments~~ thereto, an act of congress commonly known as  
31 the Randolph-Sheppard vending stand act.

32 (3) If inventories are required by the division of services for the blind  
33 to be made of the stock and supplies of vending facilities, permit the  
34 licensed operator to elect to make such licensed operator's own inventories  
35 and report the same on forms furnished by the division. Inventory of each  
36 vending facility shall be made at least once every four months. In the event  
37 of the election of the licensed operator to make such licensed operator's  
38 own inventory, the division shall have the right to take an inventory of the  
39 vending facility at any mutually agreeable time.

40 (4) Issue such rules and regulations, consistent with the provisions of  
41 this chapter, as may be necessary for the operation of this program.

42 (5) Provide to any blind licensee dissatisfied with any action arising  
43 from the operation or administration of the vending facility program an

1 opportunity for a fair hearing, including binding arbitration by three  
2 persons consisting of one person designated by the director of the division  
3 of services for the blind, one person designated by the licensed blind  
4 operator; and a third person selected by the two.

5 (6) In employing any personnel as may be necessary for the operation  
6 of the vending facility program give preference to blind persons who are  
7 capable of discharging the required duties, except that the licensed  
8 operator of a vending facility shall have final authority to hire and to  
9 discharge employees of ~~his or her~~ *the licensed operator's* vending facility.

10 (b) Hearings under this section shall be conducted in accordance with  
11 the provisions of the Kansas administrative procedure act.

12 Sec. 360. K.S.A. 75-3343a is hereby amended to read as follows: 75-

13 3343a. (a) The division of services for the blind of the ~~department of social~~  
14 ~~and rehabilitation services~~ *Kansas department for children and families*, in  
15 cooperation with the department of transportation, is authorized to operate  
16 vending machines at rest and recreation areas and in safety rest areas,  
17 constructed or located on rights-of-way of the interstate highways in the  
18 state of Kansas, as authorized by subsection (b) of 23 U.S.C. § 111.

19 (b) As used in this section, "vending machine" means a coin or  
20 currency operated machine which dispenses articles or services.

21 (c) The provisions of this section shall not apply to any highway  
22 under the jurisdiction of the Kansas turnpike authority.

23 Sec. 361. K.S.A. 75-3347 is hereby amended to read as follows: 75-

24 3347. The instruments of conveyance quitclaiming, releasing and remising  
25 the real estate described in K.S.A. 75-3346, *and amendments thereto*, shall  
26 be executed in the name of the secretary ~~of social and rehabilitation~~  
27 ~~services for children and families~~. ~~Said~~ The secretary shall execute the  
28 quitclaim deed for the reason that such real estate is no longer needed or  
29 used for purposes which existed on the date the United States of America,  
30 grantor, conveyed such real estate and appurtenances to the ~~department of~~  
31 ~~social and rehabilitation services~~ *Kansas department for children and*  
32 *families*.

33 Sec. 362. K.S.A. 75-3354 is hereby amended to read as follows: 75-

34 3354. (a) As used in this section, "ward" means any child committed to or  
35 in the custody of the secretary ~~of social and rehabilitation services for~~  
36 *children and families*.

37 (b) There is hereby established the wards' trust fund. The secretary ~~of~~  
38 ~~social and rehabilitation services for children and families~~ shall designate  
39 one or more employees to manage and be in charge of the wards' trust fund  
40 and subsidiary accounts thereof. All moneys in the possession of the  
41 secretary belonging to wards shall be within the wards' trust fund. The  
42 persons in charge of the wards' trust fund shall maintain a separate  
43 subsidiary account for each ward having any money in the wards' trust

1 fund.

2 (c) All moneys received that are within the wards' trust fund shall be  
3 deposited in a bank account in a bank designated by the pooled money  
4 investment board. The persons in charge of the wards' trust fund shall be  
5 the persons authorized to write checks on such bank account.

6 (d) The persons in charge of the wards' trust fund may withdraw  
7 money from such bank account and deposit amounts in savings accounts  
8 of a bank or savings and loan association which is insured by the federal  
9 government or agency thereof and designated by the pooled money  
10 investment board for this purpose. Interest earned on money deposited in  
11 savings accounts under this subsection shall be distributed proportionately  
12 to each subsidiary account of the wards' trust fund.

13 (e) Moneys in the wards' trust fund and in all subsidiary accounts  
14 thereof shall not be in or a part of the state treasury but shall be subject to  
15 post audit under the legislative post audit act.

16 (f) The wards' account established by former K.S.A. 38-828a is  
17 hereby continued in existence as the wards' trust fund established by this  
18 section. The use and management of the wards' account and subsidiary  
19 accounts thereof in the manner prescribed by former K.S.A. 38-828a  
20 during the period from January 1, 1983, until the effective date of this act  
21 is hereby ratified but shall be subject to post audit under the legislative  
22 post audit act. Whenever the wards' account established by former K.S.A.  
23 38-828a or any subsidiary account thereof is mentioned by statute, contract  
24 or other document, the reference shall be deemed to apply to the wards'  
25 trust fund or the appropriate subsidiary account thereof, respectively.

26 Sec. 363. K.S.A. 75-3728a is hereby amended to read as follows: 75-  
27 3728a. As used in this act, unless the context otherwise requires:

28 (a) "State agency" means any state office or officer, department,  
29 board, commission, institution, bureau or any other state authority which  
30 may lawfully request a state appropriation.

31 (b) "Head of a state agency" means the secretary of revenue, the  
32 secretary of administration, the secretary ~~of social and rehabilitation~~  
33 ~~services for children and families~~, the state board of regents, the chief  
34 executive officer of a state educational institution, the state board of  
35 education and the officer, board, commission or authority determined by  
36 the director of accounts and reports to have the chief policy making  
37 executive function of a state agency.

38 Sec. 364. K.S.A. 2012 Supp. 75-37,121 is hereby amended to read as  
39 follows: 75-37,121. (a) There is created the office of administrative  
40 hearings within the department of administration, to be headed by a  
41 director appointed by the secretary of administration. The director shall be  
42 in the unclassified service under the Kansas civil service act.

43 (b) The office may employ or contract with presiding officers, court

1 reporters and other support personnel as necessary to conduct proceedings  
2 required by the Kansas administrative procedure act for adjudicative  
3 proceedings of the state agencies, boards and commissions specified in  
4 subsection (h). The office shall conduct adjudicative proceedings of any  
5 state agency which is specified in subsection (h) when requested by such  
6 agency. Only a person admitted to practice law in this state or a person  
7 directly supervised by a person admitted to practice law in this state may  
8 be employed as a presiding officer. The office may employ regular part-  
9 time personnel. Persons employed by the office shall be under the  
10 classified civil service.

11 (c) If the office cannot furnish one of its presiding officers within 60  
12 days in response to a requesting agency's request, the director shall  
13 designate in writing a full-time employee of an agency other than the  
14 requesting agency to serve as presiding officer for the proceeding, but only  
15 with the consent of the employing agency. The designee must possess the  
16 same qualifications required of presiding officers employed by the office.

17 (d) The director may furnish presiding officers on a contract basis to  
18 any governmental entity to conduct any proceeding other than a  
19 proceeding as provided in subsection (h).

20 (e) The secretary of administration may adopt rules and regulations:

21 (1) To establish procedures for agencies to request and for the  
22 director to assign presiding officers. An agency may neither select nor  
23 reject any individual presiding officer for any proceeding except in  
24 accordance with the Kansas administrative procedure act;

25 (2) to establish procedures and adopt forms, consistent with the  
26 Kansas administrative procedure act, the model rules of procedure, and  
27 other provisions of law, to govern presiding officers; and

28 (3) to facilitate the performance of the responsibilities conferred upon  
29 the office by the Kansas administrative procedure act.

30 (f) The director may implement the provisions of this section and  
31 rules and regulations adopted under its authority.

32 (g) The secretary of administration may adopt rules and regulations to  
33 establish fees to charge a state agency for the cost of using a presiding  
34 officer.

35 (h) The following state agencies, boards and commissions shall  
36 utilize the office of administrative hearings for conducting adjudicative  
37 hearings under the Kansas administrative procedures act in which the  
38 presiding officer is not the agency head or one or more members of the  
39 agency head:

40 (1) On and after July 1, 2005: ~~Department of social and rehabilitation~~  
41 ~~services~~ *Kansas department for children and families*, juvenile justice  
42 authority, ~~department on aging~~ *Kansas department for aging and disability*  
43 *services*, department of health and environment, Kansas public employees

1 retirement system, Kansas water office, Kansas ~~animal health department~~  
2 *department of agriculture division of animal health* and Kansas insurance  
3 department.

4 (2) On and after July 1, 2006: Emergency medical services board,  
5 emergency medical services council and Kansas human rights  
6 commission.

7 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and  
8 gaming commission, state treasurer, pooled money investment board,  
9 Kansas department of wildlife, parks and tourism and state court of tax  
10 appeals.

11 (4) On and after July 1, 2008: Department of human resources, state  
12 corporation commission, ~~state conservation commission~~ *Kansas*  
13 *department of agriculture division of conservation*, agricultural labor  
14 relations board, department of administration, department of revenue,  
15 board of adult care home administrators, Kansas state grain inspection  
16 department, board of accountancy and Kansas wheat commission.

17 (5) On and after July 1, 2009, all other Kansas administrative  
18 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

19 (i) (1) Effective July 1, 2005, any presiding officer in agencies  
20 specified in subsection (h)(1) which conduct hearings pursuant to the  
21 Kansas administrative procedure act, except those exempted pursuant to  
22 K.S.A. 77-551, and amendments thereto, and support personnel for such  
23 presiding officers, shall be transferred to and shall become employees of  
24 the office of administrative hearings. Such personnel shall retain all rights  
25 under the state personnel system and retirement benefits under the laws of  
26 this state which had accrued to or vested in such personnel prior to the  
27 effective date of this section. Such person's services shall be deemed to  
28 have been continuous. All transfers of personnel positions in the classified  
29 service under the Kansas civil service act shall be in accordance with civil  
30 service laws and any rules and regulations adopted thereunder. This  
31 section shall not affect any matter pending before an administrative  
32 hearing officer at the time of the effective date of the transfer, and such  
33 matter shall proceed as though no transfer of employment had occurred.

34 (2) Effective July 1, 2006, any presiding officer in agencies specified  
35 in subsection (h)(2) which conduct hearings pursuant to the Kansas  
36 administrative procedure act, except those exempted pursuant to K.S.A.  
37 77-551, and amendments thereto, and support personnel for such presiding  
38 officers, shall be transferred to and shall become employees of the office  
39 of administrative hearings. Such personnel shall retain all rights under the  
40 state personnel system and retirement benefits under the laws of this state  
41 which had accrued to or vested in such personnel prior to the effective date  
42 of this section. Such person's services shall be deemed to have been  
43 continuous. All transfers of personnel positions in the classified service

1 under the Kansas civil service act shall be in accordance with civil service  
2 laws and any rules and regulations adopted thereunder. This section shall  
3 not affect any matter pending before an administrative hearing officer at  
4 the time of the effective date of the transfer, and such matter shall proceed  
5 as though no transfer of employment had occurred.

6 (3) Effective July 1, 2007, any presiding officer in agencies specified  
7 in subsection (h)(3) which conduct hearings pursuant to the Kansas  
8 administrative procedure act, except those exempted pursuant to K.S.A.  
9 77-551, and amendments thereto, and support personnel for such presiding  
10 officers, shall be transferred to and shall become employees of the office  
11 of administrative hearings. Such personnel shall retain all rights under the  
12 state personnel system and retirement benefits under the laws of this state  
13 which had accrued to or vested in such personnel prior to the effective date  
14 of this section. Such person's services shall be deemed to have been  
15 continuous. All transfers of personnel positions in the classified service  
16 under the Kansas civil service act shall be in accordance with civil service  
17 laws and any rules and regulations adopted thereunder. This section shall  
18 not affect any matter pending before an administrative hearing officer at  
19 the time of the effective date of the transfer, and such matter shall proceed  
20 as though no transfer of employment had occurred.

21 (4) Effective July 1, 2008, any full-time presiding officer in agencies  
22 specified in subsection (h)(4) which conduct hearings pursuant to the  
23 Kansas administrative procedure act, except those exempted pursuant to  
24 K.S.A. 77-551, and amendments thereto, and support personnel for such  
25 presiding officers, shall be transferred to and shall become employees of  
26 the office of administrative hearings. Such personnel shall retain all rights  
27 under the state personnel system and retirement benefits under the laws of  
28 this state which had accrued to or vested in such personnel prior to the  
29 effective date of this section. Such person's services shall be deemed to  
30 have been continuous. All transfers of personnel positions in the classified  
31 service under the Kansas civil service act shall be in accordance with civil  
32 service laws and any rules and regulations adopted thereunder. This  
33 section shall not affect any matter pending before an administrative  
34 hearing officer at the time of the effective date of the transfer, and such  
35 matter shall proceed as though no transfer of employment had occurred.

36 (5) Effective July 1, 2009, any full-time presiding officer in agencies  
37 specified in subsection (h)(5) which conduct hearings pursuant to the  
38 Kansas administrative procedure act, except those exempted pursuant to  
39 K.S.A. 77-551, and amendments thereto, and support personnel for such  
40 presiding officers, shall be transferred to and shall become employees of  
41 the office of administrative hearings. Such personnel shall retain all rights  
42 under the state personnel system and retirement benefits under the laws of  
43 this state which had accrued to or vested in such personnel prior to the

1 effective date of this section. Such person's services shall be deemed to  
2 have been continuous. All transfers of personnel positions in the classified  
3 service under the Kansas civil service act shall be in accordance with civil  
4 service laws and any rules and regulations adopted thereunder. This  
5 section shall not affect any matter pending before an administrative  
6 hearing officer at the time of the effective date of the transfer, and such  
7 matter shall proceed as though no transfer of employment occurred.

8 Sec. 365. K.S.A. 2012 Supp. 75-4265 is hereby amended to read as  
9 follows: 75-4265. (a) The secretary of ~~social and rehabilitation services~~  
10 *health and environment* and the secretary of ~~aging for aging and disability~~  
11 *services* shall take necessary actions to establish an intergovernmental  
12 transfer program as a part of the nursing facility services payment program  
13 within the medicaid state plan.

14 (b) In implementing the intergovernmental transfer program, the  
15 secretary of ~~aging for aging and disability services~~ shall disburse moneys  
16 received from the federal government for the intergovernmental transfer  
17 program and moneys transferred from the state general fund to the  
18 intergovernmental transfer fund for the program to units of government  
19 which have entered into participation agreements with the secretary of ~~of~~  
20 ~~aging for aging and disability services~~ and the secretary of ~~social and~~  
21 ~~rehabilitation services~~ *health and environment*. The amount of moneys  
22 disbursed to the units of government from moneys transferred from the  
23 state general fund to the intergovernmental transfer fund for the program  
24 shall not exceed the amount necessary to match federal funds available to  
25 the state under the intergovernmental transfer program. The secretary of ~~of~~  
26 ~~aging for aging and disability services~~ shall periodically calculate the  
27 amount of federal funds available under the program according to the  
28 methodology prescribed for the intergovernmental transfer program in the  
29 medicaid state plan.

30 (c) The secretary of ~~social and rehabilitation services~~ *health and*  
31 *environment* and the secretary of ~~of~~ ~~aging for aging and disability~~  
32 *services* are authorized to enter into intergovernmental transfer program  
33 participation agreements with units of government which own and operate  
34 nursing facilities. The participation agreements may permit the units of  
35 government to retain a participation fee specified by the secretary of ~~of~~  
36 ~~aging for aging and disability services~~ from moneys received under the  
37 intergovernmental transfer program which are otherwise required to be  
38 transferred back to the secretary of ~~of~~ ~~aging for aging and disability~~  
39 *services*.

40 (d) (1) There is hereby established the intergovernmental transfer  
41 fund in the state treasury which shall be administered by the secretary of ~~of~~  
42 ~~aging for aging and disability services~~ in accordance with this act. All  
43 expenditures from the intergovernmental transfer fund shall be to disburse  
the state match amount under the intergovernmental transfer program and



1 shall be made in accordance with appropriation acts upon warrants of the  
2 director of accounts and reports issued pursuant to vouchers approved by  
3 the secretary-of-aging for aging and disability services or the secretary's  
4 designee. Subject to the provisions of appropriation acts, when the  
5 secretary-of-aging for aging and disability services determines that an  
6 amount of federal medicaid moneys is available for the intergovernmental  
7 transfer program, the secretary-of-aging for aging and disability services  
8 shall determine the amount required as the state match and shall certify  
9 that amount to the director of accounts and reports. Upon receipt of each  
10 such state match certification, the director of accounts and reports shall  
11 transfer the amount certified by revenue transfer from the state general  
12 fund to the intergovernmental transfer fund. Upon the crediting of such  
13 state match amount in the intergovernmental transfer fund, the secretary-of  
14 aging for aging and disability services shall disburse the amount of federal  
15 moneys and the state match amount to the units of government that have  
16 entered into participation agreements under the program.

17 (2) Each unit of government receiving a disbursement under the  
18 intergovernmental transfer program shall reimburse the amount of money  
19 received, less the amount of the participation fee, to the secretary-of-aging  
20 for aging and disability services. Upon receipt of each amount of moneys  
21 from participating units of government under the intergovernmental  
22 transfer program, the secretary-of-aging for aging and disability services  
23 shall deposit the entire amount in the state treasury to the credit of the  
24 intergovernmental transfer fund. The secretary-of-aging for aging and  
25 disability services shall determine the amount of each such deposit that  
26 was transferred from the state general fund to match medicaid federal  
27 funds under the intergovernmental transfer program and shall certify such  
28 amount to the director of accounts and reports. Upon receipt of each such  
29 certification, the director of accounts and reports shall retransfer the  
30 amount certified from the intergovernmental transfer fund to the state  
31 general fund.

32 (e) There is hereby established the intergovernmental transfer  
33 administration fund in the state treasury which shall be administered by the  
34 secretary-of-aging for aging and disability services in accordance with this  
35 act. All expenditures from the intergovernmental transfer administration  
36 fund shall be to pay the costs of administering the intergovernmental  
37 transfer program and shall be made in accordance with appropriation acts  
38 upon warrants of the director of accounts and reports issued pursuant to  
39 vouchers approved by the secretary-of-aging for aging and disability  
40 services or the secretary's designee. The secretary-of-aging for aging and  
41 disability services shall recover the costs of administering the  
42 intergovernmental transfer program from the intergovernmental transfer  
43 fund by certifying the amount of such costs to the director of accounts and

1 reports each calendar quarter. Upon receipt of each certification of costs  
2 from the secretary ~~of aging~~ *for aging and disability services* under this  
3 subsection, the director of accounts and reports shall transfer the amount  
4 certified from the intergovernmental transfer fund to the intergovernmental  
5 transfer administration fund.

6 (f) After each amount of moneys is credited to the intergovernmental  
7 transfer fund and the amount of the state match that had been transferred  
8 from the state general fund has been transferred back to the state general  
9 fund pursuant to subsection (d)(2), and after the transfer of the amount  
10 certified by the secretary ~~of aging~~ *for aging and disability services* to the  
11 intergovernmental transfer administration fund pursuant to subsection (e),  
12 if any, the director of accounts and reports shall transfer the remaining  
13 amount in the intergovernmental transfer fund as follows:

14 Seventy percent of such amount shall be transferred to the senior  
15 services trust fund, 5% of such amount shall be transferred to the long-  
16 term care loan and grant fund and 25% of such amount shall be transferred  
17 to the following special revenue funds in an amount specified by  
18 appropriation acts of the legislature for each such fund: State medicaid  
19 match – fund ~~—department on aging~~ *Kansas department for aging and*  
20 *disability services* and the state medicaid match fund ~~—SRS~~ *Kansas*  
21 *department of health and environment.*

22 (g) There is hereby established the senior services fund in the state  
23 treasury which shall be administered by the secretary ~~of aging~~ *for aging*  
24 *and disability services* in accordance with this act. All expenditures from  
25 the senior services fund shall be made in accordance with appropriation  
26 acts upon warrants of the director of accounts and reports issued pursuant  
27 to vouchers approved by the secretary ~~of aging~~ *for aging and disability*  
28 *services* or the secretary's designee. Moneys in the senior services fund  
29 shall be used by the secretary ~~of aging~~ *for aging and disability services*  
30 only for projects intended (1) to reduce future medicaid costs to the state,  
31 (2) to help seniors avoid premature institutionalization, (3) to improve the  
32 quality of care or the quality of life of seniors who are customers of long-  
33 term care programs, (4) to satisfy state matching requirements for senior  
34 service programs authorized by federal law, or (5) to provide financial  
35 assistance under the senior pharmacy assistance program. Moneys credited  
36 to the senior services fund from income of investments of the moneys in  
37 the senior services trust fund shall not be used to create or fund any  
38 entitlement program not in existence on the effective date of this act.

39 (h) There is hereby established the long-term care loan and grant fund  
40 in the state treasury which shall be administered by the secretary ~~of aging~~  
41 *for aging and disability services* in accordance with this act. All  
42 expenditures from the long-term care loan and grant fund shall be made in  
43 accordance with appropriation acts upon warrants of the director of

1 accounts and reports issued pursuant to vouchers approved by the  
2 secretary ~~of aging for aging and disability services~~ or the secretary's  
3 designee. Moneys in the long-term care loan and grant fund shall be used  
4 to make loans under the long-term care loan program developed by the  
5 secretary ~~of aging for aging and disability services~~ in accordance with this  
6 section and grants under the long-term grant program developed by the  
7 secretary ~~of aging for aging and disability services~~ in accordance with this  
8 section.

9 (i) The secretary ~~of aging for aging and disability services~~ is hereby  
10 authorized to develop and implement a long-term care loan program in  
11 accordance with this section. Subject to the provisions of this section and  
12 the provisions of appropriation acts, the secretary ~~of aging for aging and~~  
13 ~~disability services~~ may enter into loan agreements for market-rate, low-  
14 interest or no-interest, fully or partially secured or unsecured loans with  
15 repayment provisions and other terms and conditions as may be prescribed  
16 by the secretary under such program. Loans under the long-term care loan  
17 program may be made for the following:

18 (1) Converting all or parts of some types of licensed adult care homes  
19 from their existing licensure types to different licensure types to meet  
20 demonstrated changing service demands in their communities;

21 (2) converting private residences to licensed homes plus facilities, as  
22 defined by K.S.A. 39-923, and amendments thereto;

23 (3) converting space in rural hospitals to hospital-based long-term  
24 care facilities;

25 (4) improving quality in some types of licensed adult care homes;

26 (5) rural hospitals contracting for physician, physician assistant or  
27 licensed professional nurse services; or

28 (6) building congregate housing for seniors in Kansas cities with  
29 populations of 2,500 or less.

30 (j) The secretary ~~of aging for aging and disability services~~ may  
31 consider the following factors to prioritize and select loans under the long-  
32 term care loan program, grants under the long-term care grant program and  
33 projects financed from the senior services fund:

34 (1) Type of loan – higher interest is preferable to lower interest and  
35 more secured is preferable to less secured;

36 (2) size of facility – facilities having less than 60 beds are preferable  
37 to facilities having 60 beds or more;

38 (3) availability and utilization of the same type of facilities or  
39 services in the proposed loan or project area;

40 (4) type of facility owner or borrower – unit of government, not-for-  
41 profit organizations, for-profit organizations, and individuals, in that order  
42 of preference; and

43 (5) type of research project organization – geriatric schools or

1 programs in Kansas colleges or universities, Kansas colleges or  
2 universities, educational foundations, foreign colleges or universities,  
3 Kansas not-for-profit organizations, Kansas for-profit organizations,  
4 foreign not-for-profit organizations, foreign for-profit organizations, and  
5 individuals, in that order of preference.

6 (k) All moneys received from repayments of principal and interest of  
7 any loan made under this act shall be deposited in the state treasury and  
8 credited to the long-term care loan and grant fund within the state treasury  
9 and used to make new loans or grants under this section. The repayment of  
10 a loan or of a senior services fund project contract or grant may not be  
11 forgiven, in whole or in part, except as authorized by law.

12 (l) The secretary ~~of aging~~ *for aging and disability services* is hereby  
13 authorized to develop and implement a long-term care grant program in  
14 accordance with this section. Subject to the provisions of this section and  
15 the provisions of appropriation acts, the secretary ~~of aging~~ *for aging and*  
16 *disability services* may make competitive matching grants under such  
17 terms and conditions as may be prescribed by the secretary under such  
18 program. Grants under the long-term care grant program may be made  
19 only from the amount of moneys received for interest payments under loan  
20 agreements under the long-term care loan program and credited to the  
21 long-term care loan and grant fund. Grants under the long-term care grant  
22 program may be made for the following:

23 (1) Grants for improvements in the quality of case management  
24 services under home and community-based services (HCBS) programs and  
25 for improvements for adult care homes; and

26 (2) financial assurance grants for community service providers under  
27 home and community-based services (HCBS) programs.

28 (m) For purposes of this section, "units of government" and "units of  
29 government which own and operate nursing facilities" which are eligible  
30 to enter into intergovernmental transfer program participation agreements  
31 shall be limited to cities of the first class, cities of the second class,  
32 counties, hospital districts, or health care facilities and services hospital  
33 districts which hold legal title to and are actively involved in the day-to-  
34 day operations of any of the following:

35 (1) Medicaid-certified nursing facilities and nursing facilities for  
36 mental health, as defined in K.S.A. 39-923, and amendments thereto;

37 (2) medicaid-certified long-term care facilities which are operated in  
38 connection with city hospitals established under K.S.A. 13-14b01 et seq.,  
39 and amendments thereto or K.S.A. 14-601 et seq., and amendments  
40 thereto, county hospitals established under K.S.A. 19-4601 et seq., and  
41 amendments thereto, or district hospitals established under K.S.A. 80-2501  
42 et seq., and amendments thereto; or

43 (3) medicaid-certified long-term care facilities operated under

1 authority of K.S.A. 80-2550 et seq., and amendments thereto.

2 (n) Entities eligible to apply for loans under the long-term care loan  
3 program under this section shall be limited to the owners of:

4 (1) Licensed adult care homes, excluding nursing facilities for mental  
5 health and intermediate care facilities for people with intellectual  
6 disability, as defined in K.S.A. 39-923, and amendments thereto;

7 (2) medicaid-certified licensed hospitals and medicaid-certified long-  
8 term care facilities based in or operated in connection with licensed  
9 hospitals as defined in K.S.A. 65-425, and amendments thereto;

10 (3) private residences which the owners will contract to convert into  
11 licensed homes plus facilities, as defined in K.S.A. 39-923, and  
12 amendments thereto, and in which the owners will reside after the  
13 conversion and licensure; or

14 (4) congregate senior housing projects being built with loans in  
15 Kansas cities with a population of 2,500 or less.

16 (o) ~~(l)~~ There is hereby established the state medicaid match fund –  
17 ~~department on aging~~ *Kansas department for aging and disability services*  
18 in the state treasury which shall be administered by the secretary ~~of aging~~  
19 *for aging and disability services* in accordance with this act. All  
20 expenditures from the state medicaid match fund ~~– department on aging~~  
21 *Kansas department for aging and disability services* shall be made in  
22 accordance with appropriation acts upon warrants of the director of  
23 accounts and reports issued pursuant to vouchers approved by the  
24 secretary ~~of aging~~ *for aging and disability services* or the secretary's  
25 designee. Moneys in the state medicaid match fund ~~– department on aging~~  
26 *Kansas department for aging and disability services* shall be used to match  
27 moneys for federal medicaid programs which are the most cost efficient in  
28 providing services.

29 ~~(2) There is hereby established the state medicaid match fund – SRS~~  
30 ~~in the state treasury which shall be administered as provided by law and in~~  
31 ~~accordance with this act. All expenditures from the state medicaid match~~  
32 ~~fund – SRS shall be made in accordance with appropriation acts upon~~  
33 ~~warrants of the director of accounts and reports issued pursuant to~~  
34 ~~vouchers approved as provided by law. Moneys in the state medicaid~~  
35 ~~match fund – SRS shall be used to match moneys for federal medicaid~~  
36 ~~programs which are the most cost efficient in providing services.~~

37 (p) There is hereby established the HCBS programs fund in the state  
38 treasury which shall be administered by the secretary ~~of social and~~  
39 ~~rehabilitation~~ *for aging and disability services*. All moneys in the HCBS  
40 programs fund shall be used for programs and services under the home and  
41 community-based services (HCBS) programs and as otherwise provided  
42 by law. All expenditures from the HCBS programs fund shall be made in  
43 accordance with appropriation acts upon warrants of the director of

1 accounts and reports issued pursuant to vouchers approved by the  
2 secretary ~~of social and rehabilitation~~ *for aging and disability* services or  
3 the secretary's designee.

4 Sec. 366. K.S.A. 2012 Supp. 75-4266 is hereby amended to read as  
5 follows: 75-4266. (a) The board of trustees is responsible for the  
6 management and investment of the senior services trust fund which is  
7 hereby established in the state treasury. The board of trustees shall  
8 discharge the board's duties relative to the fund for the exclusive purpose  
9 of providing investment revenue for the purposes for which the fund  
10 moneys may be used and defraying reasonable expenses of administering  
11 the fund. The board shall invest and reinvest moneys in the fund and  
12 acquire, retain, manage, including the exercise of any voting rights, and  
13 dispose of investments of the fund within the limitations and according to  
14 the powers, duties and purposes as prescribed by this section.

15 (b) Moneys in the fund shall be invested and reinvested to achieve the  
16 investment objective which is preservation of the fund to provide income  
17 and accordingly providing that the moneys are as productive as possible,  
18 subject to the standards set forth in this act. No moneys in the fund shall be  
19 invested or reinvested if the sole or primary investment objective is for  
20 economic development or social purposes or objectives.

21 (c) In investing and reinvesting moneys in the fund and in acquiring,  
22 retaining, managing and disposing of investments of the fund, the board of  
23 trustees shall exercise the judgment, care, skill, prudence and diligence  
24 under the circumstances then prevailing, which persons of prudence,  
25 discretion and intelligence acting in a like capacity and familiar with such  
26 matters would use in the conduct of an enterprise of like character and  
27 with like aims by diversifying the investments of the fund so as to  
28 minimize the risk of large losses, unless under the circumstances it is  
29 clearly prudent not to do so, and not in regard to speculation but in regard  
30 to the permanent disposition of similar funds, considering the probable  
31 income as well as the probable safety of their capital.

32 (d) In the discharge of such management and investment  
33 responsibilities the board of trustees may contract for services of one or  
34 more professional investment advisors or other consultants in the  
35 management and investment of moneys in the fund and otherwise in the  
36 performance of the duties of the board of trustees under this act.

37 (e) The board of trustees shall require that each person contracted  
38 with under subsection (d) to provide services shall obtain commercial  
39 insurance which provides for errors and omissions coverage for such  
40 person in an amount to be specified by the board of trustees. The amount  
41 of such coverage specified by the board of trustees shall be at least the  
42 greater of \$500,000 or 1% of the funds entrusted to such person up to a  
43 maximum of \$10,000,000. The board of trustees shall require a person

1 contracted with under subsection (d) to provide services give a fidelity  
2 bond in a penal sum as may be fixed by law or, if not so fixed, as may be  
3 fixed by the board of trustees, with corporate surety authorized to do  
4 business in this state. Such persons contracted with the board of trustees  
5 pursuant to subsection (d) and any persons contracted with such persons to  
6 perform the functions specified in subsection (b) shall be deemed to be  
7 fiduciary agents of the board of trustees in the performance of contractual  
8 obligations.

9 (f) (1) Subject to the objective set forth in subsection (b) and the  
10 standards set forth in subsection (c), the board of trustees shall formulate  
11 and adopt policies and objectives for the investment and reinvestment of  
12 moneys in the fund and the acquisition, retention, management and  
13 disposition of investments of the fund. Such policies and objectives shall  
14 be in writing and shall include:

15 (A) Specific asset allocation standards and objectives;

16 (B) establishment of criteria for evaluating the risk versus the  
17 potential return on a particular investment; and

18 (C) a requirement that all investment advisors, and any managers or  
19 others with similar duties and responsibilities as investment advisors, shall  
20 immediately report all instances of default on investments to the board of  
21 trustees and provide such board of trustees with recommendations and  
22 options, including, but not limited to, curing the default or withdrawal  
23 from the investment.

24 (2) The board of trustees shall review such policies and objectives,  
25 make changes considered necessary or desirable and readopt such policies  
26 and objectives on an annual basis.

27 (g) (1) Except as provided in subsection (d) and this subsection, the  
28 custody of money and securities of the fund shall remain in the custody of  
29 the state treasurer, except that the board of trustees may arrange for the  
30 custody of such money and securities as it considers advisable with one or  
31 more member banks or trust companies of the federal reserve system or  
32 with one or more banks in the state of Kansas, or both, to be held in  
33 safekeeping by the banks or trust companies for the collection of the  
34 principal and interest or other income or of the proceeds of sale.

35 (2) The state treasurer and the board of trustees shall collect the  
36 principal and interest or other income of investments or the proceeds of  
37 sale of securities of the fund in the custody of the state treasurer and shall  
38 pay such moneys when so collected into the state treasury to the credit of  
39 the fund.

40 (3) The principal and interest or other income or the proceeds of sale  
41 of securities of the fund as provided in paragraph (1) of this subsection  
42 shall be reported to the state treasurer, the director of accounts and reports  
43 and the board of trustees and credited to the fund.

1 (h) All interest or other income of the investments of the moneys in  
2 the fund, after payment of any management fees, shall be considered  
3 income of the fund and shall be withdrawn and deposited quarterly in the  
4 state treasury to the credit of the senior services fund to be used by the  
5 secretary ~~of aging~~ *for aging and disability services* for the purposes  
6 permitted by K.S.A. 2012 Supp. 75-4265, and amendments thereto.

7 (i) As used in this section:

8 (1) "Board of trustees" means the board of trustees of the Kansas  
9 public employees retirement system established by K.S.A. 74-4905, and  
10 amendments thereto.

11 (2) "Fiduciary" means a person who, with respect to the fund, is a  
12 person who:

13 (A) Exercises any discretionary authority with respect to  
14 administration of the fund;

15 (B) exercises any authority to invest or manage assets of the fund or  
16 has any authority or responsibility to do so;

17 (C) provides investment advice for a fee or other direct or indirect  
18 compensation with respect to the assets of the fund or has any authority or  
19 responsibility to do so;

20 (D) provides actuarial, accounting, auditing, consulting, legal or other  
21 professional services for a fee or other direct or indirect compensation with  
22 respect to the fund or has any authority or responsibility to do so; or

23 (E) is a member of the board of trustees or of the staff of the board of  
24 trustees.

25 (3) "Fund" means the senior services trust fund.

26 (4) With respect to the investment of moneys in the senior services  
27 trust fund, "purposes for which the moneys may be used" means the  
28 purposes for which the moneys in the senior services fund may be used, as  
29 provided in K.S.A. 2012 Supp. 75-4265, and amendments thereto.

30 Sec. 367. K.S.A. 2012 Supp. 75-4375 is hereby amended to read as  
31 follows: 75-4375. (a) Each state officer or employee (1) who is employed  
32 by an institution that is closed or abolished or otherwise ceases operations  
33 or that is scheduled for such closure, abolition or cessation of operations  
34 and has a budget reduction imposed that is associated with such closure,  
35 abolition or cessation of operations, and (2) who is a direct care employee  
36 as defined by this section, and (3) who is laid off from employment with  
37 such institution for the reason of such closure, abolition, or cessation of  
38 operations or such imposition of a budget reduction, and (4) who remains  
39 in such employment until the date the employee is laid off, shall receive  
40 compensation from ~~the department of social and rehabilitation~~ *Kansas*  
41 *department for aging and disability services* for the following:

42 (A) Forty hours of pay at the state officer or employee's regular  
43 hourly rate of pay on the date the employee is laid off if such employee



1 has completed one full year of service but less than two full years of  
2 service on the layoff date;

3 (B) eighty hours of pay at the state officer or employee's regular  
4 hourly rate of pay on the date the employee is laid off if such employee  
5 has completed two full years of service but less than three full years of  
6 service on the layoff date;

7 (C) one hundred twenty hours of pay at the state officer or employee's  
8 regular hourly rate of pay on the date the employee is laid off if such  
9 employee has completed three full years of service but less than four full  
10 years of service on the layoff date; or

11 (D) one hundred sixty hours of pay at the state officer or employee's  
12 regular hourly rate of pay on the date the employee is laid off if the  
13 employee has completed four full years of service or more on the layoff  
14 date.

15 (b) As used in this section, "direct care employee" means state  
16 officers or employees in the classified service under the Kansas civil  
17 service act who: (1) Are exempt from the provisions of K.S.A. 75-6801,  
18 and amendments thereto, as prescribed in policies and procedures  
19 prescribed by the secretary of administration, including, but not limited to,  
20 state officers and employees whose positions are in the following job class  
21 series: (A) Activity therapist, (B) activity therapy technician, (C) licensed  
22 mental health technician, (D) licensed mental health technician specialist,  
23 (E) licensed practical nurse, (F) licensed practical nurse, senior, (G) mental  
24 health aide, (H) radiologic technologist, (I) registered nurse, (J) activity  
25 specialist, (K) intellectual disability specialist, (L) intellectual disability  
26 technician, and (M) intellectual disability trainee; or

27 (2) are in positions that are assigned to job classes or job class series  
28 that are designated as direct care employee job classes or job class series  
29 by the secretary ~~of social and rehabilitation for aging and disability~~  
30 ~~services for purposes of this section, except that no such designation shall~~  
31 ~~be effective until the secretary of social and rehabilitation services has~~  
32 ~~presented such designation to the SRS transition oversight committee~~  
33 ~~created by K.S.A. 46-2701, and amendments thereto.~~

34 Sec. 368. K.S.A. 2012 Supp. 75-4376 is hereby amended to read as  
35 follows: 75-4376. As used in K.S.A. 75-4370 through 75-4376, and  
36 amendments thereto, except as otherwise specifically provided in such  
37 statutes:

38 (a) "Institution" means ~~Topeka state hospital, Winfield state hospital~~  
39 ~~and training center and the Kansas industries for the blind of the~~  
40 ~~department of social and rehabilitation services~~ *Kansas department for*  
41 *children and families*;

42 (b) "laid off" means: (1) In the case of a state officer or employee in  
43 the classified service under the Kansas civil service act, being laid off

1 under K.S.A. 75-2948, and amendments thereto; *and* (2) in the case of a  
2 state officer or employee in the unclassified service under the Kansas civil  
3 service act, being terminated from employment with the state agency by  
4 the appointing authority, except that "laid off" shall not include any  
5 separation from employment pursuant to a budget reduction or expenditure  
6 authority reduction and a reduction of F.T.E. positions under K.S.A. 75-  
7 6801, and amendments thereto; ~~and (3) in the case of blind persons~~  
8 ~~employed by Kansas industries for the blind, being terminated or~~  
9 ~~otherwise separated from employment at Kansas industries for the blind at~~  
10 ~~the facilities located on the Topeka state hospital property because Kansas~~  
11 ~~industries for the blind is closed, abolished or otherwise ceases operations~~  
12 ~~as a state program at such location; and~~

13 (e) ~~"Topeka state hospital property" has the meaning ascribed thereto~~  
14 ~~by K.S.A. 2012 Supp. 75-37,123, and amendments thereto.~~

15 Sec. 369. K.S.A. 2012 Supp. 75-4378 is hereby amended to read as  
16 follows: 75-4378. The secretary ~~of social and rehabilitation services for~~  
17 ~~children and families~~ is hereby authorized and directed to develop and  
18 administer provisions for health care benefits and related assistance which  
19 shall be provided to each person who is a blind person who was employed  
20 prior to the effective date of this act at Kansas industries for the blind at  
21 facilities on the Topeka state hospital property, as defined by K.S.A. 2012  
22 Supp. 75-37,123, and amendments thereto, and who voluntarily terminates  
23 or retires or who is laid off from such employment due to the closure,  
24 abolition or other cessation of operations of the Kansas industries for the  
25 blind as a state program at such location.

26 Sec. 370. K.S.A. 2012 Supp. 75-5268 is hereby amended to read as  
27 follows: 75-5268. ~~(1)~~ Any inmate who is allowed to participate in such  
28 paid employment or in such job training or paid employment for which a  
29 subsistence allowance is paid in connection with such job training shall  
30 pay over to the secretary or the designated representative of the secretary  
31 all moneys received from such paid employment or job training except  
32 that, pursuant to rules and regulations adopted by the secretary of  
33 corrections, the inmate shall retain a stipulated reasonable amount of the  
34 money as the secretary or the designated representative of the secretary  
35 deems necessary for expenses connected with the employment or job  
36 training. The balance of the moneys paid to the secretary or the designated  
37 representative of the secretary shall be disbursed for the following  
38 purposes:

39 (a) A designated minimum amount of that money paid to the  
40 secretary shall be returned to the state general fund or to the political  
41 subdivision, federal government or community-based center for such  
42 inmate's food and lodging or, if the inmate is participating in a private  
43 industry program other than work release, the minimum amount collected

1 shall be deposited to the correctional industries fund;

2 (b) transportation to and from the place of employment at the rate  
3 allowed in K.S.A. 75-3203, and amendments thereto;

4 (c) if any of the dependents of the inmate are receiving public  
5 assistance, a reasonable percentage of the inmate's net pay after deduction  
6 of the above expenses shall be forwarded to the court which ordered  
7 support for the dependent or, if there is no order, to the secretary ~~of social  
8 and rehabilitation services~~ *for children and families*;

9 (d) a reasonable percentage of the inmate's net pay after deduction of  
10 the above expenses shall be disbursed for the payment, either in full or  
11 ratable, of the inmate's obligations if such obligations relate to the care and  
12 support of the defendant's immediate family and have been reduced to  
13 judgment;

14 (e) after deduction of the above amounts, payment of a reasonable  
15 amount for costs assessed to the inmate pursuant to the code of civil  
16 procedure;

17 (f) to the clerk of the district court in which the crime occurred,  
18 payment of a reasonable amount pursuant to an order for all costs, fines,  
19 fees and restitution assessed. Such payment shall be distributed in the  
20 following order of priority: Restitution, costs, fines and fees;

21 (g) payment of a reasonable amount into a savings account for  
22 disbursement to the inmate upon release from custody;

23 (h) after deduction of the above amounts, a reasonable percentage of  
24 the inmate's net pay shall be disbursed for the payment, either in full or  
25 ratable, of the inmate's other obligations acknowledged by the inmate in  
26 writing, as authorized by the secretary; and

27 (i) the balance, if any, shall be credited to the inmate's account and  
28 shall be made available to the inmate in such manner and for such  
29 purposes as are authorized by the secretary.

30 Sec. 371. K.S.A. 2012 Supp. 75-5301 is hereby amended to read as  
31 follows: 75-5301. (a) There is hereby created ~~a department of social and  
32 rehabilitation services~~ *the Kansas department for children and families*,  
33 the head of which shall be the secretary ~~of social and rehabilitation  
34 services~~ *for children and families*. The governor shall appoint the secretary  
35 ~~of social and rehabilitation services for children and families~~, subject to  
36 confirmation by the senate as provided in K.S.A. 75-4315b, and  
37 amendments thereto, and the secretary shall serve at the pleasure of the  
38 governor. Except as provided by K.S.A. 46-2601, and amendments thereto,  
39 no person appointed as secretary shall exercise any power, duty or function  
40 as secretary until confirmed by the senate. ~~The department of social and  
41 rehabilitation services created by this order~~ *Kansas department for  
42 children and families* shall be administered under the direction and  
43 supervision of the secretary ~~of social and rehabilitation services~~ *for*

1 *children and families*. The secretary of ~~social and rehabilitation services~~  
2 *for children and families* shall receive an annual salary fixed by the  
3 governor.

4 (b) The provisions of the Kansas governmental operations  
5 accountability law apply to the ~~department of social and rehabilitation~~  
6 ~~services~~ *Kansas department for children and families*, and the department  
7 is subject to audit, review and evaluation under such law.

8 Sec. 372. K.S.A. 75-5308e is hereby amended to read as follows: 75-  
9 5308e. There is hereby established, within and as a part of the ~~department~~  
10 ~~of social and rehabilitation~~ *Kansas department for aging and disability*  
11 services and under the supervision of the secretary of ~~social and~~  
12 ~~rehabilitation~~ *for aging and disability* services, mental health and  
13 developmental disabilities, the head of which shall be the commissioner of  
14 mental health and developmental disabilities. Under the supervision of the  
15 secretary of ~~social and rehabilitation~~ *for aging and disability* services, the  
16 commissioner of mental health and developmental disabilities shall  
17 administer mental health and developmental disabilities. The secretary of  
18 ~~social and rehabilitation~~ *for aging and disability* services shall appoint the  
19 commissioner of mental health and developmental disabilities, and the  
20 commissioner shall serve at the pleasure of the secretary of ~~social and~~  
21 ~~rehabilitation~~ *for aging and disability* services. The commissioner of  
22 mental health and developmental disabilities shall be in the unclassified  
23 service of the Kansas civil service act and shall receive an annual salary  
24 fixed by the secretary of ~~social and rehabilitation~~ *for aging and disability*  
25 services and approved by the governor.

26 Sec. 373. K.S.A. 75-5309a is hereby amended to read as follows: 75-  
27 5309a. (a) All employees of the ~~department of social and rehabilitation~~  
28 *Kansas department for aging and disability* services in the coordinator of  
29 medical services job class, or any successor job class that may be approved  
30 under K.S.A. 75-2938, and amendments thereto, and has substantially the  
31 same duties and responsibilities, shall be in the unclassified service under  
32 the Kansas civil service act.

33 (b) (1) All persons appointed to provide attendant care services under  
34 the home and community based services program shall be in the  
35 unclassified service of the Kansas civil service act.

36 (2) Subject to available appropriations, the governor is authorized and  
37 directed to approve a salary plan for persons appointed to provide  
38 attendant care services under the secretary of ~~social and rehabilitation~~ *for*  
39 *aging and disability* services. Such salary plan for persons appointed to  
40 provide attendant care services shall be subject to modification and  
41 approval by the governor and to any enactments of the legislature  
42 applicable thereto and shall be effective on a date or dates specified by the  
43 governor.

1 (3) As used in this subsection, the term "persons appointed to provide  
2 attendant care services" means persons appointed to perform attendant  
3 care services directed by or on behalf of an individual in need of in-home  
4 care, the term "home and community based services program" has the  
5 meaning ascribed thereto under K.S.A. 39-7,100, and amendments thereto,  
6 and the terms "attendant care services" and "individual in need of in-home  
7 care" have the meanings respectively ascribed thereto under K.S.A. 65-  
8 6201, and amendments thereto.

9 Sec. 374. K.S.A. 75-5310 is hereby amended to read as follows: 75-  
10 5310. The secretary ~~of social and rehabilitation services for children and~~  
11 ~~families~~ may appoint a chief attorney and other attorneys for the  
12 ~~department of social and rehabilitation services~~ *Kansas department for*  
13 *children and families*. The chief attorney shall serve at the pleasure of the  
14 secretary, shall be in the unclassified service under the Kansas civil service  
15 act and shall receive an annual salary fixed by the secretary and approved  
16 by the governor. The secretary may also appoint staff assistants. Such staff  
17 assistants and attorneys other than the chief attorney shall be in the  
18 classified service under the Kansas civil service act. The secretary may  
19 appoint one public information officer, one personal secretary and one  
20 special assistant who shall serve at the pleasure of the secretary, shall be in  
21 the unclassified service under the Kansas civil service act and shall receive  
22 annual salaries fixed by the secretary and approved by the governor. The  
23 secretary may appoint a deputy secretary who shall serve at the pleasure of  
24 the secretary, be in the unclassified service under the Kansas civil service  
25 act and shall receive an annual salary fixed by the secretary and approved  
26 by the governor.

27 The secretary may appoint commissioners and deputy commissioners  
28 as determined necessary by the secretary to effectively carry out the  
29 mission of the department. All commissioners and deputy commissioners  
30 shall serve at the pleasure of the secretary, shall be in the unclassified  
31 service under the Kansas civil service act and shall receive an annual  
32 salary fixed by the secretary and approved by the governor. The secretary  
33 may also appoint a director for each of the department's management  
34 areas. Each area director shall serve at the pleasure of the secretary, be in  
35 the unclassified service under the Kansas civil service act and shall receive  
36 an annual salary fixed by the secretary and approved by the governor.  
37 Nothing in this act shall affect the classified status of any person employed  
38 as a deputy commissioner or area director on the day immediately  
39 preceding the effective date of the act and the unclassified status shall  
40 apply only to persons appointed to such positions on or after the effective  
41 date of the act.

42 Sec. 375. K.S.A. 75-5310a is hereby amended to read as follows: 75-  
43 5310a. The secretary ~~of social and rehabilitation services for children and~~

1 *families* is hereby authorized to contract for the services of persons to  
2 assist in the preparation of expert testimony for litigation and to act as  
3 expert witnesses in litigation. Any such contracts shall be exempt from the  
4 competitive bid requirements of K.S.A. 75-3739, and amendments thereto.

5 Sec. 376. K.S.A. 75-5313 is hereby amended to read as follows: 75-  
6 5313. The secretary ~~of social and rehabilitation services for children and~~  
7 *families* may create advisory committees and appoint the members thereof  
8 when the secretary determines that such advisory committees are needed  
9 for the efficient administration of the program and, when such advisory  
10 committees are approved by the governor. Such advisory committees shall  
11 consult with and advise the secretary with reference to the management,  
12 control and operation of institutions or programs under the jurisdiction of  
13 the department. Members of any advisory committee created under  
14 authority of this section attending meetings of such committee or attending  
15 a subcommittee meeting thereof authorized by such committee shall be  
16 paid subsistence allowances, mileage and other expenses as provided in  
17 K.S.A. 75-3223, ~~or any~~ and amendments thereto, but shall receive no  
18 compensation for services as such members. The secretary is authorized to  
19 expend funds to provide space for holding meetings, including the cost of  
20 a meal, for the committee members not receiving subsistence allowances  
21 and may pay to or on behalf of any committee members who are clients of  
22 the agency child care or travel expenses occasioned by their attendance at  
23 the meeting.

24 Sec. 377. K.S.A. 75-5316a is hereby amended to read as follows: 75-  
25 5316a. (a) As used in this section and K.S.A. 75-5310, *and amendments*  
26 *thereto*, "secretary" means the secretary ~~of social and rehabilitation~~  
27 *services for children and families*.

28 (b) Subject to the limitations of this section, the secretary ~~of social~~  
29 ~~and rehabilitation services for children and families~~ may organize the  
30 ~~department of social and rehabilitation services~~ *Kansas department for*  
31 *children and families* in the manner the secretary determines most  
32 efficient. Commission heads, division heads and employees of the  
33 ~~department of social and rehabilitation services~~ *Kansas department for*  
34 *children and families* not within a particular commission or division shall  
35 perform such duties and exercise such powers as are prescribed by law and  
36 such other duties as the secretary may prescribe. Such commission heads,  
37 division heads and employees shall act for, and exercise the powers of, the  
38 secretary to the extent authority to do so is delegated by the secretary.

39 (c) Subject to the provisions of subsection (b), personnel of each  
40 commission and division of the ~~department of social and rehabilitation~~  
41 ~~services~~ *Kansas department for children and families* shall perform such  
42 duties and shall exercise such powers as the head of the commission or  
43 division may prescribe and shall perform such duties and shall exercise

1 powers as are prescribed by law. Personnel of each commission and  
2 division shall act for, and exercise the powers of, their commission or  
3 division head to the extent the authority to do so is delegated by the  
4 commission or division head.

5 Sec. 378. K.S.A. 75-5319 is hereby amended to read as follows: 75-  
6 5319. Except as otherwise provided in this order, the secretary of ~~social  
7 and rehabilitation services for children and families~~ shall have the legal  
8 custody of all records, memoranda, writings, entries, prints,  
9 representations or combinations thereof, of any act, transaction, occurrence  
10 or event of the ~~department of social and rehabilitation services~~ *Kansas*  
11 *department for children and families*.

12 Sec. 379. K.S.A. 75-5320 is hereby amended to read as follows: 75-  
13 5320. The secretary of ~~social and rehabilitation services for children and  
14 families~~ shall keep a seal which shall be surrounded by the words  
15 "secretary of ~~social and rehabilitation services for children and families~~ of  
16 Kansas," which shall be of such diameter and with such device as the  
17 governor and the secretary of ~~social and rehabilitation services for  
18 children and families~~ may prescribe, an impression of which shall be filed  
19 in the office of secretary of state.

20 Sec. 380. K.S.A. 75-5321 is hereby amended to read as follows: 75-  
21 5321. The secretary of ~~social and rehabilitation services for children and  
22 families~~ shall adopt all general policies and rules and regulations relating  
23 to all forms of social and rehabilitation services which are administered or  
24 supervised by or under the ~~department of social and rehabilitation services~~  
25 *Kansas department for children and families*. The secretary of ~~social and  
26 rehabilitation services for children and families~~ may provide social service  
27 outreach services to the people of the state including educational and other  
28 activities designed to increase the individual's awareness and appropriate  
29 use of programs and services provided by the ~~department of social and  
30 rehabilitation services~~ *Kansas department for children and families*.

31 Sec. 381. K.S.A. 75-5326 is hereby amended to read as follows: 75-  
32 5326. The secretary of ~~social and rehabilitation services for children and  
33 families~~ shall make an annual report to the governor and to the legislature  
34 concerning the activities of the division during the preceding calendar  
35 year, together with any findings and recommendations relating to the needs  
36 of children and youth in the state.

37 Sec. 382. K.S.A. 75-5328a is hereby amended to read as follows: 75-  
38 5328a. The secretary of the ~~department of social and rehabilitation services  
39 for children and families~~ may procure a policy of accident, personal  
40 liability and excess automobile liability insurance insuring volunteers  
41 participating in the family foster care program against loss in accordance  
42 with specifications of department of administration guidelines. Such  
43 agency may purchase such policy of insurance independent of the

1 committee on surety bonds and insurance without complying with K.S.A.  
2 75-3738 to 75-3744, inclusive, and amendments thereto.

3 Sec. 383. K.S.A. 75-5343 is hereby amended to read as follows: 75-  
4 5343. (a) There is hereby established in the state treasury the self-  
5 sufficiency trust fund.

6 (b) On or before the 10<sup>th</sup> of each month, the director of accounts and  
7 reports shall transfer from the state general fund to the self-sufficiency  
8 trust fund interest earnings based on:

9 (1) The average daily balance of moneys in the self-sufficiency trust  
10 fund for the preceding month; and

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

13 (c) ~~The secretary of social and rehabilitation~~ *for aging and disability*  
14 services may accept moneys from a self-sufficiency trust for deposit in the  
15 self-sufficiency trust fund pursuant to an agreement with the trust naming  
16 one or more beneficiaries who are developmentally disabled individuals or  
17 individuals otherwise eligible for services from the ~~department of social~~  
18 ~~and rehabilitation~~ *Kansas department for aging and disability* services  
19 residing in this state and specifying the care, support or treatment to be  
20 provided for such individuals. The secretary ~~of social and rehabilitation~~  
21 *for aging and disability* services shall maintain a separate account in the  
22 trust fund for each named beneficiary. The moneys in each such account  
23 shall be expended by the secretary, in accordance with rules and  
24 regulations of the secretary, only to provide care, support and treatment for  
25 the named beneficiaries in accordance with the terms of the agreement.  
26 Interest earned on moneys in the trust fund and transferred to the trust fund  
27 under subsection (b) shall be prorated in accordance with procedures  
28 approved by the director of accounts and reports and credited monthly to  
29 each such account.

30 (d) If the secretary determines that the moneys in the account of a  
31 named beneficiary cannot be used for the care, support or treatment of that  
32 beneficiary in a manner consistent with the rules and regulations of the  
33 secretary and the agreement, or upon the request of the self-sufficiency  
34 trust, the remaining moneys in such account, together with any  
35 accumulated interest thereon, shall be promptly paid to the self-sufficiency  
36 trust which deposited such moneys in the trust fund.

37 (e) The secretary shall adopt rules and regulations and procedures as  
38 may be necessary or useful for the administration of the trust fund. All  
39 payments and disbursements from the trust fund shall be made upon  
40 warrants of the director of accounts and reports issued pursuant to  
41 vouchers approved by the secretary or by a person designated by the  
42 secretary. The receipt by a beneficiary of money from the trust fund, or of  
43 care, treatment or support provided with such money, shall not in any way



1 reduce, impair or diminish the benefits to which such beneficiary is  
2 otherwise entitled by law.

3 (f) As used in this section:

4 (1) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
5 *aging and disability* services.

6 (2) "Self-sufficiency trust" means a trust created by a not-for-profit  
7 corporation which is a 501(c)(3) organization under the federal internal  
8 revenue code of 1986 and which was organized for the purpose of  
9 providing for the care, support or treatment of one or more  
10 developmentally disabled individuals or individuals otherwise eligible for  
11 services from the ~~department of social and rehabilitation~~ *Kansas*  
12 *department for aging and disability* services.

13 (3) "Trust fund" means the self-sufficiency trust fund established  
14 under this section.

15 Sec. 384. K.S.A. 75-5344 is hereby amended to read as follows: 75-  
16 5344. There is hereby established in the state treasury the special fund for  
17 the developmentally disabled which shall be administered by the secretary  
18 ~~of social and rehabilitation~~ *for aging and disability* services. The secretary  
19 ~~of social and rehabilitation~~ *for aging and disability* services may accept  
20 money from any source for deposit in the special fund for the  
21 developmentally disabled. All moneys in the special fund for the  
22 developmentally disabled shall be used for the purposes of providing for  
23 the care and treatment of low-income persons who are developmentally  
24 disabled, mentally ill or physically handicapped or low-income persons  
25 otherwise eligible for assistance or services provided by the ~~department of~~  
26 ~~social and rehabilitation~~ *Kansas department for aging and disability*  
27 services. All expenditures from the special fund for the developmentally  
28 disabled shall be in accordance with the provisions of appropriations acts  
29 upon warrants of the director of accounts and reports issued pursuant to  
30 vouchers approved by the secretary ~~of social and rehabilitation~~ *for aging*  
31 *and disability* services or by the secretary's designee.

32 Sec. 385. K.S.A. 75-5345 is hereby amended to read as follows: 75-  
33 5345. The positions of persons who are employed at the industries for the  
34 blind workshop of the ~~department of social and rehabilitation~~ *services*  
35 *Kansas department for children and families* in Topeka, Kansas, and who  
36 are not employed in positions within the classified service under the  
37 Kansas civil service act, shall be within the unclassified service under such  
38 act.

39 Sec. 386. K.S.A. 75-5365 is hereby amended to read as follows: 75-  
40 5365. The secretary ~~of social and rehabilitation~~ *for children and families*  
41 services may enter into contracts with one or more public or private  
42 entities for the performance of any or all support enforcement services that  
43 the secretary is required to provide under part D of title IV of the federal

1 social security act (42 U.S.C. § 651 et seq.). Such contracts shall be based  
2 on competitive bids in accordance with the statutes governing state agency  
3 contracts.

4 Sec. 387. K.S.A. 2012 Supp. 75-5366 is hereby amended to read as  
5 follows: 75-5366. (a) ~~The secretary of social and rehabilitation services for~~  
6 *children and families* is authorized to enter into an agreement with any  
7 entity that engages in the business of matching information about child  
8 support debtors against information about insurance claimants. Any such  
9 agreement shall be subject to the provisions of K.S.A. 39-759, and  
10 amendments thereto, concerning confidential information. If the entity is a  
11 consortium or similar joint venture of two or more states, or if the entity is  
12 an agency of the United States, the requirements of K.S.A. 75-5365, and  
13 amendments thereto, shall not apply.

14 (b) Pursuant to an agreement made under subsection (a), the secretary  
15 ~~of social and rehabilitation services for children and families~~ may disclose  
16 information about any individual who owes past due support in a title IV-D  
17 case if the support debtor owes at least \$25 in past due support. "Title IV-  
18 D" means part D of title IV of the federal social security act (42 U.S.C. §  
19 651 et seq.).

20 (c) To the extent feasible, the secretary ~~of social and rehabilitation~~  
21 ~~services for children and families~~ shall require or provide secure electronic  
22 processes for disclosing information about support debtors to any entity  
23 conducting matches pursuant to this section and for any insurers disclosing  
24 information about claimants to such an entity.

25 (d) The secretary ~~of social and rehabilitation services for children~~  
26 ~~and families~~ shall have the authority to adopt such rules and regulations as  
27 may be necessary to administer the provisions of this act.

28 Sec. 388. K.S.A. 2012 Supp. 75-5367 is hereby amended to read as  
29 follows: 75-5367. (a) As used in K.S.A. 2012 Supp. 75-5366 and 75-5367,  
30 and amendments thereto:

31 (1) "Insurer" means any entity regulated under chapter 40 of the  
32 Kansas Statutes Annotated, and amendments thereto, that provides  
33 coverage for liability insurance.

34 (2) "Claimant" means any individual who has submitted a claim for  
35 payment under a liability insurance contract.

36 (b) An insurer shall be required to comply with the provisions of this  
37 section only after the secretary ~~of social and rehabilitation services for~~  
38 *children and families* has entered into an agreement pursuant to K.S.A.  
39 2012 Supp. 75-5366, and amendments thereto. The secretary ~~of social and~~  
40 ~~rehabilitation services for children and families~~ shall make available to  
41 insurers information about the data matching process, including  
42 instructions for disclosing claimant information.

43 (c) (1) An insurer shall have the option of receiving request for

1 information about an identified claimant from either the secretary of social  
2 ~~and rehabilitation services for children and families~~ or from the entity  
3 responsible for the data matching pursuant to K.S.A. 2012 Supp. 75-5366,  
4 and amendments thereto.

5 (2) An insurer shall respond by disclosing the requested information  
6 about the claimant only if the amount of the claim totals \$1,000 or more.

7 (d) A disclosure required pursuant to subsection (c) shall be made as  
8 soon as reasonably possible after the first submission of the claim.

9 (e) An insurer, including any agent of the insurer, shall not be liable  
10 under any state law to any person for any disclosure required or authorized  
11 by this section, or for any other action taken in good faith in accordance  
12 with this section.

13 (f) At the insurer's discretion, an insurer may disclose information as  
14 provided in this section about a claimant whose aggregate claim is less  
15 than \$1,000.

16 (g) Nothing in K.S.A. 2012 Supp. 75-5366 or 75-5367, and  
17 amendments thereto, shall require an insurer to make any payment that is  
18 not otherwise required under the contract of insurance. An insurer shall not  
19 be assessed any fee by the secretary of social and rehabilitation services  
20 ~~for children and families~~ or by any entity that has entered into an  
21 agreement pursuant to K.S.A. 2012 Supp. 75-5366, and amendments  
22 thereto.

23 Sec. 389. K.S.A. 75-5371 is hereby amended to read as follows: 75-  
24 5371. The secretary of social and rehabilitation services for children and  
25 families is hereby authorized in cooperation with the Kansas dental  
26 association and the national foundation of dentistry for the handicapped to  
27 establish a donated dental services program. The donated dental services  
28 program shall provide through volunteers who are licensed dentists  
29 comprehensive dental care without charge to needy, disabled, aged and  
30 medically-compromised individuals. Volunteer licensed dentists will  
31 provide treatment under the donated dental services program in their  
32 respective offices or at the location at which the participating dentist  
33 agrees to provide the service. Patients will be treated under the program  
34 based upon arrangements as to the number of patients and the types of  
35 cases the participating volunteer dentists are willing to undertake. The  
36 secretary of social and rehabilitation services for children and families  
37 may adopt rules and regulations as necessary for the administration of this  
38 program.

39 Sec. 390. K.S.A. 75-5375 is hereby amended to read as follows: 75-  
40 5375. The secretary of social and rehabilitation for aging and disability  
41 services is hereby authorized and directed:

42 (a) To coordinate the total drug abuse treatment and prevention effort  
43 within the state of Kansas;

1 (b) to plan for, develop, implement and utilize objective devices and  
2 methodologies for the evaluation of all drug abuse treatment and  
3 prevention functions within this state;

4 (c) to pass on and coordinate the delivery of all funding applications,  
5 from whatever source, to state agencies, local units of government and  
6 private agencies, with regard to drug abuse treatment and prevention  
7 functions;

8 (d) to require such information and reports as may reasonably be  
9 necessary from state agencies, local units of government and private  
10 agencies for planning, management, coordination and evaluation and for  
11 carrying out the provisions of this act;

12 (e) to receive, administer and expend all federal and other financial  
13 assistance in the form of grants, contracts or otherwise, including cost  
14 reimbursement and similar contracts administered by the secretary for  
15 local programs or local units of government, which is or may become  
16 available to the state for furthering the purposes of this act, and the  
17 secretary may take such action as may be necessary to enable the state to  
18 meet any requirement set forth in federal laws or regulations in effect on  
19 the effective date of this act for obtaining federal financial assistance for  
20 drug abuse, prevention, treatment or rehabilitation;

21 (f) to prepare and administer, or supervise the preparation and  
22 administration of a comprehensive state plan for planning, establishing,  
23 conducting and coordinating projects and efforts for the development of  
24 more effective drug abuse treatment and prevention functions in the state;

25 (g) to cooperate with local authorities in conducting, maintaining and  
26 distributing detailed surveys of state and local problems and needs for drug  
27 abuse treatment and prevention and periodically advise the governor,  
28 legislature and local officials and citizens relative to such problems and  
29 needs;

30 (h) to establish a state clearinghouse for drug abuse information to  
31 serve the educational, informational and research needs of the state;

32 (i) to establish a centralized drug abuse data collection, dissemination  
33 and management information system for all drug abuse treatment and  
34 prevention functions;

35 (j) to devise policies and procedures to foster greater cooperation and  
36 interaction among organizations, agencies and other bodies, public and  
37 private, engaged in drug abuse treatment and prevention;

38 (k) to cooperate with all drug abuse education and training programs  
39 conducted within the state through cooperation with state and local boards  
40 of education, schools and other public and private agencies in establishing  
41 education programs for the prevention of drug abuse and for training in the  
42 treatment of drug involved individuals;

43 (l) to review annually and update the state plan for drug abuse

1 treatment and prevention in such a manner as to maximize citizen  
2 involvement in the reviewing and updating process;

3 (m) to report annually to the governor and the legislature concerning  
4 activities under this act for the past year;

5 (n) to cooperate with federal, state and local criminal justice systems  
6 in the development of improved methods of treating and rehabilitating  
7 drug offenders;

8 (o) to foster, encourage and assist in the development of local and  
9 regional plans and programs for improving local and regional treatment  
10 and prevention capabilities and insure that such local and regional efforts  
11 impact on the overall state planning effort;

12 (p) to foster, encourage and assist in the development of scientific and  
13 operational research efforts designed to further define the nature and  
14 causes of drug misuse, drug abuse and drug addiction and to improve  
15 treatment and prevention methods and capabilities in these areas;

16 (q) to assist in the development of programs within business, industry  
17 and agriculture designed to reduce the problem of drug abuse and the costs  
18 of crime related thereto;

19 (r) to foster, encourage and assist in the development of programs  
20 designed to reduce the misuse and abuse of drugs;

21 (s) to adopt rules or regulations to carry out the provisions of this act.

22 Sec. 391. K.S.A. 75-5376 is hereby amended to read as follows: 75-  
23 5376. For the purposes of this act and within the limits of appropriations  
24 and resources available therefor, all agencies and officers of the state and  
25 political subdivisions thereof shall cooperate fully with the secretary of  
26 ~~social and rehabilitation~~ *for aging and disability* services.

27 Sec. 392. K.S.A. 75-5381 is hereby amended to read as follows: 75-  
28 5381. The Kansas citizens' committee on alcohol and other drug abuse is  
29 hereby established and shall be within the ~~department of social and~~  
30 ~~rehabilitation~~ *Kansas department for aging and disability* services as a part  
31 thereof.

32 Sec. 393. K.S.A. 75-5382 is hereby amended to read as follows: 75-  
33 5382. It shall be the duty of the Kansas citizens' committee on alcohol and  
34 other drug abuse to confer, advise and consult with the commissioner of  
35 alcohol and drug abuse services, on behalf of the secretary of ~~social and~~  
36 ~~rehabilitation~~ *for aging and disability* services, with respect to the powers,  
37 duties and functions imposed upon the secretary under K.S.A. 65-4006,  
38 65-4007 and 75-5375, and amendments ~~to such sections~~ *thereto*.

39 Sec. 394. K.S.A. 75-5383 is hereby amended to read as follows: 75-  
40 5383. (a) The Kansas citizens' committee on alcohol and other drug abuse  
41 shall be composed of 24 members appointed by the secretary of ~~social and~~  
42 ~~rehabilitation~~ *for aging and disability* services.

43 (b) In making appointments to the first committee, the secretary shall

1 appoint  $\frac{1}{2}$  of the members to one-year terms and  $\frac{1}{2}$  of the members to  
2 two-year terms. Members first appointed to the committee shall serve for  
3 their appointed terms and until the appointment and qualification of their  
4 successors.

5 (c) On the expiration of any member's term of office, the secretary  
6 shall appoint a successor who shall serve for a term of two years and until  
7 such member's successor has been appointed and qualified. Any vacancy  
8 in the membership of the committee which occurs before the expiration of  
9 any member's term of office shall be filled by appointment by the secretary  
10 for the unexpired term.

11 Sec. 395. K.S.A. 75-5386 is hereby amended to read as follows: 75-  
12 5386. (a) The Kansas citizens' committee on alcohol and other drug abuse  
13 shall organize at its first meeting after this law takes effect and thereafter at  
14 the first meeting held in each calendar year by electing one of its members  
15 as chairperson, one as chairperson-elect and one as recorder.

16 (b) The Kansas citizens' committee on alcohol and other drug abuse  
17 shall keep records and minutes of its business and official actions, which  
18 shall be filed with the secretary ~~of social and rehabilitation~~ *for aging and*  
19 *disability* services and be open to public inspection. The secretary shall  
20 provide to the committee all necessary clerical services.

21 The committee shall meet at least quarterly and special meetings of the  
22 committee may be called by the chairperson of the committee or by the  
23 secretary ~~of social and rehabilitation~~ *for aging and disability* services.

24 (c) The committee may adopt such bylaws, which are not in conflict  
25 with the provisions of this act, as may be necessary or desirable to regulate  
26 its procedures and actions.

27 Sec. 396. K.S.A. 75-5391 is hereby amended to read as follows: 75-  
28 5391. (a) There is hereby established within the ~~department of social and~~  
29 ~~rehabilitation services~~ *Kansas department for children and families* the  
30 Kansas commission for the deaf and hard of hearing. The commission  
31 shall:

32 (1) Advocate services affecting the deaf and hard of hearing in the  
33 areas of public services, health care, educational, vocational and  
34 employment opportunity;

35 (2) act as a bureau of information for the deaf and hard of hearing to  
36 state agencies and public institutions providing general health and mental  
37 health care, employment, vocational, and educational services, and to local  
38 agencies and programs;

39 (3) collect facts and statistics and other special studies of conditions  
40 affecting the health and welfare of the deaf and hard of hearing in this  
41 state;

42 (4) provide for a mutual exchange of ideas and information on the  
43 national, state and local levels;

1 (5) provide public education of prenatal and postnatal warning signs  
2 of conditions which may lead to deafness or hearing impairment in the  
3 fetus or newborn child;

4 (6) encourage and assist local governments in the development of  
5 programs for the deaf and hard of hearing;

6 (7) cooperate with public and private agencies and units of local, state  
7 and federal governments in promoting coordination in programs for the  
8 deaf and hard of hearing;

9 (8) provide for the social, emotional, educational and vocational  
10 needs of the deaf and hard of hearing and their families;

11 (9) serve as an advisory board to the governor on the needs of the  
12 deaf and hard of hearing by preparing an annual report which reviews the  
13 status of all state services to the deaf and hard of hearing within Kansas,  
14 and to recommend priorities to the governor for the development and  
15 coordination of services to the deaf and hard of hearing;

16 (10) make recommendations for needed improvements, and serve as  
17 an advisory board in regard to new legislation affecting the deaf and hard  
18 of hearing.

19 (b) Except as otherwise provided by this act, all budgeting,  
20 purchasing and related management functions of the Kansas commission  
21 for the deaf and hard of hearing shall be administered under the direction  
22 and supervision of the secretary ~~of social and rehabilitation services for~~  
23 *children and families*. Within the limitations of available appropriations,  
24 the secretary ~~of social and rehabilitation services for children and families~~  
25 shall provide additional clerical and other assistance as may be required  
26 for the commission.

27 Sec. 397. K.S.A. 75-5393 is hereby amended to read as follows: 75-  
28 5393. (a) The Kansas commission for the deaf and hard of hearing shall  
29 employ an executive director and shall fix the duties, responsibilities and  
30 qualifications thereof. The executive director shall be a full-time employee  
31 of the commission who shall be in the unclassified service under the  
32 Kansas civil service act and shall receive an annual salary to be fixed by  
33 the commission. The executive director shall receive actual and necessary  
34 expenses incurred while in the discharge of official duties.

35 (b) The executive director, with the advice and consent of the  
36 commission shall:

37 (1) Within the limitations of available appropriations, plan and  
38 oversee the establishment of service centers for the deaf and hard of  
39 hearing in areas where the commission deems they are needed and in  
40 concurrence with the secretary ~~of social and rehabilitation services for~~  
41 *children and families* and in consultation with local boards of directors of  
42 community service centers and local groups promoting or providing  
43 services to the deaf or hard of hearing, or both;

1 (2) promote accessibility of all governmental services to deaf and  
2 hard of hearing citizens in Kansas including those deaf and hard of hearing  
3 persons with multiple disabilities;

4 (3) identify agencies, both public and private which provide  
5 community services, evaluate the extent to which they make services  
6 available to deaf and hard of hearing people and their families, and  
7 cooperate with the agencies in coordinating and extending these services;

8 (4) provide for the mutual exchange of ideas and information on  
9 services for deaf and hard of hearing people between federal, state and  
10 local governmental agencies and private organizations and individuals;

11 (5) survey the needs of the deaf and hard of hearing population in  
12 Kansas and assist the commission in the preparation of its report to the  
13 governor;

14 (6) maintain a listing of persons qualified in various types of  
15 interpreting and aural rehabilitation for the deaf and make this information  
16 available to local, state, federal and private organizations and to  
17 individuals;

18 (7) promote the training of interpreters for the deaf and hard of  
19 hearing;

20 (8) serve as an advocate for the rights of deaf and hard of hearing  
21 people and perform such other duties as may be required by law;

22 (9) provide interpreter services for the deaf and hard of hearing to be  
23 funded from user fees;

24 (10) provide a telecommunication message relay service for the deaf  
25 and hard of hearing;

26 (11) provide for a program of regulation and certification of  
27 interpreters; and

28 (12) employ such persons as may be needed from time to time, in the  
29 judgment of the executive director, to carry out the director's  
30 responsibilities under paragraphs (9), (10) and (11) of this subsection.  
31 Such employees shall be in the unclassified civil service and shall receive  
32 an annual salary to be fixed by the commission.

33 (c) In selecting an executive director, the commission shall select an  
34 individual who is fluent in the American sign language of the deaf and  
35 shall give consideration and priority to qualified applicants who are deaf or  
36 hard of hearing.

37 Sec. 398. K.S.A. 2012 Supp. 75-5397a is hereby amended to read as  
38 follows: 75-5397a. (a) The Kansas commission for the deaf and hard of  
39 hearing may fix, charge and collect reasonable fees for providing  
40 interpreter services, interpreter certification and sign language instruction.

41 (b) ~~The secretary of social and rehabilitation services for children~~  
42 ~~and families~~ shall remit all moneys received by the commission for such  
43 services to the state treasurer in accordance with the provisions of K.S.A.



1 75-4215, and amendments thereto. Upon receipt of each such remittance,  
2 the state treasurer shall deposit the entire amount in the state treasury to  
3 the credit of the ~~SRS~~ *Kansas department for children and families*  
4 enterprise fund.

5 Sec. 399. K.S.A. 2012 Supp. 75-5399 is hereby amended to read as  
6 follows: 75-5399. When used in this act:

7 (a) "Individuals with disabilities" means individuals with intellectual  
8 disability, hearing impairments including deafness, speech or language  
9 impairments, visual impairments including blindness, serious emotional  
10 disturbance, orthopedic impairments, autism, traumatic brain injury, other  
11 health impairments or specific learning disabilities.

12 (b) "Transition services" means a coordinated set of activities for a  
13 student, designed within an outcome-oriented process, which promotes  
14 movement from school to post-school activities, including post-secondary  
15 education, vocational training, integrated employment (including  
16 supported employment), continuing and adult education, adult services,  
17 independent living or community participation. The coordinated set of  
18 activities shall be based upon the individual student's needs, taking into  
19 account the student's preferences and interests, and shall include  
20 instruction, community experiences, the development of employment and  
21 other post-school adult living objectives and, when appropriate,  
22 acquisition of daily living skills and functional vocational evaluation.

23 (c) "Transition planning services" means rehabilitation counseling,  
24 information and referral to community services for students age 16 and  
25 older in secondary special education programs.

26 (d) "Local education authority" means the special education interlocal  
27 or cooperative or school district responsible for the local special education  
28 program.

29 (e) "Special education program" means services that are provided  
30 pursuant to public law 94-142 (the education of all handicapped children's  
31 act) as implemented in Kansas through K.S.A. 72-961 et seq., and  
32 amendments thereto, and public law 101-476 (the individuals with  
33 disabilities education act).

34 (f) "Secretary" means the ~~secretary of social and rehabilitation~~  
35 ~~services for children and families~~ or the designee of the secretary.

36 (g) "Local transition council" means a representative group of  
37 persons with disabilities and their families, school personnel, adult service  
38 agency personnel and members of the general public such as employers  
39 which develops an annual plan to improve secondary special education,  
40 transition and transition planning services.

41 Sec. 400. K.S.A. 75-53,100 is hereby amended to read as follows: 75-  
42 53,100. The ~~secretary of social and rehabilitation services for children and~~  
43 ~~families~~, within available funding and staffing, shall provide transition

1 planning services in cooperation with the transition services part of the  
2 individual education plan for individuals with disabilities enrolled in  
3 secondary special education programs.

4 Sec. 401. K.S.A. 2012 Supp. 75-53,105 is hereby amended to read as  
5 follows: 75-53,105. (a) ~~The secretary of social and rehabilitation services~~  
6 *for children and families* shall upon request receive from the Kansas  
7 bureau of investigation such criminal history record information as  
8 necessary for the purpose of determining initial and continuing  
9 qualification for employment or for participation in any program  
10 administered by the secretary for the placement, safety, protection or  
11 treatment of vulnerable children or adults.

12 (b) The secretary shall have access to any court orders or  
13 adjudications of any court of record, any records of such orders,  
14 adjudications, arrests, nonconvictions, convictions, expungements,  
15 juvenile records, juvenile expungements, diversions and any criminal  
16 history record information in the possession of the Kansas bureau of  
17 investigation concerning such employee or individual.

18 (c) If a nationwide criminal records check of all records noted above  
19 is necessary, as determined by the secretary, the secretary's request will be  
20 based on the submission of fingerprints to the Kansas bureau of  
21 investigation and the federal bureau of investigation for the identification  
22 of the individual and to obtain criminal history record information,  
23 including arrest and nonconviction data.

24 (d) Fees for such records checks shall be assessed to the secretary.

25 (e) Disclosure or use of any such information received by the  
26 secretary or a designee of the secretary or of any record containing such  
27 information, for any purpose other than that provided by this act is a class  
28 A misdemeanor and shall constitute grounds for removal from office or  
29 termination of employment. Nothing in this act shall be construed to make  
30 unlawful or prohibit the disclosure of any such information in a hearing or  
31 court proceeding involving programs administered by the secretary or  
32 prohibit the disclosure of any such information to the post auditor in  
33 accordance with and subject to the provisions of the legislative post audit  
34 act.

35 Sec. 402. K.S.A. 2012 Supp. 75-53,112 is hereby amended to read as  
36 follows: 75-53,112. As used in the Kansas foster child educational  
37 assistance act:

38 (a) "Kansas educational institution" means and includes any  
39 community college, the municipal university, state educational institution,  
40 the institute of technology at Washburn university or technical college.

41 (b) "Eligible foster child" means anyone: ~~(+)~~ who: (1) (A) Is in the  
42 custody of the secretary and in a foster care placement on the date such  
43 child attained 18 years of age;; (B) has been released from the custody of

1 the secretary prior to attaining 18 years of age, after having graduated from  
2 a high school or fulfilled the requirements for a general educational  
3 development (GED) certificate while in foster care placement and the  
4 custody of the secretary; (C) is adopted from a foster care placement on or  
5 after such child's 16<sup>th</sup> birthday; or (D) left a foster care placement subject  
6 to a guardianship under chapter 38 or 59 of the Kansas Statutes Annotated,  
7 *and amendments thereto*, on or after such child's 16<sup>th</sup> birthday; and

8 (2) ~~who~~ enrolls in a Kansas educational institution on or after July 1,  
9 2006.

10 (c) "Kansas foster child educational assistance program" or  
11 "program" means the program established pursuant to the provisions of the  
12 Kansas foster child educational assistance act which shall provide for  
13 undergraduate enrollment of eligible foster children through the semester  
14 the eligible foster child attains 23 years of age.

15 (d) "Educational program" means a program which is offered and  
16 maintained by a Kansas educational institution and leads to the award of a  
17 certificate, diploma or degree upon satisfactory completion of course work  
18 requirements.

19 (e) "Secretary" means the secretary ~~of social and rehabilitation~~  
20 *services for children and families*.

21 Sec. 403. K.S.A. 2012 Supp. 75-5674 is hereby amended to read as  
22 follows: 75-5674. The secretary of health and environment shall establish  
23 and maintain family planning centers in cooperation with the secretary ~~of~~  
24 ~~social and rehabilitation services for children and families~~ and county,  
25 city-county and multicounty health departments. Such family planning  
26 centers, upon request of any person who is over ~~eighteen (18)~~ 18 years of  
27 age and who is married or who has been referred to ~~said~~ *such* center by a  
28 person licensed to practice medicine and surgery and who resides in this  
29 state, may furnish and disseminate information concerning, and means and  
30 methods of planned parenthood, including such contraceptive devices as  
31 recommended by the secretary of health and environment. Such methods  
32 and means shall be consistent with the religious and personal convictions  
33 of the individual to whom furnished.

34 Sec. 404. K.S.A. 2012 Supp. 75-5675 is hereby amended to read as  
35 follows: 75-5675. The secretary ~~of social and rehabilitation services for~~  
36 *children and families* and county, city-county and multicounty health  
37 departments shall cooperate with and assist the secretary of health and  
38 environment in the establishment, maintenance and operation of the family  
39 planning centers required to be established and maintained by K.S.A. 75-  
40 5674, *and amendments thereto*.

41 Sec. 405. K.S.A. 2012 Supp. 75-5741 is hereby amended to read as  
42 follows: 75-5741. (a) The secretary of commerce shall establish within the  
43 limits of appropriations therefor and in accordance with the provisions of

1 this section the older Kansans employment program. The secretary may  
2 make grants to and enter into contracts with nonprofit agencies or  
3 organizations or public bodies for the purpose of providing for the  
4 development and operation of the older Kansans employment program.

5 (b) The older Kansans employment program shall be designed as  
6 follows:

7 (1) The program shall provide to older Kansans an employment  
8 placement service with emphasis on employment in the private sector,  
9 including nontraditional patterns of employment; and

10 (2) the program shall provide training in job seeking skills to  
11 potential employees who are older Kansans and assistance to potential  
12 employers in utilizing the contributions of older Kansans to their work  
13 force.

14 (c) The secretary shall prepare annually a report evaluating the  
15 effectiveness of the older Kansans employment program and  
16 recommending measures to increase the number of older Kansans  
17 gainfully employed. The report shall be prepared and made available  
18 annually to the governor, members of the legislature, the secretary of aging  
19 *for aging and disability services*, the commerce development council and  
20 the members of the advisory council on aging no later than December 15  
21 each year.

22 (d) As used in this section, "older Kansan" means a resident of the  
23 state of Kansas who is 55 years of age or older.

24 Sec. 406. K.S.A. 2012 Supp. 75-5742 is hereby amended to read as  
25 follows: 75-5742. (a) The department of labor is hereby designated as the  
26 agency to collect the new hires information required by the personal  
27 responsibility and work opportunity act of 1996. The secretary of labor  
28 shall contract with the secretary of ~~social and rehabilitation services~~ *for*  
29 *children and families* to provide the information needed to be in  
30 compliance with the personal responsibility and work opportunity act of  
31 1996.

32 (b) The state directory of new hires shall receive, retain and, to the  
33 extent permitted by federal law, make information reported to the directory  
34 available pursuant to subsection (c).

35 (c) Except as otherwise permitted by federal law, any agency  
36 receiving information from the state directory of new hires shall handle the  
37 information as confidential information for use in administering the  
38 programs for which it was received. The state directory of new hires shall  
39 make information available:

40 (1) Upon implementation of the national directory of new hires, to the  
41 national directory; and

42 (2) to the secretary of ~~social and rehabilitation services~~ *for children*  
43 *and families* for use in administering an eligibility verification system and,

1 not later than May 1, 1998, the title IV-D program.

2 (d) Any employer who reports electronically or magnetically and is  
3 required to report newly hired employees to more than one state may elect  
4 to transmit all such reports to one state by complying with the  
5 requirements of title IV-D.

6 (e) Beginning July 1, 1999, the secretary of labor shall annually  
7 delete information about individuals contained in the new hires directory if  
8 the information is at least two years old. Nothing in this subsection shall  
9 be construed as requiring the secretary of labor to delete information  
10 needed to administer the employment security or workers compensation  
11 programs.

12 Sec. 407. K.S.A. 2012 Supp. 75-5743 is hereby amended to read as  
13 follows: 75-5743. (a) All employers and labor organizations doing  
14 business in this state shall submit information concerning each new  
15 employee to the secretary of labor within 20 business days of the hiring,  
16 rehiring or return to work of the newly hired employee or within 20  
17 business days from the date the newly hired employee first receives wages  
18 or other compensation from the employer. The information shall include  
19 the newly hired employee's name, address, social security number and the  
20 date services for remuneration were first performed by the newly hired  
21 employee and the employer's name, address, federal tax identification  
22 number and any other information as may be required by section 453A of  
23 the social security act, 42 U.S.C. § 653a.

24 (b) For purposes of this section, the term "newly hired employee"  
25 means an employee who has not previously been employed by the  
26 employer, or was previously employed by the employer, but has been  
27 separated from such prior employment for at least 60 consecutive days.

28 ~~The department of social and rehabilitation services~~ *Kansas*  
29 *department for children and families* shall have access to such information  
30 to match the employee's social security number with title IV-D cases.

31 Sec. 408. K.S.A. 75-5902 is hereby amended to read as follows: 75-  
32 5902. As used in this act, unless the context clearly requires otherwise, the  
33 following terms shall have the meanings ascribed to them in this section:

34 (a) "Department" means ~~the department on aging~~ *Kansas department*  
35 *for aging and disability services* created by K.S.A. 75-5903, and  
36 *amendments thereto*.

37 (b) "Secretary" means ~~the secretary of aging~~ *for aging and disability*  
38 *services*.

39 (c) "Council" means the advisory council on aging created by K.S.A.  
40 75-5911, and *amendments thereto*.

41 (d) "Aged" or "senior citizen" means a person ~~sixty (60)~~ 60 years of  
42 age or older.

43 (e) "Services" means those services designed to provide assistance to

1 the aged such as nutritional programs, facilities improvement,  
2 transportation services, senior volunteer programs, supplementary health  
3 services, programs for leisure-time activities, housing and employment  
4 counseling, other informational, referral and counseling programs to aid  
5 the aged in availing themselves of existing public or private services or  
6 other similar social services intended to aid the senior citizen in attaining  
7 and maintaining self-sufficiency, personal well-being, dignity and  
8 maximum participation in community life.

9 Sec. 409. K.S.A. 2012 Supp. 75-5903 is hereby amended to read as  
10 follows: 75-5903. (a) There is hereby created ~~a department on aging~~ *the*  
11 *Kansas department for aging and disability services*. ~~The department on~~  
12 ~~aging~~ *Kansas department for aging and disability services* shall be  
13 administered under the direction and supervision of the secretary ~~of aging~~  
14 *for aging and disability services*. The secretary shall be appointed by the  
15 governor, subject to confirmation by the senate as provided in K.S.A. 75-  
16 4315b, and amendments thereto, and shall serve at the pleasure of the  
17 governor. Except as provided by K.S.A. 46-2601, and amendments thereto,  
18 no person appointed as secretary shall exercise any power, duty or function  
19 as secretary until confirmed by the senate. In appointing the secretary, the  
20 governor shall consider, but is not limited to, persons suggested by the  
21 council and persons with responsible administrative experience in the field  
22 of gerontology. The secretary shall be in the unclassified service under the  
23 Kansas civil service act and shall receive an annual salary fixed by the  
24 governor.

25 ~~The department on aging~~ *Kansas department for aging and disability*  
26 *services* shall be the single state agency for receiving and disbursing  
27 federal funds made available under the federal older Americans act (public  
28 law 89-73), and ~~any~~ amendments thereto, or other federal programs for the  
29 aging.

30 (b) The provisions of the Kansas governmental operations  
31 accountability law apply to the ~~department on aging~~ *Kansas department*  
32 *for aging and disability services*, and the department is subject to audit,  
33 review and evaluation under such law.

34 Sec. 410. K.S.A. 2012 Supp. 75-5908 is hereby amended to read as  
35 follows: 75-5908. In addition to powers and duties otherwise provided by  
36 law, the secretary shall have the following powers and duties:

37 (a) To evaluate all programs, services and facilities for the aged  
38 within the state and determine the extent to which present public or private  
39 programs, services and facilities meet the needs of the aged.

40 (b) To evaluate and coordinate all programs, services and facilities for  
41 the aging presently furnished by state and federal agencies, and make  
42 appropriate recommendations regarding such services, programs and  
43 facilities to the governor and the legislature.

1 (c) To function as the sole state agency to develop a comprehensive  
2 plan to meet the needs of the state's senior citizens.

3 (d) To receive and disburse federal funds made available directly to  
4 the department, including those funds made available under the federal  
5 older Americans act of 1965, 42 U.S.C. § 3001 et seq., and ~~any~~  
6 amendments thereto, for providing services for senior citizens or for  
7 purposes related thereto and to develop and administer any state plan for  
8 the aging required by federal law.

9 (e) To solicit, accept, hold and administer in behalf of the state any  
10 grants, devises or bequests of money, securities or property to the state of  
11 Kansas for services to senior citizens or purposes related thereto.

12 (f) To provide consultation and assistance to communities and groups  
13 developing local and area services for senior citizens.

14 (g) To promote community education regarding the problems of  
15 senior citizens through institutes, publications, radio, television and the  
16 press.

17 (h) To cooperate with agencies of the federal government in studies  
18 and conferences designed to examine the needs of senior citizens and to  
19 prepare programs and facilities to meet those needs.

20 (i) To establish and maintain information and referral sources  
21 throughout the state in conjunction with other agencies.

22 (j) To provide such staff support as may reasonably be required by the  
23 council.

24 (k) To establish state policies for the administration of the  
25 department; for the disbursement of federal older Americans act funds  
26 within the state; and for state administration of federal older Americans act  
27 programs consistent with relevant federal law, rules and regulations,  
28 policies and procedures.

29 (l) To keep informed of the latest developments of research, studies  
30 and programs being conducted nationally and internationally on problems  
31 and needs of aging.

32 (m) To adopt such rules and regulations as may be necessary to  
33 administer the provisions of article 59 of chapter 75 of the Kansas Statutes  
34 Annotated, and ~~acts amendatory thereof and supplemental~~ *amendments*  
35 thereto.

36 (n) To lend surplus state property under the authority of the  
37 ~~department on aging~~ *Kansas department for aging and disability services*  
38 to area agencies on aging or to the state long-term care ombudsman to help  
39 them perform duties required under state and federal programs  
40 administered by the ~~department on aging~~ *Kansas department for aging*  
41 *and disability services*.

42 (o) To enter into any contract or agreement which the secretary finds  
43 necessary to perform the powers, duties and functions of the secretary or

1 the department.

2 Sec. 411. K.S.A. 2012 Supp. 75-5910 is hereby amended to read as  
3 follows: 75-5910. (a) Except as otherwise specifically provided by law,  
4 and subject to the Kansas civil service act, the secretary of ~~aging~~ *for aging*  
5 *and disability services* shall appoint all subordinate officers and employees  
6 of the department and all such subordinate officers and employees shall be  
7 within the classified service under the Kansas civil service act.

8 (b) The secretary may appoint one public information officer, one  
9 chief attorney, one personal secretary and one special assistant who shall  
10 be in the unclassified service under the Kansas civil service act and shall  
11 receive compensation fixed by the secretary and approved by the governor.  
12 The secretary may appoint deputy secretaries and commissioners as  
13 determined necessary by the secretary to effectively carry out the mission  
14 of the department. All deputy secretaries and commissioners shall be in the  
15 unclassified service under the Kansas civil service act and shall receive  
16 compensation fixed by the secretary and approved by the governor.

17 (c) Nothing in subsection (b) shall affect the classified status of any  
18 person employed by the ~~department on aging~~ *Kansas department for aging*  
19 *and disability services* on the day immediately preceding the effective date  
20 of this act. The provisions of this subsection shall not be construed to limit  
21 the powers of the secretary pursuant to K.S.A. 75-5909 or 75-2948, and  
22 amendments thereto.

23 (d) Personnel of the department shall perform such duties and  
24 exercise such powers as the secretary may prescribe or as are designated  
25 by law.

26 Sec. 412. K.S.A. 2012 Supp. 75-5914 is hereby amended to read as  
27 follows: 75-5914. The advisory council on aging shall have the following  
28 powers and duties:

29 (a) Provide advocacy for the aging in the affairs of the department,  
30 the governor's office and other public and private, state and local agencies  
31 affecting the aging;

32 (b) review and comment upon reports of the department to the  
33 governor and the legislature;

34 (c) prepare and submit to the governor, the legislature and the  
35 secretary an annual report evaluating the level and quality of all programs,  
36 services and facilities provided to the aging by state agencies;

37 (d) review and comment upon the comprehensive state plan prepared  
38 by the department;

39 (e) review and comment upon disbursements by the department of  
40 public funds to public and private agencies;

41 (f) recommend candidates to the governor for appointment as  
42 secretary of ~~aging for the department on aging~~ *for aging and disability*  
43 *services*;



1 (g) consult with the secretary regarding the operations of the  
2 department;

3 (h) serve as the advisory committee to the governor and the  
4 ~~department on aging~~ *Kansas department for aging and disability services*  
5 as required and defined in the rules and regulations, part 903.50(c), issued  
6 under the federal older Americans act of 1965 (public law 89-73), and  
7 amendments thereto;

8 (i) review and comment to the state long-term care ombudsman upon  
9 the policies and procedures of the office of long-term care ombudsman;  
10 and

11 (j) consult with the state long-term care ombudsman regarding needs  
12 for ombudsman services for aged Kansas residents.

13 Sec. 413. K.S.A. 75-5923 is hereby amended to read as follows: 75-  
14 5923. (a) The secretary ~~of aging~~ *for aging and disability services* shall  
15 establish a telephone system to assist older Kansans, friends and relatives  
16 of older Kansans and other persons in obtaining information about and  
17 access to services available to both institutionalized and non-  
18 institutionalized older Kansans. The telephone system shall be designed to  
19 permit any person in the state to place a toll-free call into the system.

20 (b) The secretary ~~of aging~~ *for aging and disability services* shall:

21 (1) Publicize the existence and purpose of the toll-free telephone  
22 system established by this section and the telephone number of such  
23 system;

24 (2) develop policies and procedures to document requests for  
25 assistance and monitor follow-up on such requests;

26 (3) develop policies and procedures to maintain confidentiality of  
27 requests for assistance;

28 (4) develop a program to train and coordinate the use of older  
29 Kansans within the toll-free telephone system;

30 (5) provide as part of the toll-free telephone system a call-forward  
31 system to assist in providing access to information; and

32 (6) develop a handbook of information to answer requests and for  
33 further referral.

34 (c) Upon written notification by the secretary ~~of aging~~ *for aging and*  
35 *disability services*, every adult care home, as defined in subsection (a)(1)  
36 of K.S.A. 39-923, *and amendments thereto*, title XX adult residential  
37 home licensed under K.S.A. 75-3307b, *and amendments thereto*,  
38 recuperation center, as defined in subsection (g) of K.S.A. 65-425, *and*  
39 *amendments thereto*, intermediate care facility, as defined in section  
40 1905(c) of the federal social security act, skilled nursing facility, as  
41 defined in section 1861(j) of the federal social security *act*, and any other  
42 institution or facility which is licensed or certified by the state, which  
43 offers health, social or dietary care to elderly persons on a regular basis,

1 and which is financed in whole or in part by funds from the federal  
2 government, the state of Kansas, or any political subdivision thereof, shall  
3 prominently display notice of the existence of the toll-free telephone  
4 system established under this section and the telephone number of such  
5 system.

6 Sec. 414. K.S.A. 75-5925 is hereby amended to read as follows: 75-  
7 5925. (a) The secretary ~~of aging for aging and disability services~~ shall  
8 establish an information and referral network through the existing toll-free  
9 telephone system to assist persons with Alzheimer's and related diseases,  
10 their relatives and friends and other persons in obtaining information about  
11 and access to services available for persons with Alzheimer's and related  
12 diseases. The telephone system shall be designed to permit any person in  
13 the state to place a toll-free call into the network.

14 (b) The secretary ~~of aging for aging and disability services~~ shall  
15 establish within the ~~department on aging~~ *Kansas department for aging and*  
16 *disability services* an information and referral network under subsection  
17 (a) and research national, state and local information on Alzheimer's and  
18 related diseases and disseminate this information through the information  
19 and referral network. The secretary ~~of aging for aging and disability~~  
20 *services* shall publicize the existence and purpose of the toll-free telephone  
21 network established by this section and the telephone number of such  
22 network.

23 (c) In establishing the information and referral network under this  
24 section, the secretary ~~of aging for aging and disability services~~ shall:

25 (1) Develop policies and procedures to document requests for  
26 assistance and monitor follow-up on such requests;

27 (2) develop policies and procedures to maintain confidentiality of  
28 requests for assistance;

29 (3) provide as part of the toll-free telephone network a call-forward  
30 system to assist in providing access to information;

31 (4) seek the cooperation and assistance of area agencies on aging in  
32 disseminating information and making referrals under this section;

33 (5) develop and periodically update a resource file of information to  
34 answer requests and expedite referrals; and

35 (6) assure that staff be trained in the area of Alzheimer's disease and  
36 related diseases on an ongoing basis.

37 (d) This section shall be part of and supplemental to the Kansas act  
38 on the aging.

39 Sec. 415. K.S.A. 2012 Supp. 75-5928 is hereby amended to read as  
40 follows: 75-5928. (a) Within the limitations of appropriations therefor, the  
41 secretary ~~of aging for aging and disability services~~ is hereby authorized to  
42 establish a program of in-home services and a program of preventative  
43 health services for residents of Kansas 60 years of age or older who have

1 functional limitations which restrict their ability to carry out activities of  
2 daily living and impede their ability to live independently.

3 (b) The secretary ~~of aging~~ *for aging and disability services* shall  
4 establish and administer, pursuant to the provisions of the Kansas senior  
5 care act, a program of in-home services and a program of preventative  
6 health services as authorized under subsection (a). The secretary shall  
7 designate area agencies on aging to administer the program in their  
8 respective planning and service areas. The secretary shall allocate funds to  
9 an area agency on aging only after the area agency on aging has executed a  
10 contract with the secretary under the Kansas senior care act.

11 (c) The program of in-home services authorized under subsection (a)  
12 shall serve such planning and service areas and provide such services as  
13 may be specified by the secretary and as are consistent with the Kansas  
14 senior care act and with appropriation acts relating thereto.

15 (d) The program of preventative health services authorized under  
16 subsection (a) shall serve such planning and service areas and provide such  
17 services as may be specified by the secretary and as are consistent with the  
18 Kansas senior care act and with the appropriation acts relating thereto.

19 Sec. 416. K.S.A. 2012 Supp. 75-5933 is hereby amended to read as  
20 follows: 75-5933. The secretary shall develop a sliding fee scale which  
21 shall be published annually in the Kansas register. Each customer's fee  
22 shall be based on the customer's income and assets. All customer fees and  
23 donations shall reduce the cost of services paid by the ~~department on aging~~  
24 *Kansas department for aging and disability services* under the Kansas  
25 senior care act.

26 Sec. 417. K.S.A. 75-5940 is hereby amended to read as follows: 75-  
27 5940. (a) The secretary ~~of aging and the secretary of social and~~  
28 ~~rehabilitation services~~ *for aging and disability services* shall develop and  
29 submit to the legislature at the beginning of each regular session a report  
30 on the activities under the client assessment, referral and evaluation  
31 (CARE) program under K.S.A. ~~1997 Supp.~~ 39-968, and amendments  
32 thereto, in-home and other services provided by the ~~department on aging~~  
33 *Kansas department for aging and disability services* for older Kansans,  
34 and on all activities of the ~~Kansas department on aging and of the~~  
35 ~~department of social and rehabilitation~~ *for aging and disability services*  
36 *and* for the programs and activities under the provisions of this act. The  
37 report shall contain detailed information regarding:

38 (1) The amounts of money allocated, anticipated to be expended, and  
39 expended to date for the current fiscal year for the home and community-  
40 based services program, assisted living services, institutional-based  
41 services program and each other program providing long-term services and  
42 the numbers of persons receiving services under each such program;

43 (2) the categories of and the actual amounts of expenditures for the

1 costs of transferring the long-term care programs from the ~~department of~~  
2 ~~social and rehabilitation services~~ *Kansas department for children and*  
3 *families* to the ~~department on aging~~ *Kansas department for aging and*  
4 *disability services*, including identification of any reallocation of funds to  
5 finance the costs of such transfer;

6 (3) the activities of and resources dedicated to the client assessment,  
7 referral and evaluation (CARE) program during the transition period for  
8 the transfer of long-term care programs from the ~~department of social and~~  
9 ~~rehabilitation services~~ *Kansas department for children and families* to the  
10 ~~department on aging~~ *Kansas department for aging and disability services*  
11 under this act, including the persons served and the anticipated growth in  
12 the need for such services;

13 (4) the criteria adopted to evaluate the performance of the area  
14 agencies on aging and other providers of services under the client  
15 assessment, referral and evaluation (CARE) program and the long-term  
16 care services transferred from the ~~department of social and rehabilitation~~  
17 ~~services~~ *Kansas department for children and families* to the ~~department on~~  
18 ~~aging~~ *Kansas department for aging and disability services* under this act  
19 and a review of the performance of the area agencies on aging and other  
20 providers of services under such criteria to date;

21 (5) the programs and procedures adopted to provide active advocacy  
22 for older Kansans and the activities thereunder, including expenditures  
23 therefor and the number of persons served thereby; and

24 (6) the programs and procedures adopted to provide incentives to  
25 control costs under each of the programs providing long-term care  
26 services.

27 (b) The ~~secretary of aging and the secretary of social and~~  
28 ~~rehabilitation~~ *for aging and disability services* shall prepare and submit  
29 interim reports of the matters to be contained in the report under  
30 subsection (a) to the oversight committee created by K.S.A. ~~1997 Supp.~~  
31 ~~46-2701~~, and amendments thereto, at the request of the oversight  
32 committee, and also shall submit a copy of the final report to the  
33 legislature under subsection (a) to the oversight committee.

34 Sec. 418. K.S.A. 2012 Supp. 75-5945 is hereby amended to read as  
35 follows: 75-5945. The ~~secretary of aging~~ *for aging and disability services*  
36 shall administer the long-term care programs and services transferred in  
37 this act. All powers granted in this act are to be interpreted and  
38 administered in conformity with federal grant requirements as applicable  
39 to programs transferred, even if such powers are limited or excluded:

40 (a) The ~~secretary of aging~~ *for aging and disability services* shall  
41 develop state plans or state plan amendments or portions of state plans or  
42 state plan amendments in consultation with the ~~secretary of social and~~  
43 ~~rehabilitation services~~ *for children and families* relating to long-term care

1 programs as provided under the federal social security act. The secretary-of  
2 ~~aging for aging and disability services~~ shall not develop any state plan  
3 amendment in duplication of or contrary to any state plan otherwise  
4 developed by the secretary-of ~~social and rehabilitation services for~~  
5 ~~children and families~~. The secretary-of ~~aging for aging and disability~~  
6 ~~services~~ may cooperate with the federal government on any other program  
7 providing federal financial assistance and long-term care services not  
8 otherwise inconsistent with this act. The secretary-of ~~aging for aging and~~  
9 ~~disability services~~ is not required to develop a state plan for participation  
10 or cooperation in all federal social security act programs or other federal  
11 programs that are available for long-term care services. The secretary-of  
12 ~~aging for aging and disability services~~ may develop a state plan in regard  
13 to long-term care services in which the federal government does not  
14 participate.

15 (b) The secretary-of ~~aging for aging and disability services~~, in  
16 consultation with the secretary-of ~~social and rehabilitation services for~~  
17 ~~children and families~~, may determine the general policies relating to all  
18 forms of long-term care programs which are administered or supervised by  
19 the secretary-of ~~aging for aging and disability services~~ and to adopt the  
20 rules and regulations therefor.

21 (c) The secretary-of ~~aging for aging and disability services~~ shall  
22 adopt rules and regulations necessary to protect the confidentiality of all  
23 client information as required by federal and state statutes and regulations.

24 (d) The secretary-of ~~aging for aging and disability services~~ shall  
25 provide that all officers and employees of the ~~department of social and~~  
26 ~~rehabilitation services~~ *Kansas department for children and families* who  
27 are engaged in the exercise and performance of the powers, duties and  
28 functions of the programs transferred in this act and are determined by the  
29 secretary to be necessary to perform such functions are transferred to the  
30 ~~department on aging~~ *Kansas department for aging and disability services*.  
31 Officers and employees of the ~~department of social and rehabilitation~~  
32 ~~services~~ *Kansas department for children and families* shall retain all  
33 retirement benefits and leave rights which had accrued or vested prior to  
34 each date of transfer. The service of each such officer and employee so  
35 transferred shall be deemed to have been continuous. All transfers, layoffs  
36 and abolition of classified service positions under the Kansas civil service  
37 act which may result from program transfers shall be made in accordance  
38 with the civil service laws and any rules and regulations adopted  
39 thereunder. The secretary-of ~~aging for aging and disability services~~ may  
40 appoint attorneys as are necessary to effectively carry out the mission of  
41 the department and the programs transferred by this act. The attorneys  
42 appointed shall be in the unclassified service under the Kansas civil  
43 service act, shall serve at the pleasure of the secretary, and shall receive an

1 annual salary fixed by the secretary and approved by the governor.  
2 Nothing in this act shall affect the classified status of any transferred  
3 person employed as an attorney by the ~~department of social and~~  
4 ~~rehabilitation services~~ *Kansas department for children and families* prior  
5 to the date of transfer and the unclassified status shall apply only to  
6 persons appointed to such attorney positions on or after the effective date  
7 of this act.

8 (e) The secretary ~~of aging~~ *for aging and disability services* shall  
9 establish an adequate system of financial records. The secretary ~~of aging~~  
10 *for aging and disability services* and the secretary ~~of social and~~  
11 ~~rehabilitation services~~ *for children and families* shall execute agreements  
12 for the ~~department of social and rehabilitation services~~ *Kansas department*  
13 *for children and families* and the ~~department on aging~~ *Kansas department*  
14 *for aging and disability services* to share data systems necessary to  
15 maximize the efficiency of program operations and to ensure that federal  
16 grant requirements are met. The secretary ~~of aging~~ *for aging and disability*  
17 *services* shall make annual reports to the governor and shall make any  
18 reports required by federal agencies.

19 (f) The secretary ~~of aging~~ *for aging and disability services* may  
20 receive, have custody of, protect, administer, disburse, dispose of and  
21 account for federal or private equipment, supplies and property which is  
22 given, granted, loaned or advanced to the state of Kansas for long-term  
23 care programs after the transfer of such programs pursuant to this act.

24 (g) The secretary ~~of aging~~ *for aging and disability services* may assist  
25 other departments, agencies and institutions of the state and federal  
26 government and of other states under interstate agreements, when so  
27 requested, by performing services in conformity with the purpose of this  
28 act.

29 (h) The secretary ~~of aging~~ *for aging and disability services* may lease  
30 real and personal property whenever the property is not available through  
31 the state or a political subdivision of the state for performing the functions  
32 required by this act.

33 (i) All contracts shall be made in the name of "secretary ~~of aging~~ *for*  
34 *aging and disability services*" and in that name the secretary may sue and  
35 be sued on such contracts. The grant of authority under this subsection  
36 shall not be construed to be a waiver of any rights retained by the state  
37 under the 11<sup>th</sup> amendment to the United States constitution and shall be  
38 subject to and shall not supersede the provisions of any appropriations act  
39 of this state.

40 (j) The secretary ~~of aging~~ *for aging and disability services*, except as  
41 set forth in the Kansas administrative procedure act and paragraphs 5 and  
42 6, shall provide a fair hearing for any person who is an applicant, client or  
43 other interested person who appeals from the decision or final action of

1 any agent or employee of the secretary. The hearing shall be conducted in  
2 accordance with the provisions of the Kansas administrative procedure act  
3 and the requirements of any applicable federal grant programs.

4 (1) The secretary ~~of aging~~ *for aging and disability services* may  
5 investigate: (A) Any claims and vouchers and persons, businesses and  
6 other entities who provide services to the secretary of aging or to clients  
7 served by long-term care programs under the administration of the  
8 secretary;; and (B) the eligibility of persons to receive services under long-  
9 term care programs under the administration of the secretary;; and (C) the  
10 eligibility of providers of services.

11 (2) When conducting investigations, the secretary ~~of aging~~ *for aging*  
12 *and disability services* may issue subpoenas; compel the attendance of  
13 witnesses at any place in this state; compel the production of any records,  
14 books, papers or other documents considered necessary; administer oaths;  
15 take testimony; and render decisions. If a person refuses to comply with  
16 any subpoena issued under this section or to testify to any matter regarding  
17 which the person may lawfully be questioned, the district court of any  
18 county, on application of the secretary, may issue an order requiring the  
19 person to comply with the subpoena and to testify. Failure to obey the  
20 order of the court may be punished by the court as a contempt of court.  
21 Unless incapacitated, the person placing a claim or defending a privilege  
22 before the secretary shall appear in person or by authorized representative  
23 and may not be excused from answering questions and supplying  
24 information, except in accordance with the person's constitutional rights  
25 and lawful privileges.

26 (3) The presiding officer may close any portion of a hearing  
27 conducted under the Kansas administrative procedure act when matters  
28 made confidential, pursuant to federal or state law or regulation are under  
29 consideration.

30 (4) Except as provided in subsection (d) of K.S.A. 77-511, and  
31 amendments thereto, and notwithstanding the other provisions of the  
32 Kansas administrative procedure act, the secretary ~~of aging~~ *for aging and*  
33 *disability services* may enforce any order prior to the disposition of a  
34 person's application for an adjudicative proceeding unless prohibited from  
35 such action by federal or state statute, regulation or court order.

36 (5) This appeals procedure shall not have jurisdiction to determine the  
37 facial validity of a state or federal statute, rule or regulation.

38 (6) The secretary ~~of aging~~ *for aging and disability services* shall not  
39 be required to provide a hearing if: (A) The appeals procedure lacks  
40 jurisdiction over the subject matter; (B) resolution of the matter does not  
41 require the secretary to issue an order that determines an applicant's or  
42 client's legal rights, duties, privileges, immunities or other legal interests;  
43 (C) the matter was not timely submitted for appeal pursuant to regulation

1 or other provision of law; (D) the matter was not submitted in a form  
2 substantially complying with any applicable provision of law; or (E) the  
3 matter is under the prior or concurrent jurisdiction of the secretary ~~of~~  
4 ~~social and rehabilitation services for children and families~~ pursuant to  
5 K.S.A. 75-3306, and amendments thereto.

6 (k) The secretary ~~of aging~~ *for aging and disability services* may  
7 establish payment schedules for each group of providers for the long-term  
8 care programs. The secretary shall consider budgetary constraints as a  
9 factor in establishing payment schedules so long as the result does not  
10 conflict with applicable federal law. The secretary shall not be required to  
11 make any payments under any federal grant program which do not meet  
12 the requirements for state and federal financial participation. The secretary  
13 shall not be required to establish or pay at rates which are in excess of the  
14 minimum necessary payment requirements regardless of excess costs  
15 incurred by a provider.

16 (l) The secretary ~~of aging~~ *for aging and disability services* shall  
17 review all rules and regulations of the department on aging and shall  
18 amend and revoke the rules and regulations to conform to the purposes of  
19 this act.

20 (m) The secretary ~~of aging~~ *for aging and disability services* may  
21 implement a program which would permit the value of any services  
22 provided by the area agencies on aging for the benefit of any long-term  
23 care programs administered by the secretary to be considered eligible for  
24 federal financial participation for such long-term care programs.

25 Sec. 419. K.S.A. 75-5946 is hereby amended to read as follows: 75-  
26 5946. (a) The secretary ~~of aging~~ *for aging and disability services* may  
27 contract for long-term care services with area agencies on aging or other  
28 community based entities designated by the secretary ~~of aging~~ *for aging*  
29 *and disability services*. If an area agency on aging or other community  
30 based entity fails or is unable to provide services and local administration  
31 of the system, the secretary ~~of aging~~ *for aging and disability services* shall  
32 enter into contracts for services with qualified local not-for-profit and  
33 other service providers to perform such services. All contracts made under  
34 this section, and all renewal contracts, shall provide that the contract is  
35 subject to successfully meeting performance standards set by the secretary  
36 ~~of aging~~ *for aging and disability services*.

37 (b) Each such contract with an area agency on aging shall require the  
38 area agency on aging to submit to the secretary ~~of aging~~ *for aging and*  
39 *disability services* a report annually on activities under the contract during  
40 the fiscal year by the area agency on aging, which report shall also include  
41 information about all kinds of services provided by the area agency on  
42 aging, including long-term care services, and the number of persons  
43 receiving each kind of service during the fiscal year. The secretary ~~of~~



1 ~~aging for aging and disability services~~ shall submit to the senate  
2 committee on ways and means and the house of representatives committee  
3 on appropriations at the beginning of the regular session of the legislature  
4 in 1997 and annually thereafter a report of the information contained in  
5 such reports from the area agencies on aging.

6 (c) All such contracts for long-term care services shall be subject to  
7 appropriations limitations. No such contracts shall provide for any  
8 indemnification of any independent contractor. All such contractors shall  
9 be subject to and limited by any applicable federal grant requirements. The  
10 secretary may, but is not required to, comply with the competitive bid  
11 requirements of K.S.A. 75-3739, and amendments thereto. The secretary  
12 ~~of aging for aging and disability services~~ shall be required to adopt rules  
13 and regulations for the administration of such contracts. If necessary to  
14 comply with applicable federal grant requirements, such powers may be  
15 assumed by the secretary ~~of social and rehabilitation for aging and~~  
16 ~~disability services~~.

17 Sec. 420. K.S.A. 75-5947 is hereby amended to read as follows: 75-  
18 5947. The secretary ~~of aging for aging and disability services~~ may contract  
19 for the services of persons to assist in the preparation of expert testimony  
20 for litigation and to act as expert witnesses in litigation. Any such contracts  
21 shall be exempt from the competitive bid requirements of K.S.A. 75-3739,  
22 and amendments thereto.

23 Sec. 421. K.S.A. 75-5949 is hereby amended to read as follows: 75-  
24 5949. Pursuant to the transition plan provided for by K.S.A. 75-5948, ~~and~~  
25 ~~amendments thereto~~, the secretary ~~of social and rehabilitation services for~~  
26 ~~children and families~~ shall transfer from the ~~department of social and~~  
27 ~~rehabilitation services~~ *Kansas department for children and families* to the  
28 ~~department on aging~~ *Kansas department for aging and disability services*  
29 all applicable appropriations, resources and obligations associated with  
30 these programs.

31 Sec. 422. K.S.A. 2012 Supp. 75-5951 is hereby amended to read as  
32 follows: 75-5951. (a) No suit, action or other proceeding, judicial or  
33 administrative, which pertains to any of the transferred long-term care  
34 programs, and which is lawfully commenced, or could have been  
35 commenced, by or against the secretary ~~of social and rehabilitation~~  
36 ~~services for children and families~~ in such secretary's official capacity or in  
37 relation to the discharge of such secretary's official duties, shall abate by  
38 reason of the transfer of such programs. The secretary ~~of aging for aging~~  
39 ~~and disability services~~ shall be named or substituted as the defendant in  
40 place of the secretary ~~of social and rehabilitation services for children and~~  
41 ~~families~~ in any suit, action or other proceeding involving claims arising  
42 from facts or events first occurring either on or before the date the  
43 pertinent program is transferred or on any date thereafter.

1 (b) No suit, action or other proceeding, judicial or administrative,  
2 pertaining to the transferred long-term care programs which otherwise  
3 would have been dismissed or concluded shall continue to exist by reason  
4 of any transfer under this act.

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

7 (d) Any final appeal decision of the ~~department of social and~~  
8 ~~rehabilitation services~~ *Kansas department for children and families*  
9 entered pursuant to K.S.A. 75-3306, and amendments thereto, or the  
10 Kansas judicial review act currently pertaining to any long-term care  
11 program transferred pursuant to this act shall be binding upon and  
12 applicable to the secretary of ~~aging for aging and disability services~~ and  
13 the ~~department on aging~~ *Kansas department for aging and disability*  
14 *services*.

15 Sec. 423. K.S.A. 75-5952 is hereby amended to read as follows: 75-  
16 5952. The secretary of ~~social and rehabilitation services for children and~~  
17 ~~families~~ and the secretary of ~~aging for aging and disability services~~ shall  
18 require their agents and employees to be equally available for preparation  
19 for and testimony in any administrative hearing of or judicial proceeding  
20 pertaining to the ~~department of social and rehabilitation services~~ *Kansas*  
21 *department for children and families* or the ~~department on aging~~ *Kansas*  
22 *department for aging and disability services* and any program or service  
23 transferred under this act.

24 Sec. 424. K.S.A. 75-5956 is hereby amended to read as follows: 75-  
25 5956. The secretary of ~~aging for aging and disability services~~ shall ensure  
26 statewide service access is available in a timely manner and shall adopt an  
27 application procedure for long-term care services which presumes the  
28 eligibility of persons applying for long-term care services from the date of  
29 application.

30 Sec. 425. K.S.A. 2012 Supp. 75-5958 is hereby amended to read as  
31 follows: 75-5958. Subject to the provisions of appropriations acts, the  
32 secretary of ~~aging for aging and disability services~~ shall increase nursing  
33 facility reimbursement rates. The secretary of ~~aging for aging and~~  
34 ~~disability services~~ shall implement a base-year model of reimbursement  
35 for nursing facilities. For fiscal year 2008, the information from cost  
36 reports for calendar years 2003, 2004 and 2005 shall be averaged together  
37 to be used to calculate the base year. For fiscal year 2009 and each fiscal  
38 year thereafter, the information from the cost reports for the three most  
39 recent calendar years preceding the beginning of the fiscal year shall be  
40 averaged together to be used to calculate the base year. The secretary of ~~of~~  
41 ~~aging for aging and disability services~~ shall not apply the 85% rule  
42 regarding number of beds filled for nursing facilities with 60 licensed beds  
43 or less to determine nursing facility reimbursement rates.

1 Sec. 426. K.S.A. 2012 Supp. 75-5961 is hereby amended to read as  
2 follows: 75-5961. (a) Within the limits of appropriations therefor, the  
3 ~~secretary of aging for aging and disability services~~ shall establish a senior  
4 pharmacy assistance program in accordance with the provisions of this  
5 section. The senior pharmacy assistance program shall provide financial  
6 assistance to eligible individuals for the purchase of prescription drugs.

7 (b) The ~~secretary of aging for aging and disability services~~ shall  
8 adopt rules and regulations establishing eligibility for the senior pharmacy  
9 assistance program subject to the following criteria:

10 (1) An individual to be eligible for the program must be 65 years of  
11 age or older;;

12 (2) an eligible individual's income must not exceed 200% of the  
13 federal poverty guidelines for a one person family unit and the individual's  
14 household income must not exceed 200% of the federal poverty guidelines  
15 for a two person family unit;;

16 (3) an eligible individual must not qualify for funding from any other  
17 local, state or federal prescription drug program;;

18 (4) an eligible individual must not be covered under any private  
19 prescription reimbursement plan; and

20 (5) an eligible individual must not have voluntarily canceled a local,  
21 state or federal prescription drug program or a private prescription  
22 reimbursement plan, except in an incidence of financial hardship, within  
23 six months prior to application for enrollment in the senior pharmacy  
24 assistance program.

25 (c) The ~~secretary of aging for aging and disability services~~ shall  
26 adopt rules and regulations as necessary to implement the provisions of the  
27 senior pharmacy assistance program at a level that can be supported within  
28 appropriated funds available therefor. The ~~secretary of aging for aging and~~  
29 ~~disability services~~ shall adopt rules and regulations which establish the  
30 benefits, limitations and cost-sharing requirements for the senior pharmacy  
31 assistance program. Enrollment in the program shall be in accordance with  
32 applications and procedures established by the ~~secretary of aging for aging~~  
33 ~~and disability services~~.

34 (d) The provisions of this section and the senior pharmacy assistance  
35 program are hereby suspended on the day upon which payments  
36 commence under any federal law enacted on or after the effective date of  
37 this act which provides financial assistance for the purchase of prescription  
38 drugs to individuals eligible for financial assistance for the purchase of  
39 prescription drugs.

40 Sec. 427. K.S.A. 2012 Supp. 75-6202 is hereby amended to read as  
41 follows: 75-6202. As used in this act:

42 (a) "Debtor" means any person who:

43 (1) Owes a debt to the state of Kansas or any state agency or any

1 municipality;

2 (2) owes support to an individual, or an agency of another state, who  
3 is receiving assistance in collecting that support under K.S.A. 39-756 or  
4 K.S.A. 2012 Supp. 20-378, and amendments thereto, or under part D of  
5 title IV of the federal social security act, 42 U.S.C. § 651 et seq., as  
6 amended; or

7 (3) owes a debt to a foreign state agency.

8 (b) "Debt" means:

9 (1) Any liquidated sum due and owing to the state of Kansas, or any  
10 state agency, municipality or foreign state agency which has accrued  
11 through contract, subrogation, tort, operation of law, or any other legal  
12 theory regardless of whether there is an outstanding judgment for that sum.  
13 A debt shall not include special assessments except when the owner of the  
14 property assessed petitioned for the improvement and any successor in  
15 interest of such owner of property; or

16 (2) any amount of support due and owing an individual, or an agency  
17 of another state, who is receiving assistance in collecting that support  
18 under K.S.A. 39-756 or K.S.A. 2012 Supp. 20-378, and amendments  
19 thereto, or under part D of title IV of the federal social security act, 42  
20 U.S.C. § 651 et seq., as amended, which amount shall be considered a debt  
21 due and owing the district court trustee or the ~~department of social and~~  
22 ~~rehabilitation services~~ *Kansas department for children and families* for the  
23 purposes of this act.

24 (c) "Refund" means any amount of Kansas income tax refund due to  
25 any person as a result of an overpayment of tax, and for this purpose, a  
26 refund due to a husband and wife resulting from a joint return shall be  
27 considered to be separately owned by each individual in the proportion of  
28 each such spouse's contribution to income, as the term "contribution to  
29 income" is defined by rules and regulations of the secretary of revenue.

30 (d) "Net proceeds collected" means gross proceeds collected through  
31 final setoff against a debtor's earnings, refund or other payment due from  
32 the state or any state agency minus any collection assistance fee charged  
33 by the director of accounts and reports of the department of administration.

34 (e) "State agency" means any state office, officer, department, board,  
35 commission, institution, bureau, agency or authority or any division or unit  
36 thereof and any judicial district of this state or the clerk or clerks thereof.  
37 "State agency" also shall include any district court utilizing collection  
38 services pursuant to K.S.A. 75-719, and amendments thereto, to collect  
39 debts owed to such court.

40 (f) "Person" means an individual, proprietorship, partnership, limited  
41 partnership, association, trust, estate, business trust, corporation, other  
42 entity or a governmental agency, unit or subdivision.

43 (g) "Director" means the director of accounts and reports of the

1 department of administration.

2 (h) "Municipality" means any municipality as defined by K.S.A. 75-  
3 1117, and amendments thereto.

4 (i) "Payor agency" means any state agency which holds money for, or  
5 owes money to, a debtor.

6 (j) "Foreign state or foreign state agency" means the states of  
7 Colorado, Missouri, Nebraska or Oklahoma or any agency of such states  
8 which has entered into a reciprocal agreement pursuant to K.S.A. 75-6215,  
9 and amendments thereto.

10 Sec. 428. K.S.A. 2012 Supp. 75-6506 is hereby amended to read as  
11 follows: 75-6506. (a) The participation of a person qualified to participate  
12 in the state health care benefits program shall be voluntary, and the cost of  
13 the state health care benefits program for such person shall be established  
14 by the Kansas state employees health care commission.

15 (b) Periodic deductions from state payrolls may be made in  
16 accordance with procedures prescribed by the secretary of administration  
17 to cover the costs of the state health care benefits program payable by  
18 persons who are on the state payroll when authorized by such persons. Any  
19 such periodic payroll deductions in effect on an implementation date for  
20 biweekly payroll periods shall be collected in the manner prescribed by the  
21 secretary of administration.

22 (c) In the event that the Kansas state employees health care  
23 commission designates by rules and regulations a group of persons on the  
24 payroll of a county, township, city, special district or other local  
25 governmental entity, public school district, licensed child care facility  
26 operated by a not-for-profit corporation providing residential group foster  
27 care for children and receiving reimbursement for all or part of such care  
28 from the ~~department of social and rehabilitation services~~ *Kansas*  
29 *department for children and families*, nonprofit community mental health  
30 center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,  
31 nonprofit community facility for people with intellectual disability, as  
32 provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit  
33 independent living agency, as defined in K.S.A. 65-5101, and amendments  
34 thereto, as qualified to participate in the state health care benefits program,  
35 periodic deductions from payrolls of the local governmental entity, public  
36 school district, licensed child care facility operated by a not-for-profit  
37 corporation providing residential group foster care for children and  
38 receiving reimbursement for all or part of such care from the ~~department~~  
39 ~~of social and rehabilitation services~~ *Kansas department for children and*  
40 *families*, nonprofit community mental health center, as provided in K.S.A.  
41 19-4001 et seq., and amendments thereto, nonprofit community facility for  
42 people with intellectual disability, as provided in K.S.A. 19-4001 et seq.  
43 and amendments thereto, or nonprofit independent living agency, as

1 defined in K.S.A. 65-5101, and amendments thereto, may be made to  
2 cover the costs of the state health care benefits program payable by such  
3 persons when authorized by such persons. All such moneys deducted from  
4 payrolls shall be remitted to the Kansas state employees health care  
5 commission in accordance with the directions of the commission.

6 (d) Whenever the Kansas state employees health care commission  
7 designates any entity listed in subsection (c) as qualified to participate in  
8 the state health care benefits program, such entity's participation shall be  
9 conditioned upon the following:

10 (1) At least 70% of such entity's employees shall participate in the  
11 state health care plan;

12 (2) except as provided by paragraph (6) of this subsection, the rate of  
13 the premium paid by the entity as the employer's share of the total amount  
14 of premium paid shall be at least equal to the rate paid by the state of  
15 Kansas for its employees;

16 (3) the entity shall not create, maintain or permit any exemption from  
17 participation in the state health care plan for such entity's employees;

18 (4) the rate charged to such entity shall be sufficient to pay for any  
19 administrative or underwriting costs incurred by the state employees health  
20 care commission;

21 (5) the rate charged to such entity shall not increase the rate of  
22 premium paid by the state of Kansas for its employees;

23 (6) the entity shall elect to participate for a minimum of three  
24 consecutive years in the state health care benefits program; and

25 (7) the commission may authorize an entity to pay less than the state  
26 rate for the employee coverage for no more than three years and no more  
27 than five years for dependent coverage on the condition that the entity  
28 elects to participate for at least three consecutive years after first paying  
29 the state rate for employee coverage.

30 Sec. 429. K.S.A. 2012 Supp. 75-6508 is hereby amended to read as  
31 follows: 75-6508. (a) (1) Each state agency which has on its payroll  
32 persons participating in the state health care benefits program shall pay  
33 from any moneys available to the agency for such purpose an amount  
34 specified by the Kansas state employees health care commission, including  
35 any amounts prescribed under a cafeteria plan established under K.S.A.  
36 75-6512, and amendments thereto. All such payments shall continue on the  
37 behalf of employees otherwise eligible for participation in the state health  
38 care benefits program in accordance with the continuation provisions of  
39 the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6.  
40 The commission may charge each state agency a uniform amount per  
41 person as the cost to the agency for the state's contribution for persons  
42 participating in the state health care benefits program. Such amounts may  
43 include the costs of administering the program.

1 (2) In the event that the Kansas state employees health care  
2 commission designates by rules and regulations a group of persons on the  
3 payroll of a county, township, city, special district or other local  
4 governmental entity, public school district, licensed child care facility  
5 operated by a not-for-profit corporation providing residential group foster  
6 care for children and receiving reimbursement for all or part of such care  
7 from the ~~department of social and rehabilitation services~~ *Kansas*  
8 *department for children and families*, nonprofit community mental health  
9 center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,  
10 nonprofit community facility for people with intellectual disability, as  
11 provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit  
12 independent living agency, as defined in K.S.A. 65-5101, and amendments  
13 thereto, as qualified to participate in the state health care benefits program,  
14 each local governmental entity, public school district, licensed child care  
15 facility operated by a not-for-profit corporation providing residential group  
16 foster care for children and receiving reimbursement for all or part of such  
17 care from the ~~department of social and rehabilitation services~~ *Kansas*  
18 *department for children and families*, nonprofit community mental health  
19 center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,  
20 nonprofit community facility for people with intellectual disability, as  
21 provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit  
22 independent living agency, as defined in K.S.A. 65-5101, and amendments  
23 thereto, which has on its payroll persons participating in the state health  
24 care benefits program shall pay from any moneys available to the local  
25 governmental entity, public school district, licensed child care facility  
26 operated by a not-for-profit corporation providing residential group foster  
27 care for children and receiving reimbursement for all or part of such care  
28 from the ~~department of social and rehabilitation services~~ *Kansas*  
29 *department for children and families*, nonprofit community mental health  
30 center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,  
31 nonprofit community facility for people with intellectual disability, as  
32 provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit  
33 independent living agency, as defined in K.S.A. 65-5101, and amendments  
34 thereto, for such purpose an amount specified by the commission. The  
35 commission may charge each local governmental entity, public school  
36 district, licensed child care facility operated by a not-for-profit corporation  
37 providing residential group foster care for children and receiving  
38 reimbursement for all or part of such care from the ~~department of social~~  
39 ~~and rehabilitation services~~ *Kansas department for children and families*,  
40 nonprofit community mental health center, as provided in K.S.A. 19-4001  
41 et seq., and amendments thereto, nonprofit community facility for people  
42 with intellectual disability, as provided in K.S.A. 19-4001 et seq., and  
43 amendments thereto, or nonprofit independent living agency, as defined in

1 K.S.A. 65-5101, and amendments thereto, a uniform amount per person as  
2 the cost to the local governmental entity, public school district, licensed  
3 child care facility operated by a not-for-profit corporation providing  
4 residential group foster care for children and receiving reimbursement for  
5 all or part of such care from the ~~department of social and rehabilitation~~  
6 ~~services~~ *Kansas department for children and families*, nonprofit  
7 community mental health center, as provided in K.S.A. 19-4001 et seq.,  
8 and amendments thereto, nonprofit community facility for people with  
9 intellectual disability, as provided in K.S.A. 19-4001 et seq., and  
10 amendments thereto, or nonprofit independent living agency, as defined in  
11 K.S.A. 65-5101, and amendments thereto, for the contribution of the local  
12 governmental entity, public school district, licensed child care facility  
13 operated by a not-for-profit corporation providing residential group foster  
14 care for children and receiving reimbursement for all or part of such care  
15 from the ~~department of social and rehabilitation services~~ *Kansas*  
16 *department for children and families*, nonprofit community mental health  
17 center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,  
18 nonprofit community facility for people with intellectual disability, as  
19 provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit  
20 independent living agency, as defined in K.S.A. 65-5101, and amendments  
21 thereto, for persons participating in the state health care benefits program.  
22 Such amounts may include the costs of administering the program.

23 (b) Payments from public funds for coverage under the state health  
24 care benefits program for persons participating in that program shall not be  
25 deemed a payment or supplement of wages of such person notwithstanding  
26 any other provision of law or rules and regulations relating to wages of any  
27 such person.

28 Sec. 430. K.S.A. 2012 Supp. 75-7023 is hereby amended to read as  
29 follows: 75-7023. (a) The supreme court through administrative orders  
30 shall provide for the establishment of a juvenile intake and assessment  
31 system and for the establishment and operation of juvenile intake and  
32 assessment programs in each judicial district. On and after July 1, 1997,  
33 the ~~secretary of social and rehabilitation services~~ *for children and families*  
34 may contract with the commissioner of juvenile justice to provide for the  
35 juvenile intake and assessment system and programs for children in need  
36 of care. Except as provided further, on and after July 1, 1997, the  
37 commissioner of juvenile justice shall promulgate rules and regulations for  
38 the juvenile intake and assessment system and programs concerning  
39 juvenile offenders. If the commissioner contracts with the office of judicial  
40 administration to administer the juvenile intake and assessment system and  
41 programs concerning juvenile offenders, the supreme court administrative  
42 orders shall be in force until such contract ends and the rules and  
43 regulations concerning juvenile intake and assessment system and



1 programs concerning juvenile offenders have been adopted.

2 (b) No records, reports and information obtained as a part of the  
3 juvenile intake and assessment process may be admitted into evidence in  
4 any proceeding and may not be used in a child in need of care proceeding  
5 except for diagnostic and referral purposes and by the court in considering  
6 dispositional alternatives. However, if the records, reports or information  
7 are in regard to abuse or neglect, which is required to be reported under  
8 K.S.A. 2012 Supp. 38-2223, and amendments thereto, such records,  
9 reports or information may then be used for any purpose in a child in need  
10 of care proceeding pursuant to the revised Kansas code for care of  
11 children.

12 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 2012  
13 Supp. 38-2330, and amendments thereto, a juvenile intake and assessment  
14 worker shall complete the intake and assessment process as required by  
15 supreme court administrative order or district court rule prior to July 1,  
16 1997, or except as provided above rules and regulations established by the  
17 commissioner of juvenile justice on and after July 1, 1997.

18 (d) Except as provided in subsection (g) and in addition to any other  
19 information required by the supreme court administrative order, the  
20 secretary, the commissioner or by the district court of such district, the  
21 juvenile intake and assessment worker shall collect the following  
22 information:

23 (1) A standardized risk assessment tool, such as the problem oriented  
24 screening instrument for teens;

25 (2) criminal history, including indications of criminal gang  
26 involvement;

27 (3) abuse history;

28 (4) substance abuse history;

29 (5) history of prior community services used or treatments provided;

30 (6) educational history;

31 (7) medical history; and

32 (8) family history.

33 (e) After completion of the intake and assessment process for such  
34 child, the intake and assessment worker may:

35 (1) Release the child to the custody of the child's parent, other legal  
36 guardian or another appropriate adult if the intake and assessment worker  
37 believes that it would be in the best interest of the child and it would not  
38 be harmful to the child to do so.

39 (2) Conditionally release the child to the child's parent, other legal  
40 guardian or another appropriate adult if the intake and assessment worker  
41 believes that if the conditions are met, it would be in the child's best  
42 interest to release the child to such child's parent, other legal guardian or  
43 another appropriate adult; and the intake and assessment worker has

1 reason to believe that it might be harmful to the child to release the child to  
2 such child's parents, other legal guardian or another appropriate adult  
3 without imposing the conditions. The conditions may include, but not be  
4 limited to:

5 (A) Participation of the child in counseling;

6 (B) participation of members of the child's family in counseling;

7 (C) participation by the child, members of the child's family and other  
8 relevant persons in mediation;

9 (D) provision of inpatient treatment for the child;

10 (E) referral of the child and the child's family to the secretary ~~of~~  
11 ~~social and rehabilitation services for children and families~~ for services and  
12 the agreement of the child and family to accept and participate in the  
13 services offered;

14 (F) referral of the child and the child's family to available community  
15 resources or services and the agreement of the child and family to accept  
16 and participate in the services offered;

17 (G) requiring the child and members of the child's family to enter into  
18 a behavioral contract which may provide for regular school attendance  
19 among other requirements; or

20 (H) any special conditions necessary to protect the child from future  
21 abuse or neglect.

22 (3) Deliver the child to a shelter facility or a licensed attendant care  
23 center along with the law enforcement officer's written application. The  
24 shelter facility or licensed attendant care facility shall then have custody as  
25 if the child had been directly delivered to the facility by the law  
26 enforcement officer pursuant to K.S.A. 2012 Supp. 38-2232, and  
27 amendments thereto.

28 (4) Refer the child to the county or district attorney for appropriate  
29 proceedings to be filed or refer the child and family to the secretary ~~of~~  
30 ~~social and rehabilitation services for children and families~~ for  
31 investigations in regard to the allegations.

32 (5) Make recommendations to the county or district attorney  
33 concerning immediate intervention programs which may be beneficial to  
34 the juvenile.

35 (f) The commissioner may adopt rules and regulations which allow  
36 local juvenile intake and assessment programs to create a risk assessment  
37 tool, as long as such tool meets the mandatory reporting requirements  
38 established by the commissioner.

39 (g) Parents, guardians and juveniles may access the juvenile intake  
40 and assessment programs on a voluntary basis. The parent or guardian  
41 shall be responsible for the costs of any such program utilized.

42 Sec. 431. K.S.A. 2012 Supp. 75-7302 is hereby amended to read as  
43 follows: 75-7302. (a) The secretary ~~of aging for aging and disability~~

1 *services* and the state long-term care ombudsman shall enter into  
2 agreements for the provision of financial assistance to the office by the  
3 ~~department on aging~~ *Kansas department for aging and disability services*  
4 from available state and federal funds of the ~~department on aging~~ *Kansas*  
5 *department for aging and disability services*. This financial assistance shall  
6 be to assist the office of the state long-term care ombudsman to provide  
7 ombudsman services in accordance with the long-term care ombudsman  
8 act, applicable federal programs and the provisions of this section.

9 (b) Subject to the provisions of appropriation acts, the secretary ~~of~~  
10 ~~aging for aging and disability services~~ and the ~~department on aging~~  
11 *Kansas department for aging and disability services* shall continue to  
12 provide financial assistance for the office of the state long-term care  
13 ombudsman in an aggregate amount of not less than the aggregate of the  
14 amounts provided during the fiscal year ending June 30, 1998,  
15 appropriately adjusted for increases attributable to inflation and other  
16 applicable factors.

17 (c) For the fiscal year ending June 30, 2000, and for each fiscal year  
18 thereafter, the secretary ~~of~~ ~~aging for aging and disability services~~ shall  
19 include in the budget estimate prepared and submitted to the division of  
20 the budget for the ~~department on aging~~ *Kansas department for aging and*  
21 *disability services* under K.S.A. 75-3717, and amendments thereto, in  
22 addition to other amounts included in such budget estimate for the  
23 ~~department on aging~~ *Kansas department for aging and disability services*,  
24 amounts to be provided to the office of the state long-term care  
25 ombudsman during such fiscal year pursuant to this section. The amounts  
26 included in each such budget estimate to be provided to the office of the  
27 state long-term care ombudsman shall include amounts to be appropriated  
28 from moneys provided to the ~~department on aging~~ *Kansas department for*  
29 *aging and disability services* under the federal older Americans act, 42  
30 U.S.C. § 3001 et seq., and amendments thereto, or other federal programs  
31 for the aging or from other moneys of the ~~department on aging~~ *Kansas*  
32 *department for aging and disability services*. In no case shall the aggregate  
33 of the amounts included in any such budget estimate of the ~~department on~~  
34 ~~aging~~ *Kansas department for aging and disability services*, that are to be  
35 provided to the office of the state long-term care ombudsman, be less than  
36 the aggregate of all moneys provided during the fiscal year ending June  
37 30, 1998, by the ~~department on aging~~ *Kansas department for aging and*  
38 *disability services* for the office of the state long-term care ombudsman  
39 from appropriations to the ~~department on aging~~ *Kansas department for*  
40 *aging and disability services*, including moneys received under the federal  
41 older Americans act, 42 U.S.C. § 3001 et seq., and amendments thereto, or  
42 under any other federal programs for the aging. The aggregate amounts  
43 included in each such budget estimate of the ~~department on aging~~ *Kansas*

1 *department for aging and disability services*, that are to be provided to the  
2 office of the state long-term care ombudsman, shall be adjusted  
3 appropriately for increases attributable to inflation and other applicable  
4 factors.

5 Sec. 432. K.S.A. 2012 Supp. 75-7306 is hereby amended to read as  
6 follows: 75-7306. The state long-term care ombudsman shall be an  
7 advocate of residents in facilities throughout the state. The state long-term  
8 care ombudsman shall:

9 (a) Investigate and resolve complaints made by or on behalf of the  
10 residents relating to action, inaction or decisions of facilities or the  
11 representatives of facilities, or both, except that all complaints of abuse,  
12 neglect or exploitation of a resident shall be referred to the secretary-~~of~~  
13 *aging for aging and disability services* in accordance with provisions of  
14 K.S.A. 39-1401 et seq., and amendments thereto;

15 (b) develop continuing programs to inform residents, their family  
16 members or other persons responsible for residents regarding the rights  
17 and responsibilities of residents and such other persons;

18 (c) provide the legislature and the governor with an annual report  
19 containing data, findings and outcomes regarding the types of problems  
20 experienced and complaints received by or on behalf of residents and  
21 containing policy, regulatory and legislative recommendations to solve  
22 such problems, resolve such complaints and improve the quality of care  
23 and life in facilities and shall present such report and other appropriate  
24 information and recommendations to the senate committee on public  
25 health and welfare, the senate committee on ways and means, the house of  
26 representatives committee on health and human services and the house of  
27 representatives committee on appropriations during each regular session of  
28 the legislature;

29 (d) analyze and monitor the development and implementation of  
30 federal, state and local government laws, rules and regulations, resolutions,  
31 ordinances and policies with respect to long-term care facilities and  
32 services provided in this state, and recommend any changes in such laws,  
33 regulations, resolutions, ordinances and policies deemed by the office to be  
34 appropriate;

35 (e) provide information and recommendations directly to news media  
36 representatives, public agencies, legislators and others, as deemed  
37 necessary by the office, regarding the problems and concerns of residents  
38 in facilities, including recommendations related thereto, except that the  
39 state long-term care ombudsman shall give the information or  
40 recommendations to any directly affected parties or their representatives  
41 before providing such information or recommendations to news media  
42 representatives;

43 (f) prescribe and provide for the training of each regional long-term

1 care ombudsman and any individual designated as an ombudsman under  
2 subsection (h) of this section, and any individual who is an ombudsman  
3 volunteer in (1) federal, state and local laws, rules and regulations,  
4 resolutions, ordinances and policies with respect to facilities located in  
5 Kansas, (2) investigative techniques, and (3) such other matters as the state  
6 long-term care ombudsman deems appropriate;

7 (g) coordinate ombudsman services provided by the office with the  
8 protection and advocacy systems for individuals with developmental  
9 disabilities and mental illness established under part A of the federal  
10 developmental disabilities assistance and bill of rights act, 42 U.S.C.A. §  
11 6001 et seq., and under the federal protection and advocacy for mentally ill  
12 individuals act of 1986, public law 99-316;

13 (h) authorize an individual, who is an employee of the office and who  
14 has satisfactorily completed the training prescribed by the state long-term  
15 care ombudsman under subsection (f), to be an ombudsman or a volunteer  
16 ombudsman and to be a representative of the office and such an authorized  
17 individual shall be deemed to be a representative of the office for the  
18 purposes of and subject to the provisions of the long-term care  
19 ombudsman act;

20 (i) establish and maintain a system to recruit and train individuals to  
21 become volunteer ombudsmen;

22 (j) develop and implement procedures for authorizing and for  
23 withdrawing the authorization of individuals to be ombudsmen or  
24 volunteer ombudsmen to represent the office in providing ombudsmen  
25 services;

26 (k) provide services to residents of facilities throughout the state  
27 directly or through service providers to meet needs for ombudsmen  
28 services;

29 (l) collaborate with the ~~department of social and rehabilitation~~  
30 ~~services and the department on aging~~ *Kansas department for aging and*  
31 *disability services* to establish a statewide system to collect and analyze  
32 information on complaints and conditions in facilities; and

33 (m) perform such other duties and functions as may be provided by  
34 law.

35 Sec. 433. K.S.A. 2012 Supp. 75-7310 is hereby amended to read as  
36 follows: 75-7310. All information, records and reports received by or  
37 developed by an ombudsman or a volunteer ombudsman which relate to a  
38 resident of a facility, including written material identifying a resident or  
39 other complainant, are confidential and not subject to the provisions of  
40 K.S.A. 45-215 to 45-226, inclusive, and amendments thereto, and shall not  
41 be disclosed or released by an ombudsman or a volunteer ombudsman,  
42 either by name of the resident or other complainant or of facts which allow  
43 the identity of the resident or other complainant to be inferred, except upon

1 the order of a court or unless the resident or the resident's legal  
2 representative or other complainant consents in writing to such disclosure  
3 or release by an ombudsman or a volunteer ombudsman, except the state  
4 long-term care ombudsman shall forward to the secretary ~~of aging for~~  
5 *aging and disability services* copies of reports received by the state long-  
6 term care ombudsman relating to the health and safety of residents. A  
7 summary report and findings shall be forwarded to the facility, exclusive  
8 of information or material that identifies residents or any other individuals.

9 Sec. 434. K.S.A. 2012 Supp. 75-7311 is hereby amended to read as  
10 follows: 75-7311. An ombudsman shall have access to all records and  
11 documents kept by the department of health and environment, the  
12 ~~department of social and rehabilitation services~~ *Kansas department for*  
13 *children and families* and the ~~department on aging~~ *Kansas department for*  
14 *aging and disability services* which relate to facilities and concern the  
15 following matters: (a) Licensure of facilities; (b) certification of facilities;  
16 (c) public funding reimbursement for care of residents of facilities; (d)  
17 utilization and medical review records; and (e) complaints regarding care  
18 of residents of facilities. The provisions of this sections shall not apply to a  
19 volunteer ombudsman.

20 Sec. 435. K.S.A. 2012 Supp. 75-7405 is hereby amended to read as  
21 follows: 75-7405. (a) The department of health and environment is  
22 responsible for the development of a statewide health policy agenda  
23 including health care and health promotion components. The department  
24 of health and environment shall report to the legislature at the beginning of  
25 the regular session of the legislature in 2007 and at the beginning of each  
26 regular legislative session thereafter. The report of the department of  
27 health and environment to the legislature shall include recommendations  
28 for implementation of the health policy agenda recommended by the  
29 department. The department of health and environment shall develop or  
30 adopt health indicators and shall include baseline and trend data on the  
31 health costs and indicators in each annual report to the legislature. In  
32 accordance with the provisions of this act and the provisions of  
33 appropriation acts, the department of health and environment shall assume  
34 powers, duties and functions in accordance with the provisions of this act.

35 (b) The department of health and environment shall assume the  
36 functions of the health care data governing board and the functions of the  
37 ~~department of social and rehabilitation services~~ *Kansas department for*  
38 *children and families* under the Kansas business health partnership act, as  
39 provided by this act.

40 (c) The department of health and environment shall assume  
41 operational and purchasing responsibility for: (1) The regular medical  
42 portion of the state medicaid program; (2) the MediKan program; (3) the  
43 state children's health insurance program as provided in K.S.A. 38-2001 et

1 seq., and amendments thereto; (4) the working healthy portion of the  
2 ticket to work program under the federal work incentive improvement act  
3 and the medicaid infrastructure grants received for the working healthy  
4 portion of the ticket to work program; (5) the medicaid management  
5 information system (MMIS); (6) the restrictive drug formulary, the drug  
6 utilization review program, including oversight of the medicaid drug  
7 utilization review board, and the electronic claims management system as  
8 provided in K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2012 Supp. 39-  
9 7,121a through 39-7,121e, and amendments thereto; (7) the state health  
10 care benefits program as provided in K.S.A. 75-6501 through 75-6523,  
11 and amendments thereto; and (8) the state workers compensation self-  
12 insurance fund and program as provided in K.S.A. 44-575 through 44-580,  
13 and amendments thereto.

14 (d) The department of health and environment shall submit to the  
15 legislature recommendations and an implementation plan for the transfer  
16 of additional medicaid-funded programs to the department of health and  
17 environment which may include: (1) Mental health services; (2) home and  
18 community-based services (HCBS) waiver programs; (3) nursing  
19 facilities; (4) substance abuse prevention and treatment programs; and (5)  
20 the institutions, as defined in K.S.A. 76-12a01, and amendments thereto.

21 (e) The department of health and environment shall submit to the  
22 legislature recommendations and an implementation plan for the  
23 department of health and environment to assume responsibility for health  
24 care purchasing functions within additional state agencies, which may  
25 include: (1) ~~The department on aging~~, *Kansas department for aging and*  
26 *disability services*; (2) the department of education for local education  
27 agencies; (3) the juvenile justice authority and the juvenile correctional  
28 institutions and facilities thereunder; and (4) the department of corrections  
29 and the correctional institutions and facilities thereunder.

30 Sec. 436. K.S.A. 2012 Supp. 75-7435 is hereby amended to read as  
31 follows: 75-7435. (a) As used in this section, and amendments thereto,  
32 unless the context requires otherwise:

33 (1) Words and phrases have the meanings respectively ascribed  
34 thereto by K.S.A. 39-923, and amendments thereto.

35 (2) "Skilled nursing care facility" means a licensed nursing facility,  
36 nursing facility for mental health as defined in K.S.A. 39-923, and  
37 amendments thereto, or a hospital long-term care unit licensed by the  
38 department of health and environment, providing skilled nursing care, but  
39 shall not include the Kansas soldiers' home or the Kansas veterans' home.

40 (3) "Licensed bed" means those beds within a skilled nursing care  
41 facility which the facility is licensed to operate.

42 (4) "Agent" means the ~~Kansas department on aging~~ *Kansas department for aging and*  
43 *disability services*.

1 (5) "Continuing care retirement facility" means a facility holding a  
2 certificate of registration issued by the commissioner of insurance pursuant  
3 to K.S.A. 40-2235, and amendments thereto.

4 (b) (1) Except as otherwise provided in this section and in subsection  
5 (f), there is hereby imposed and the secretary of health and environment  
6 shall assess an annual assessment per licensed bed, hereinafter called a  
7 quality care assessment, on each skilled nursing care facility. The  
8 assessment on all facilities in the aggregate shall be an amount fixed by  
9 rules and regulations of the secretary of health and environment, shall not  
10 exceed \$1,950 annually per licensed bed, shall be imposed as an amount  
11 per licensed bed and shall be imposed uniformly on all skilled nursing care  
12 facilities except that the assessment rate for skilled nursing care facilities  
13 that are part of a continuing care retirement facility, small skilled nursing  
14 care facilities and high medicaid volume skilled nursing care facilities  
15 shall not exceed  $\frac{1}{6}$  of the actual amount assessed all other skilled nursing  
16 care facilities. No rules and regulations of the secretary of health and  
17 environment shall grant any exception to or exemption from the quality  
18 care assessment. The assessment shall be paid quarterly, with one fourth of  
19 the annual amount due by the 30<sup>th</sup> day after the end of the month of each  
20 calendar quarter. The secretary of health and environment is authorized to  
21 establish delayed payment schedules for skilled nursing care facilities  
22 which are unable to make quarterly payments when due under this section  
23 due to financial difficulties, as determined by the secretary of health and  
24 environment. The assessment made for years subsequent to the third year  
25 from the date the provisions of this section are implemented shall not  
26 exceed 60% of the first assessment made under this section. As used in this  
27 subsection (b)(1), the terms "small skilled nursing care facilities" and  
28 "high medicaid volume skilled nursing care facilities" shall have the  
29 meanings ascribed thereto by the secretary of health and environment by  
30 rules and regulations, except that the definition of small skilled nursing  
31 care facility shall not be lower than 40 beds.

32 (2) Beds licensed after July 1 each year shall pay a prorated amount  
33 of the applicable annual assessment so that the assessment applies only for  
34 the days such new beds are licensed. The proration shall be calculated by  
35 multiplying the applicable assessment by the percentage of days the beds  
36 are licensed during the year. Any change which reduces the number of  
37 licensed beds in a facility shall not result in a refund being issued to the  
38 skilled nursing care facility.

39 (3) If an entity conducts, operates or maintains more than one  
40 licensed skilled nursing care facility, the entity shall pay the nursing  
41 facility assessment for each facility separately. No skilled nursing care  
42 facility shall create a separate line-item charge for the purpose of passing  
43 through the quality care assessment to residents. No skilled nursing care



1 facility shall be guaranteed, expressly or otherwise, that any additional  
2 moneys paid to the facility under this section will equal or exceed the  
3 amount of its quality care assessment.

4 (4) The payment of the quality care assessment to the secretary of  
5 health and environment shall be an allowable cost for medicaid  
6 reimbursement purposes. A rate adjustment pursuant to paragraph (5) of  
7 subsection (d) shall be made effective on the date of imposition of the  
8 assessment, to reimburse the portion of this cost imposed on medicaid  
9 days.

10 (5) The secretary of health and environment shall seek a waiver from  
11 the United States department of health and human services to allow the  
12 state to impose varying levels of assessments on skilled nursing care  
13 facilities based on specified criteria. It is the intent of the legislature that  
14 the waiver sought by the secretary of health and environment be structured  
15 to minimize the negative fiscal impact on certain classes of skilled nursing  
16 care facilities.

17 (c) Each skilled nursing care facility shall prepare and submit to the  
18 secretary of health and environment any additional information required  
19 and requested by the secretary of health and environment to implement or  
20 administer the provisions of this section. Each skilled nursing care facility  
21 shall prepare and submit quarterly to the secretary ~~of aging~~ *for aging and*  
22 *disability services* the rate the facility charges to private pay residents, and  
23 the secretary shall cause this information to be posted on the web site of  
24 the ~~department on aging~~ *Kansas department for aging and disability*  
25 *services*.

26 (d) (1) There is hereby created in the state treasury the quality care  
27 fund, which shall be administered by the secretary of health and  
28 environment. All moneys received for the assessments imposed pursuant  
29 to subsection (b), including any penalty assessments imposed thereon  
30 pursuant to subsection (e), shall be remitted to the state treasurer in  
31 accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt  
32 of each such remittance, the state treasurer shall deposit the entire amount  
33 in the state treasury to the credit of the quality care fund. All expenditures  
34 from the quality care fund shall be made in accordance with appropriation  
35 acts upon warrants of the director of accounts and reports issued pursuant  
36 to vouchers approved by the secretary of health and environment or the  
37 secretary's agent.

38 (2) All moneys in the quality care fund shall be used to finance  
39 initiatives to maintain or improve the quantity and quality of skilled  
40 nursing care in skilled nursing care facilities in Kansas. No moneys  
41 credited to the quality care fund shall be transferred to or otherwise revert  
42 to the state general fund at any time. Notwithstanding the provisions of  
43 any other law to the contrary, if any moneys credited to the quality care

1 fund are transferred or otherwise revert to the state general fund, 30 days  
2 following the transfer or reversion the quality care assessment shall  
3 terminate and the secretary of health and environment shall discontinue the  
4 imposition, assessment and collection of the assessment. Upon termination  
5 of the assessment, all collected assessment revenues, including the moneys  
6 inappropriately transferred or reverting to the state general fund, less any  
7 amounts expended by the secretary of health and environment, shall be  
8 returned on a pro rata basis to skilled nursing care facilities that paid the  
9 assessment.

10 (3) Any moneys received by the state of Kansas from the federal  
11 government as a result of federal financial participation in the state  
12 medicaid program that are derived from the quality care assessment shall  
13 be deposited in the quality care fund and used to finance actions to  
14 maintain or increase healthcare in skilled nursing care facilities.

15 (4) Moneys in the fund shall be used exclusively for the following  
16 purposes:

17 (A) To pay administrative expenses incurred by the secretary of  
18 health and environment or the agent in performing the activities authorized  
19 by this section, except that such expenses shall not exceed a total of 1% of  
20 the aggregate assessment funds collected pursuant to subsection (b) for the  
21 prior fiscal year;

22 (B) to increase nursing facility payments to fund covered services to  
23 medicaid beneficiaries within medicare upper payment limits, as may be  
24 negotiated;

25 (C) to reimburse the medicaid share of the quality care assessment as  
26 a pass-through medicaid allowable cost;

27 (D) to restore the medicaid rate reductions implemented January 1,  
28 2010;

29 (E) to restore funding for fiscal year 2010, including rebasing and  
30 inflation to be applied to rates in fiscal year 2011;

31 (F) the remaining amount, if any, shall be expended first to increase  
32 the direct health care costs center limitation up to 150% of the case mix  
33 adjusted median, and then, if there are remaining amounts, for other  
34 quality care enhancement of skilled nursing care facilities as approved by  
35 the quality care improvement panel but shall not be used directly or  
36 indirectly to replace existing state expenditures for payments to skilled  
37 nursing care facilities for providing services pursuant to the state medicaid  
38 program.

39 (5) Any moneys received by a skilled nursing care facility from the  
40 quality care fund shall not be expended by any skilled nursing care facility  
41 to provide for bonuses or profit-sharing for any officer, employee or parent  
42 corporation but may be used to pay to employees who are providing direct  
43 care to a resident of such facility.

1 (6) Adjustment payments may be paid quarterly or within the daily  
2 medicaid rate to reimburse covered medicaid expenditures in the aggregate  
3 within the upper payment limits.

4 (7) On or before the 10<sup>th</sup> day of each month, the director of accounts  
5 and reports shall transfer from the state general fund to the quality care  
6 fund interest earnings based on:

7 (A) The average daily balance of moneys in the quality care fund for  
8 the preceding month; and

9 (B) the net earnings rate of the pooled money investment portfolio for  
10 the preceding month.

11 (e) If a skilled nursing care facility fails to pay the full amount of the  
12 quality care assessment imposed pursuant to subsection (b), when due and  
13 payable, including any extensions of time granted under that subsection,  
14 the secretary of health and environment shall assess a penalty in the  
15 amount of the lesser of \$500 per day or 2% of the quality care assessment  
16 owed for each day the assessment is delinquent. The secretary of health  
17 and environment is authorized to establish delayed payment schedules for  
18 skilled nursing care facilities that are unable to make installment payments  
19 when due under this section because of financial difficulties, as determined  
20 by the secretary of health and environment.

21 (f) (1) The secretary of health and environment shall assess and  
22 collect quality care assessments imposed pursuant to subsection (b),  
23 including any penalty assessments imposed thereon pursuant to subsection  
24 (e), from skilled nursing care facilities on and after July 1, 2010, except  
25 that no assessments or penalties shall be assessed under subsections (a)  
26 through (h) until:

27 (A) An amendment to the state plan for medicaid, which increases the  
28 rates of payments made to skilled nursing care facilities for providing  
29 services pursuant to the federal medicaid program and which is proposed  
30 for approval for purposes of subsections (a) through (h) is approved by the  
31 federal government in which case the initial assessment is due no earlier  
32 than 60 days after state plan approval; and

33 (B) the skilled nursing care facilities have been compensated  
34 retroactively within 60 days after state plan approval at the increased rate  
35 for services provided pursuant to the federal medicaid program for the  
36 period commencing on and after July 1, 2010.

37 (2) The secretary of health and environment shall implement and  
38 administer the provisions of subsections (a) through (h) in a manner  
39 consistent with applicable federal medicaid laws and regulations. The  
40 secretary of health and environment shall seek any necessary approvals by  
41 the federal government that are required for the implementation of  
42 subsections (a) through (h).

43 (3) The provisions of subsections (a) through (h) shall be null and

1 void and shall have no force and effect if one of the following occur:

2 (A) The medicaid plan amendment, which increases the rates of  
3 payments made to skilled nursing care facilities for providing services  
4 pursuant to the federal medicaid program and which is proposed for  
5 approval for purposes of subsections (a) through (h) is not approved by the  
6 federal centers for medicare and medicaid services;

7 (B) the rates of payments made to skilled nursing care facilities for  
8 providing services pursuant to the federal medicaid program are reduced  
9 below the rates calculated on December 31, 2009, increased by revenues in  
10 the quality care fund and matched by federal financial participation and  
11 rebasing as provided for in K.S.A. 2012 Supp. 75-5958, and amendments  
12 thereto;

13 (C) any funds are utilized to supplant funding for skilled nursing care  
14 facilities as required by subsection (g);

15 (D) any funds are diverted from those purposes set forth in subsection  
16 (d)(4); or

17 (E) upon the governor signing, or allowing to become law without  
18 signature, legislation which by proviso or otherwise directs any funds from  
19 those purposes set forth in subsection (d)(4) or which would propose to  
20 suspend the operation of this section.

21 (g) On and after July 1, 2010, reimbursement rates for skilled nursing  
22 care facilities shall be restored to those in effect during December 2009.  
23 No funds generated by the assessments or federal funds generated  
24 therefrom shall be utilized for such restoration, but such funds may be  
25 used to restore the rate reduction in effect from January 1, 2010, to June  
26 30, 2010.

27 (h) Rates of reimbursement shall not be limited by private pay  
28 charges.

29 (i) If the provisions of subsections (a) through (h) are repealed, expire  
30 or become null and void and have no further force and effect, all moneys  
31 in the quality care fund which were paid under the provisions of  
32 subsections (a) through (h) shall be returned to the skilled nursing care  
33 facilities which paid such moneys on the basis on which such payments  
34 were assessed and paid pursuant to subsections (a) through (h).

35 (j) The department of health and environment may adopt rules and  
36 regulations necessary to implement the provisions of this section.

37 (k) For purposes of administering and selecting the reimbursements  
38 of moneys in the quality care assessment fund, the quality care  
39 improvement panel is hereby established. The panel shall consist of the  
40 following members: Two persons appointed by Kansas homes and services  
41 for the aging; two persons appointed by the Kansas health care association;  
42 one person appointed by Kansas advocates for better care; one person  
43 appointed by the Kansas hospital association; one person appointed by the

1 governor who is a member of the Kansas adult care executives association;  
2 one person appointed by the governor who is a skilled nursing care facility  
3 resident or the family member of such a resident; one person appointed by  
4 the Kansas foundation for medical care; one person appointed by the  
5 governor from the ~~department on aging~~ *Kansas department for aging and*  
6 *disability services*; and one person appointed by the governor from the  
7 department of health and environment. The person appointed by the  
8 governor from the ~~department on aging~~ *Kansas department for aging and*  
9 *disability services* and the person appointed by the governor from the  
10 department of health and environment shall be nonvoting members of the  
11 panel. The panel shall meet as soon as possible subsequent to the effective  
12 date of this act and shall elect a chairperson from among the members  
13 appointed by the trade organizations specified in this subsection. The  
14 members of the quality care improvement panel shall serve without  
15 compensation or expenses. The quality care improvement panel shall  
16 report annually on or before January 10 to the joint committee on health  
17 policy oversight and the legislature concerning the activities of the panel  
18 during the preceding calendar year and any recommendations which the  
19 panel may have concerning the administration of and expenditures from  
20 the quality care assessment fund.

21 (l) The department of health and environment shall certify to the  
22 director of the budget of the department of administration the date upon  
23 which the provisions of this section are implemented. The provisions of  
24 this section shall expire four years subsequent to the implementation of  
25 this section.

26 Sec. 437. K.S.A. 76-170 is hereby amended to read as follows: 76-  
27 170. All persons receiving service or treatment from the state hospitals,  
28 state hospitals and training centers and the Kansas neurological institute,  
29 but which persons are not admitted thereto as regular inpatients but who  
30 receive outpatient evaluation, care and treatment shall pay such charge for  
31 ~~said~~ outpatient evaluation, care or treatment at such rates and in such  
32 amounts as the secretary ~~of social and rehabilitation~~ *for aging and*  
33 *disability services* shall determine. The secretary ~~of social and~~  
34 ~~rehabilitation~~ *for aging and disability services* is hereby authorized and  
35 empowered to fix any reasonable rate, not to exceed the actual cost, for  
36 which a charge may be made for the evaluation, care and treatment of  
37 persons or patients on an outpatient basis at ~~said~~ *such* institutions. The  
38 secretary ~~of social and rehabilitation~~ *for aging and disability services* is  
39 hereby authorized to recover from the patient or from ~~his or her~~ *the*  
40 *patient's* estate or from the spouses of outpatients, or from parents whose  
41 minor children are outpatients or from any person bound by law to support  
42 such outpatient, the charges for the services provided by this act. Demand,  
43 where necessary, and payment for the evaluation, care and treatment of

1 any outpatient shall be made at the rates to be fixed under this act, and  
2 shall be collected and recovered from the outpatient or from ~~his or her~~ *the*  
3 *outpatient's* estate or from any person bound by law to support such  
4 outpatient in like manner as provided by K.S.A. 59-2006, and ~~any~~  
5 amendments thereto.

6 Sec. 438. K.S.A. 76-175 is hereby amended to read as follows: 76-  
7 175. (a) The person designated under K.S.A. 76-173, and amendments  
8 thereto, may invest the moneys of each trust fund in one or more  
9 certificates of deposit at a bank, savings and loan association or federally  
10 chartered savings bank, which bank, association or savings bank is insured  
11 by the federal government or an agency thereof, or invest in shares in a  
12 credit union which is insured with an insurer or guarantee corporation as  
13 required under K.S.A. 17-2246, and amendments thereto, and is  
14 designated by the pooled money investment board, except such money  
15 shall be subject to withdrawal within six months of date of placing on  
16 interest. The moneys so deposited shall continue to be a part of the trust  
17 fund from which the money originates.

18 (b) Interest earned on moneys invested under this section shall be  
19 regularly prorated according to procedures approved by the director of  
20 accounts and reports and credited to the individual patient, inmate or other  
21 account on the basis of the amount of money each patient, inmate or other  
22 person has in the trust fund.

23 (c) Notwithstanding the provision in this section for proration of  
24 interest to individual accounts, such interest may instead be allocated to  
25 the benefit fund of the institution under procedures specified by the  
26 director of accounts and reports if such an allocation is authorized under a  
27 letter of agreement to the ~~secretary of social and rehabilitation services for~~  
28 *children and families or the secretary for aging and disability services, as*  
29 *applicable*, from the federal social security administrator and filed with the  
30 director of accounts and reports.

31 Sec. 439. K.S.A. 76-317 is hereby amended to read as follows: 76-  
32 317. The bureau shall have its administrative offices at the university of  
33 Kansas, but it may receive the aid and cooperation of the staff, equipment  
34 and research students of any school, hospital or institution in the state, to  
35 the extent that such aid and cooperation may be offered by these various  
36 schools, hospitals and institutions and insofar as such aid and cooperation  
37 may be useful to the bureau. Upon the request of the ~~secretary of social~~  
38 ~~and rehabilitation for aging and disability services~~, the bureau may assist  
39 in the administration or operation of any institution within the *Kansas*  
40 *department of social and rehabilitation for aging and disability services*.

41 Sec. 440. K.S.A. 2012 Supp. 76-375 is hereby amended to read as  
42 follows: 76-375. On or before December 31 in each year, the secretary of  
43 health and environment, shall prepare a list of the areas of this state which

1 the secretary determines to be medically underserved areas. In preparing  
2 such a list, the portion of time of persons engaged in the practice of  
3 medicine and surgery at any institution under the jurisdiction and control  
4 of the secretary ~~of social and rehabilitation~~ *for aging and disability*  
5 services shall not be included in determining whether an area is medically  
6 underserved. Every such list shall note that all state medical care facilities  
7 or institutions qualify for such service commitments, in addition to listing  
8 those areas determined to be medically underserved. Medically  
9 underserved areas established prior to the effective date of this act by the  
10 chancellor of the university of Kansas, or the designee of the chancellor,  
11 shall continue in effect until changed by the secretary of health and  
12 environment.

13 Sec. 441. K.S.A. 2012 Supp. 76-381 is hereby amended to read as  
14 follows: 76-381. As used in K.S.A. 76-380 through 76-386, and  
15 amendments thereto:

16 (a) "Act" means the medical student loan act;

17 (b) "approved postgraduate residency training program" means a  
18 residency training program in general pediatrics, general internal  
19 medicine, family medicine, family practice, emergency medicine or  
20 fellowship training in geriatric medicine;

21 (c) "service commitment area" means: (1) Any community within any  
22 county in Kansas other than Douglas, Johnson, Sedgwick, Shawnee or  
23 Wyandotte county;; (2) any state medical care facility or institution;; (3)  
24 any medical center operated by the veterans administration of the United  
25 States, ~~or~~; (4) the full-time faculty of the university of Kansas school of  
26 medicine in family medicine or family practice; or (5) any community  
27 within Wyandotte county for purposes of any practice obligation under an  
28 agreement entered into by a person who is enrolled for the first time after  
29 July 1, 2004, in a course of study leading to the medical degree; and

30 (d) "state medical care facility or institution" includes, but is not  
31 limited to, the Kansas state school for the visually handicapped, the  
32 Kansas state school for the deaf, any institution under the secretary ~~of~~  
33 ~~social and rehabilitation~~ *for aging and disability* services, as defined by  
34 subsection (b) of K.S.A. 76-12a01, and amendments thereto, any  
35 institution under the commissioner of juvenile justice as defined by K.S.A.  
36 2012 Supp. 38-2302, and amendments thereto, the Kansas soldiers' home,  
37 the Kansas veterans' home and any correctional institution under the  
38 secretary of corrections, as defined by subsection (d) of K.S.A. 75-5202,  
39 and amendments thereto, but shall not include any state educational  
40 institution under the state board of regents, as defined by subsection (a) of  
41 K.S.A. 76-711, and amendments thereto, except as specifically provided  
42 by statute.

43 Sec. 442. K.S.A. 2012 Supp. 76-6b05 is hereby amended to read as

1 follows: 76-6b05. (a) All moneys received by the state treasurer under  
2 K.S.A. 76-6b04, and amendments thereto, shall be credited to the state  
3 institutions building fund, which is hereby created in the state treasury, to  
4 be used for the construction, reconstruction, equipment and repair of  
5 buildings and grounds at institutions specified in K.S.A. 76-6b04, and  
6 amendments thereto, and for payment of debt service on revenue bonds  
7 issued to finance such projects, all subject to appropriation by the  
8 legislature.

9 (b) Subject to any restrictions imposed by appropriation acts, the  
10 juvenile justice authority is authorized to pledge funds appropriated to it  
11 from the state institutions building fund or from any other source and  
12 transferred to a special revenue fund of the juvenile justice authority  
13 specified by statute for the payment of debt service on revenue bonds  
14 issued for the purposes set forth in subsection (a). Subject to any  
15 restrictions imposed by appropriation acts, the juvenile justice authority is  
16 also authorized to pledge any funds appropriated to it from the state  
17 institutions building fund or from any other source and transferred to a  
18 special revenue fund of the juvenile justice authority specified by statute as  
19 a priority for the payment of debt service on such revenue bonds. Neither  
20 the state or the juvenile justice authority shall have the power to pledge the  
21 faith and credit or taxing power of the state of Kansas for such purposes  
22 and any payment by the juvenile justice authority for such purposes shall  
23 be subject to and dependent on appropriations being made from time to  
24 time by the legislature. Any obligation of the juvenile justice authority for  
25 payment of debt service on revenue bonds and any such revenue bonds  
26 issued for the purposes set forth in subsection (a) shall not be considered a  
27 debt or obligation of the state for the purpose of section 6 of article 11 of  
28 the constitution of the state of Kansas.

29 (c) Subject to any restrictions imposed by appropriation acts, the  
30 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
31 *disability* services is authorized to pledge funds appropriated to it from the  
32 state institutions building fund or from any other source and transferred to  
33 a special revenue fund of the ~~department of social and rehabilitation~~  
34 *Kansas department for aging and disability* services specified by statute  
35 for the payment of debt service on revenue bonds issued for a new state  
36 security hospital on the Larned state hospital grounds or any other capital  
37 improvement projects at any other institution or facility of the ~~department~~  
38 ~~of social and rehabilitation~~ *Kansas department for aging and disability*  
39 services. Subject to any restrictions imposed by appropriation acts, the  
40 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
41 *disability* services is also authorized to pledge any funds appropriated to it  
42 from the state institutions building fund or from any other source and  
43 transferred to a special revenue fund of the ~~department of social and~~



1 ~~rehabilitation~~ *Kansas department for aging and disability* services  
2 specified by statute as a priority for the payment of debt service on such  
3 revenue bonds. Neither the state or the ~~department of social and~~  
4 ~~rehabilitation~~ *Kansas department for aging and disability* services shall  
5 have the power to pledge the faith and credit or taxing power of the state  
6 of Kansas for such purposes and any payment by the ~~department of social~~  
7 ~~and rehabilitation~~ *Kansas department for aging and disability* services for  
8 such purposes shall be subject to and dependent on appropriations being  
9 made from time to time by the legislature. Any obligation of the  
10 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
11 *disability* services for payment of debt service on revenue bonds and any  
12 such revenue bonds issued for a new state security hospital on the Larned  
13 state hospital grounds or any other capital improvement projects at any  
14 other institution or facility of the ~~department of social and rehabilitation~~  
15 *Kansas department for aging and disability* services shall not be  
16 considered a debt or obligation of the state for the purpose of section 6 of  
17 article 11 of the constitution of the state of Kansas.

18 (d) Subject to any restrictions imposed by appropriation acts, the  
19 Kansas commission on veterans affairs is authorized to pledge funds  
20 appropriated to it from the state institutions building fund or from any  
21 other source and transferred to a special revenue fund of the Kansas  
22 commission on veterans affairs specified by statute for the payment of debt  
23 service on revenue bonds issued for veterans' home HVAC system  
24 replacement. Subject to any restrictions imposed by appropriation acts, the  
25 Kansas commission on veterans affairs is also authorized to pledge any  
26 funds appropriated to it from the state institutions building fund or from  
27 any other source and transferred to a special revenue fund of the Kansas  
28 commission on veterans affairs specified by statute as a priority for the  
29 payment of debt service on such revenue bonds. Neither the state or the  
30 Kansas commission on veterans affairs shall have the power to pledge the  
31 faith and credit or taxing power of the state of Kansas for such purposes  
32 and any payment by the Kansas commission on veterans affairs for such  
33 purposes shall be subject to and dependent on appropriations being made  
34 from time to time by the legislature. Any obligation of the Kansas  
35 commission on veterans affairs for payment of debt service on revenue  
36 bonds and any such revenue bonds issued for veterans' home HVAC  
37 system replacement shall not be considered a debt or obligation of the state  
38 for the purpose of section 6 of article 11 of the constitution of the state of  
39 Kansas.

40 Sec. 443. K.S.A. 76-1237 is hereby amended to read as follows: 76-  
41 1237. The ~~department of social and rehabilitation~~ *Kansas department for*  
42 *aging and disability* services, subject to the approval of the governor, is  
43 hereby authorized to enter into a contract with the ~~said~~ city of Osawatomic

1 for supplying water for domestic purposes, at a reasonable rate, for use at  
2 the state hospital at Osawatomie.

3 Sec. 444. K.S.A. 2012 Supp. 76-12a01 is hereby amended to read as  
4 follows: 76-12a01. As used in this act, unless the context otherwise  
5 requires:

6 (a) "Secretary" means the ~~secretary of social and rehabilitation~~ *secretary for*  
7 *aging and disability* services.

8 (b) "Institution" means the following institutions: Osawatomie state  
9 hospital, Rainbow mental health facility, Larned state hospital, Parsons  
10 state hospital and training center, and Kansas neurological institute.

11 (c) "Director" or "commissioner" means the ~~commissioner of mental~~  
12 ~~health and developmental disabilities~~ *secretary or the secretary's designee*.

13 Sec. 445. K.S.A. 2012 Supp. 76-12a08 is hereby amended to read as  
14 follows: 76-12a08. (a) Whenever any money is granted or given by any  
15 person, firm, corporation or association, or by the United States or any  
16 department, instrumentality or agency thereof, to any institution, the state,  
17 the secretary or the division of mental health and developmental  
18 disabilities, which money is granted or given for a specific use or purpose,  
19 the secretary, the institution, the state or the division of mental health and  
20 developmental disabilities, may accept or reject any such grant or gift and  
21 may enter into contracts or agreements necessary or expedient to the  
22 acceptance or management of the grant or gift. Any grant or gift so  
23 accepted and the program therefor shall be known as a special project.

24 (b) The secretary and superintendent of each institution shall remit all  
25 moneys received by or for either of them, for any special project to the  
26 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
27 amendments thereto. Upon receipt of each such remittance, the state  
28 treasurer shall deposit the entire amount in the state treasury to the credit  
29 of the other federal grants and assistance fund of the ~~department of social~~  
30 ~~and rehabilitation~~ *Kansas department for aging and disability* services.

31 (c) All persons having professional, technical or unusual  
32 qualifications employed for any special project, including the director of  
33 each special project, shall be appointed by the director (or the  
34 superintendent of the institution when so designated by the director) and  
35 shall be in the unclassified service of the Kansas civil service act and shall  
36 receive salaries fixed by the secretary and approved by the state finance  
37 council. Other special projects personnel shall be in the classified service  
38 of the Kansas civil service act.

39 Sec. 446. K.S.A. 2012 Supp. 76-12a10 is hereby amended to read as  
40 follows: 76-12a10. (a) Whenever medical information is requested relating  
41 to a patient or former patient of any institution under the ~~secretary of social~~  
42 ~~and rehabilitation~~ *secretary for aging and disability* services, and the disclosure of  
43 such information is authorized in accordance with K.S.A. 59-2969, and

1 amendments thereto, or in accordance with K.S.A. 65-5601 to 65-5605,  
2 inclusive, and amendments thereto, as applicable, the superintendent of the  
3 institution may authorize the release of a copy of a report of such  
4 information upon payment of any fees required under this section.

5 (b) ~~The secretary of social and rehabilitation~~ *for aging and disability*  
6 services shall specify the form or forms of release to be used for the  
7 purpose of this section and may specify public officers to which such  
8 information may be given without provision of a release or payment of  
9 fees, or both. ~~The secretary of social and rehabilitation~~ *for aging and*  
10 *disability* services shall adopt rules and regulations for the administration  
11 of this section and for establishment of fees to be charged for copies of  
12 reports of information under this section, and specifying when no fee shall  
13 be charged. The fees fixed for copies of reports of information shall be  
14 fixed by the ~~secretary of social and rehabilitation~~ *for aging and disability*  
15 services in amounts approved by the director of accounts and reports under  
16 K.S.A. 45-204, and amendments thereto.

17 (c) The superintendent of each institution shall remit all moneys  
18 received by or for the superintendent from fees and charges under this  
19 section to the state treasurer in accordance with the provisions of K.S.A.  
20 75-4215, and amendments thereto. Upon receipt of each such remittance,  
21 the state treasurer shall deposit the entire amount in the state treasury to  
22 the credit of the fee fund of the remitting institution.

23 Sec. 447. K.S.A. 76-12a16 is hereby amended to read as follows: 76-  
24 12a16. ~~The secretary of social and rehabilitation~~ *for aging and disability*  
25 services may authorize any superintendent to employ security police  
26 officers at the institution of which such person is superintendent. All such  
27 security police officers shall be in the classified service of the Kansas civil  
28 service act. Such security police officers are hereby vested with the power  
29 and authority of peace, police and law enforcement officers anywhere  
30 within the county in which the institution is located for which the security  
31 police officer is employed, when wearing and publicly displaying the  
32 badge of office prescribed hereunder. The secretary shall adopt rules and  
33 regulations prescribing the badge of office of security police officers at  
34 institutions and when and where any such badge may be displayed. Within  
35 the limitations of this act and any such rules and regulations, the  
36 superintendent of each institution, with the approval of the director, shall  
37 direct and supervise the activities of security police officers at the  
38 institution of which such person is superintendent. In accordance with this  
39 act, such rules and regulations and such direction and supervision, security  
40 police officers shall enforce state laws, rules and regulations of the  
41 secretary, policies applicable to the institution and city ordinances. The  
42 power of arrest of a security police officer shall extend to the state laws  
43 and city ordinances the security police officer is directed to enforce.

1       Sec. 448. K.S.A. 76-12a17 is hereby amended to read as follows: 76-  
2 12a17. No person employed by the secretary ~~of social and rehabilitation~~  
3 *for aging and disability* services shall receive a permanent appointment as  
4 a security police officer as authorized by K.S.A. 76-12a16, and  
5 amendments thereto, unless such person has been awarded a certificate by  
6 the secretary of corrections attesting to such person's satisfactory  
7 completion of a basic course of instruction specified by the secretary ~~of~~  
8 ~~social and rehabilitation~~ *for aging and disability* services and the secretary  
9 of corrections. Such certificate shall be awarded only following  
10 verification of completion of the training provided by both departments.  
11 Such certificate shall be effective during the term of a person's  
12 employment, except that any person who has terminated employment with  
13 the secretary ~~of social and rehabilitation~~ *for aging and disability* services  
14 for a period exceeding one year shall be required to be certified again.

15       Sec. 449. K.S.A. 76-12a22 is hereby amended to read as follows: 76-  
16 12a22. As used in this act: (a) "Substance abuse program" means a  
17 program for the treatment or care of substance abusers.

18       (b) "Substance abuser" means: (1) Any alcoholic, intoxicated person  
19 or person incapacitated by alcohol, as such terms are defined in K.S.A. 65-  
20 4003, and amendments thereto; ~~or~~ (2) any drug abuser as such term is  
21 defined in K.S.A. 65-4602, and amendments thereto; or (3) any  
22 combination of (1) and (2).

23       (c) "Care or treatment" means such necessary services as are  
24 determined by the secretary to be in the best interests of the physical and  
25 mental health of a substance abuser.

26       (d) "State institution" means any institution within the ~~department of~~  
27 ~~social and rehabilitation~~ *Kansas department for aging and disability*  
28 services.

29       (e) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
30 *aging and disability* services.

31       Sec. 450. K.S.A. 76-12a30 is hereby amended to read as follows: 76-  
32 12a30. (a) As used in K.S.A. 76-12a30 to 76-12a34, inclusive, *and*  
33 *amendments thereto*:

34       (1) "Secretary" means the secretary ~~of social and rehabilitation~~ *for*  
35 *aging and disability* services;

36       (2) "department" means the ~~department of social and rehabilitation~~  
37 *Kansas department for aging and disability* services; and

38       (3) "institution" means any institution within the department.

39       (b) Unless the context requires otherwise, terms defined in K.S.A. 65-  
40 4003, 65-4602 and 65-5201, and amendments thereto, shall have the same  
41 meaning when used in K.S.A. 76-12a30 to 76-12a34, inclusive, *and*  
42 *amendments thereto*, as is specified in such sections.

43       Sec. 451. K.S.A. 2012 Supp. 76-12b01 is hereby amended to read as

1 follows: 76-12b01. When used in this act:

2 (a) "Adaptive behavior" means the effectiveness or degree with which  
3 an individual meets the standards of personal independence and social  
4 responsibility expected of that person's age, cultural group and community.

5 (b) "Care" means supportive services, including, but not limited to,  
6 provision of room and board, supervision, protection, assistance in  
7 bathing, dressing, grooming, eating and other activities of daily living.

8 (c) "Institution" means a state institution for people with intellectual  
9 disability including the following institutions: Kansas neurological  
10 institute; ~~and Parsons state hospital and training center and Winfield state~~  
11 ~~hospital and training center.~~

12 (d) "Intellectual disability" means significantly subaverage general  
13 intellectual functioning existing concurrently with deficits in adaptive  
14 behavior and manifested during the period from birth to age 18.

15 (e) "Respite care" means temporary, short-term care not exceeding 90  
16 days per calendar year to provide relief from the daily pressures involved  
17 in caring for a person with intellectual disability.

18 (f) "Restraint" means the use of a totally enclosed crib or any material  
19 to restrict or inhibit the free movement of one or more limbs of a person  
20 except medical devices which limit movement for examination, treatment  
21 or to insure the healing process.

22 (g) "Seclusion" means being placed alone in a locked room where the  
23 individual's freedom to leave is thereby restricted and where such  
24 placement is not under continuous observation.

25 (h) "Secretary" means the secretary ~~of social and rehabilitation for~~  
26 ~~aging and disability~~ services or the designee of the secretary.

27 (i) "Significantly subaverage general intellectual functioning" means  
28 performance which is two or more standard deviations from the mean  
29 score on a standardized intelligence test specified by the secretary.

30 (j) "Superintendent" means the chief administrative officer of the  
31 institution or the designee of the chief administrative officer.

32 (k) "Training" means the provision of specific environmental,  
33 physical, mental, social and educational interventions and therapies for the  
34 purpose of halting, controlling or reversing processes that cause, aggravate  
35 or complicate malfunctions or dysfunctions of development.

36 Sec. 452. K.S.A. 2012 Supp. 76-1305 is hereby amended to read as  
37 follows: 76-1305. The secretary ~~of social and rehabilitation for aging and~~  
38 ~~disability~~ services is authorized and directed to establish, equip and  
39 maintain, in connection with and as a part of the Larned state hospital,  
40 suitable buildings to be known as the "state security hospital" for the  
41 purpose of holding in custody, examining, treating and caring for such  
42 mentally ill persons as may be committed or ordered to the state security  
43 hospital by courts of criminal jurisdiction or inmates with mental illness

1 who are transferred for care or treatment to the state security hospital from  
2 a correctional institution under the control of the secretary of corrections,  
3 or patients with a mental illness, other than minors, who are transferred for  
4 care or treatment to the state security hospital from any institution under  
5 the jurisdiction of the secretary ~~of social and rehabilitation~~ *for aging and*  
6 *disability* services. The secretary ~~of social and rehabilitation~~ *for aging and*  
7 *disability* services is hereby authorized and empowered to supervise and  
8 manage the state security hospital. The superintendent of the Larned state  
9 hospital shall act as the superintendent of the state security hospital.

10 Sec. 453. K.S.A. 2012 Supp. 76-1306 is hereby amended to read as  
11 follows: 76-1306. The secretary ~~of social and rehabilitation~~ *for aging and*  
12 *disability* services may transfer any patient, other than a minor, in any  
13 institution under the supervision of the secretary to the state security  
14 hospital whenever the secretary determines that such patient is suffering  
15 from a mental illness and when the secretary determines that: (1) Due to  
16 the behavior of the patient, the patient is a danger to the other patients in  
17 the institution; (2) that the patient is a security risk; or (3) that the patient is  
18 charged or convicted of felony crimes and, therefore, is unable to receive  
19 proper care or treatment in a facility other than the state security hospital.  
20 Any patient transferred to the state security hospital under this section  
21 shall be assigned quarters separate from those individuals who have been  
22 transferred from penal institutions or committed thereto by courts under  
23 the Kansas code of criminal procedure.

24 Sec. 454. K.S.A. 2012 Supp. 76-1307 is hereby amended to read as  
25 follows: 76-1307. (a) Any patient transferred to the state security hospital  
26 by the secretary ~~of social and rehabilitation~~ *for aging and disability*  
27 services from an institution under the supervision of the secretary ~~of social~~  
28 ~~and rehabilitation~~ *for aging and disability* services shall: (1) Be assigned  
29 quarters separate from those individuals who have been transferred from  
30 correctional institutions or committed to the state security hospital by  
31 courts pursuant to the Kansas code of criminal procedure; and (2) remain  
32 subject to the same statutory provisions applicable to the patient at the  
33 institution from which the patient was transferred and in addition shall  
34 abide by and be subject to all the rules and regulations of the state security  
35 hospital not inconsistent with such statutory provisions.

36 (b) The next of kin and guardian, if one has been appointed, of the  
37 patient transferred to the state security hospital by the secretary ~~of social~~  
38 ~~and rehabilitation~~ *for aging and disability* services under K.S.A. 76-1306,  
39 and amendments thereto, shall be notified of the transfer. If the patient was  
40 committed to the sending institution by a court, notice of the transfer shall  
41 be sent to the committing court. The notice of transfer shall be given  
42 within a reasonable time after the date of the transfer.

43 Sec. 455. K.S.A. 76-1528 is hereby amended to read as follows: 76-

1 1528. (a) From and after October 1, 1975, the southeast Kansas  
2 tuberculosis hospital shall cease to function as an institution of this state  
3 for the care and treatment of tuberculosis patients. All patients receiving  
4 care or treatment at such hospital on the effective date of this act shall be  
5 transferred to a medical care facility qualified to treat persons infected  
6 with tuberculosis as provided by K.S.A. 65-116j, *and amendments thereto*.

7 (b) All medical records of each patient receiving care or treatment at  
8 the southeast Kansas tuberculosis hospital immediately prior to the  
9 effective date of this act shall be transferred to the medical care facility to  
10 which such patient is transferred. All medical records of former patients of  
11 the southeast Kansas tuberculosis hospital shall be transferred to the  
12 secretary of health and environment.

13 (c) ~~The secretary of social and rehabilitation services for children and~~  
14 ~~families~~ shall continue to be in charge of the premises, facilities,  
15 installations and equipment at the southeast Kansas tuberculosis hospital  
16 and shall provide for the preservation, maintenance, upkeep and use  
17 thereof, until otherwise provided by law.

18 Sec. 456. K.S.A. 76-17a10 is hereby amended to read as follows: 76-  
19 17a10. The Rainbow unit of the Osawatomie state hospital is hereby  
20 established as a separate state institution which shall be designated and  
21 known as the Rainbow mental health facility. The Rainbow mental health  
22 facility shall be operated and managed within the division of mental health  
23 and developmental disabilities of the ~~department of social and~~  
24 ~~rehabilitation~~ *Kansas department for aging and disability* services and in  
25 accordance with the laws and rules and regulations governing the other  
26 state institutions under the jurisdiction of such division. In accordance with  
27 rules and regulations adopted by the secretary ~~of social and rehabilitation~~  
28 *for aging and disability* services under K.S.A. 76-12a07, *and amendments*  
29 *thereto*, any person who is a resident of this state and who is in need of the  
30 services provided by the Rainbow mental health facility shall be eligible  
31 for admission to such facility.

32 Sec. 457. K.S.A. 76-17c07 is hereby amended to read as follows: 76-  
33 17c07. The secretary ~~of social and rehabilitation~~ *for aging and disability*  
34 services, with or without receiving direct monetary consideration therefor,  
35 may enter into a lease agreement with the city of Topeka, Kansas, for not  
36 to exceed ~~ten (10)~~ 10 years in duration and with five-year renewal terms  
37 thereafter to lease for park and recreational purposes, together with such  
38 other restrictions as to use that the secretary deems necessary, a part of the  
39 property known as the "Kansas neurological institute," described as  
40 follows: A part of section 11, township 12 south, range 15, east of the 6th  
41 P.M. in Shawnee county, Kansas, described more specifically as follows:  
42 Beginning at a point on the west line of said section which is 1314 feet  
43 south of the northwest corner of the southwest quarter of section 11,

1 township 12, range 15 east; thence north 89 degrees 09'47" east 2319.19  
2 feet; thence north 165 feet; thence north 89 degrees 09' 47" east 1625.56  
3 feet to the center line of Shunganunga creek; thence southerly and westerly  
4 along the center line of said creek following the meanderings thereof to a  
5 point on the west line of said section which is 1724 feet south of the  
6 northwest corner of the southwest quarter of said section; thence north  
7 along the west line of said section a distance of 410 feet to the place of  
8 beginning containing 72 acres more or less.

9 Sec. 458. K.S.A. 2012 Supp. 76-17c08 is hereby amended to read as  
10 follows: 76-17c08. (a) The secretary-of social and rehabilitation for aging  
11 and disability services shall convey to the Topeka association for retarded  
12 citizens, inc. the following described state properties adjacent to the  
13 Kansas neurological institute, all in the city of Topeka, Shawnee County,  
14 Kansas, described as follows: A tract of land in the west half of the  
15 southeast quarter of section 11, township 12 south, range 15 east of the 6th  
16 P.M. beginning at the southeast corner of the west half of the northeast  
17 quarter; thence coincident with the east line of the west half of said  
18 northeast quarter on azimuth 00 degrees 04 minutes 23 seconds, a distance  
19 of 50.00 feet to the point of beginning; thence continuing coincident with  
20 said east line on azimuth 00 degrees 04 minutes 23 seconds, a distance of  
21 68.65 feet; thence leaving said east line on azimuth 268 degrees 52  
22 minutes 11 seconds, a distance of 828.70 feet; thence on azimuth 244  
23 degrees 46 minutes 18 seconds, a distance of 290.52 feet to a point on the  
24 south line of said northeast quarter; thence on azimuth 180 degrees 02  
25 minutes 40 seconds, a distance of 461.03 feet; thence on azimuth 88  
26 degrees 52 minutes 11 seconds, a distance of 1091.41 feet to the east line  
27 of the west half of the southeast quarter of said section 11; thence  
28 coincident with said east line on azimuth 00 degrees 02 minutes 40  
29 seconds, a distance of 161.03 feet; thence leaving said east line on azimuth  
30 268 degrees 52 minutes 11 seconds, a distance of 600.00 feet; thence on  
31 azimuth 00 degrees 02 minutes 40 seconds, a distance of 300.00 feet to a  
32 point on the north line of said southeast quarter; thence on azimuth 00  
33 degrees 04 minutes 23 seconds, a distance of 50.00 feet; thence on azimuth  
34 88 degrees 52 minutes 11 seconds, a distance of 600.00 feet to the point of  
35 beginning. The above tract contains 9.34 acres, more or less, and is subject  
36 to any public roads, easements, reservations, restrictions, covenants or  
37 conditions if any now of record. Such land shall be used for the care,  
38 education, training and treatment of retarded persons or other charitable  
39 purposes relating to health, education and welfare.

40 (b) The deed conveying the above-described land shall be approved  
41 by the attorney general and shall be executed by the secretary-of social and  
42 rehabilitation for aging and disability services. Such deed shall provide  
43 that in the event the above-described land shall cease to be used for the



1 purposes described in subsection (a) by the Topeka association for retarded  
2 citizens, inc., or its successors, then all right, title and interest in such land  
3 shall revert to the state of Kansas.

4 Sec. 459. K.S.A. 76-1936 is hereby amended to read as follows: 76-  
5 1936. (a) The commissioner of mental health and developmental  
6 disabilities of the ~~department of social and rehabilitation~~ *Kansas*  
7 *department for aging and disability* services, with the approval of the  
8 ~~secretary of social and rehabilitation~~ *for aging and disability* services and  
9 the Kansas veterans' commission, may transfer patients in the state  
10 hospitals at ~~Topeka~~, Osawatomie and Larned and patients in the Rainbow  
11 mental health facility; *and* the Parsons state hospital and training center  
12 ~~and the Winfield state hospital and training center~~ who have served in the  
13 military or naval forces of the United States or whose husband, wife,  
14 father, son or daughter has served in the active military or naval service of  
15 the United States during any period of any war as defined in K.S.A. 76-  
16 1908, *and amendments thereto*, and was discharged or relieved therefrom  
17 under conditions other than dishonorable, to the Kansas soldiers' home. No  
18 patient who is such a mentally ill person, in the opinion of the  
19 commissioner of mental health and developmental disabilities, that  
20 because of such patient's illness such patient is likely to injure himself or  
21 others shall be so transferred to such Kansas soldiers' home, and no such  
22 patient shall be so transferred if such transfer will deny admission to  
23 persons entitled to admission under K.S.A. 76-1908, *and amendments*  
24 *thereto*, and rules and regulations promulgated thereunder. Persons so  
25 transferred shall not be considered as members of the Kansas soldiers'  
26 home but shall be considered as patients therein.

27 (b) All of the laws, rules and regulations relating to patients in the  
28 above-specified state hospitals and mental health facility shall be  
29 applicable to such patients so transferred insofar as the same can be made  
30 applicable. Any patient so transferred who is found to be or shall become  
31 such a mentally ill person, in the opinion of the commissioner of mental  
32 health and developmental disabilities, that because of such patient's illness  
33 such patient is likely to injure himself or others or who is determined to  
34 need additional psychiatric treatment, shall be retransferred by the  
35 superintendent of the Kansas soldiers' home, with the approval of the  
36 commissioner of mental health and developmental disabilities, to the  
37 institution from whence the patient was originally transferred.

38 Sec. 460. K.S.A. 76-1958 is hereby amended to read as follows: 76-  
39 1958. (a) The commissioner of mental health and developmental  
40 disabilities of the ~~department of social and rehabilitation~~ *Kansas*  
41 *department for aging and disability* services, with the approval of the  
42 ~~secretary of social and rehabilitation~~ *for aging and disability* services and  
43 the Kansas commission on veterans affairs, may transfer patients in the

1 state hospitals in ~~Topka~~, Osawatomie and Larned and patients in the  
2 Rainbow mental health facility; *and* the Parsons state hospital and training  
3 center ~~and the Winfield state hospital and training center~~ who have served  
4 in the military or naval forces of the United States or whose husband, wife,  
5 father, son or daughter has served in the active military or naval service of  
6 the United States during any period of any war as defined in K.S.A. 76-  
7 1954, and amendments thereto, and was discharged or relieved therefrom  
8 under conditions other than dishonorable, to the Kansas veterans' home.  
9 No patient who is such a mentally ill person, in the opinion of the  
10 commissioner of mental health and developmental disabilities, that  
11 because of such patient's illness such patient is likely to injure oneself or  
12 others shall be so transferred to such Kansas veterans' home, and no such  
13 patient shall be so transferred if such transfer will deny admission to  
14 persons entitled to admission under K.S.A. 76-1954, and amendments  
15 thereto, and rules and regulations promulgated thereunder. Persons so  
16 transferred shall not be considered as members of the Kansas veterans'  
17 home but shall be considered as patients therein.

18 (b) All of the laws, rules and regulations relating to patients in the  
19 above-specified state hospitals and mental health facilities shall be  
20 applicable to such patients so transferred insofar as the same can be made  
21 applicable. Any patient so transferred who is found to be or shall become  
22 such a mentally ill person, in the opinion of the commissioner of mental  
23 health and developmental disabilities, that because of such patient's illness  
24 such patient is likely to injure oneself or others or who is determined to  
25 need additional psychiatric treatment, shall be retransferred by the  
26 superintendent of the Kansas veterans' home, with the approval of the  
27 commissioner of mental health and developmental disabilities, to the  
28 institution from which the patient was originally transferred.

29 Sec. 461. K.S.A. 78-101 is hereby amended to read as follows: 78-  
30 101. (a) Except as provided by subsection (b), no state or county officers,  
31 or their deputies, shall be taken as surety on the bond of any administrator,  
32 executor or other officer from whom bond is or may be required by law.  
33 No practicing attorney shall be taken on any official bond, or bond in any  
34 legal proceedings as aforesaid, in the district in which the attorney resides.

35 (b) ~~The secretary of social and rehabilitation services for children~~  
36 *and families*, in the secretary's official capacity, shall act as surety on the  
37 bond of any conservator providing advocacy services to a conservatee  
38 under contract with the agency designated as the Kansas guardianship  
39 program established under K.S.A. ~~1997 Supp.~~ 74-9601 to 74-9606,  
40 inclusive, and amendments thereto.

41 Sec. 462. K.S.A. 2012 Supp. 79-3221g is hereby amended to read as  
42 follows: 79-3221g. (a) For all tax years commencing after December 31,  
43 2001, each Kansas state individual income tax return form shall contain a

1 designation as follows:

2 Senior Citizen Meals on Wheels Contribution Program. Check if you  
3 wish to donate, in addition to your tax liability, or designate from your  
4 refund, \_\_\_\$1, \_\_\_\$5, \_\_\_\$10, or \$\_\_\_\_\_.

5 (b) The director of taxation of the department of revenue shall  
6 determine annually the total amount designated for contribution to the  
7 senior citizen meals on wheels contribution program pursuant to  
8 subsection (a) and shall report such amount to the state treasurer who shall  
9 credit the entire amount thereof to the senior citizen nutrition check-off  
10 fund to be administered by the ~~department of aging~~ *Kansas department for*  
11 *aging and disability services* to provide financial assistance under the  
12 senior nutritional program. In the case where donations are made pursuant  
13 to subsection (a), the director shall remit the entire amount thereof to the  
14 state treasurer who shall credit the same to such fund. All expenditures  
15 from such fund shall be made in accordance with appropriation acts.

16 Sec. 463. K.S.A. 2012 Supp. 79-3234 is hereby amended to read as  
17 follows: 79-3234. (a) All reports and returns required by this act shall be  
18 preserved for three years and thereafter until the director orders them to be  
19 destroyed.

20 (b) Except in accordance with proper judicial order, or as provided in  
21 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,  
22 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be  
23 unlawful for the secretary, the director, any deputy, agent, clerk or other  
24 officer, employee or former employee of the department of revenue or any  
25 other state officer or employee or former state officer or employee to  
26 divulge, or to make known in any way, the amount of income or any  
27 particulars set forth or disclosed in any report, return, federal return or  
28 federal return information required under this act; and it shall be unlawful  
29 for the secretary, the director, any deputy, agent, clerk or other officer or  
30 employee engaged in the administration of this act to engage in the  
31 business or profession of tax accounting or to accept employment, with or  
32 without consideration, from any person, firm or corporation for the  
33 purpose, directly or indirectly, of preparing tax returns or reports required  
34 by the laws of the state of Kansas, by any other state or by the United  
35 States government, or to accept any employment for the purpose of  
36 advising, preparing material or data, or the auditing of books or records to  
37 be used in an effort to defeat or cancel any tax or part thereof that has been  
38 assessed by the state of Kansas, any other state or by the United States  
39 government.

40 (c) The secretary or the secretary's designee may: (1) Publish  
41 statistics, so classified as to prevent the identification of particular reports  
42 or returns and the items thereof;

43 (2) allow the inspection of returns by the attorney general or other

1 legal representatives of the state;

2 (3) provide the post auditor access to all income tax reports or returns  
3 in accordance with and subject to the provisions of subsection (g) of  
4 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

5 (4) disclose taxpayer information from income tax returns to persons  
6 or entities contracting with the secretary of revenue where the secretary  
7 has determined disclosure of such information is essential for completion  
8 of the contract and has taken appropriate steps to preserve confidentiality;

9 (5) disclose to the secretary of commerce the following: (A) Specific  
10 taxpayer information related to financial information previously submitted  
11 by the taxpayer to the secretary of commerce concerning or relevant to any  
12 income tax credits, for purposes of verification of such information or  
13 evaluating the effectiveness of any tax credit or economic incentive  
14 program administered by the secretary of commerce; (B) the amount of  
15 payroll withholding taxes an employer is retaining pursuant to K.S.A.  
16 2012 Supp. 74-50,212, and amendments thereto; (C) information received  
17 from businesses completing the form required by K.S.A. 2012 Supp. 74-  
18 50,217, and amendments thereto; and (D) findings related to a compliance  
19 audit conducted by the department of revenue upon the request of the  
20 secretary of commerce pursuant to K.S.A. 2012 Supp. 74-50,215, and  
21 amendments thereto;

22 (6) disclose income tax returns to the state gaming agency to be used  
23 solely for the purpose of determining qualifications of licensees of and  
24 applicants for licensure in tribal gaming. Any information received by the  
25 state gaming agency shall be confidential and shall not be disclosed except  
26 to the executive director, employees of the state gaming agency and  
27 members and employees of the tribal gaming commission;

28 (7) disclose the taxpayer's name, last known address and residency  
29 status to the department of wildlife ~~and parks~~, *parks and tourism* to be  
30 used solely in its license fraud investigations;

31 (8) disclose the name, residence address, employer or Kansas  
32 adjusted gross income of a taxpayer who may have a duty of support in a  
33 title IV-D case to the secretary of the Kansas department ~~of social and~~  
34 ~~rehabilitation services for children and families~~ for use solely in  
35 administrative or judicial proceedings to establish, modify or enforce such  
36 support obligation in a title IV-D case. In addition to any other limits on  
37 use, such use shall be allowed only where subject to a protective order  
38 which prohibits disclosure outside of the title IV-D proceeding. As used in  
39 this section, "title IV-D case" means a case being administered pursuant to  
40 part D of title IV of the federal social security act (42 U.S.C. § 651 et  
41 seq.), and amendments thereto. Any person receiving any information  
42 under the provisions of this subsection shall be subject to the  
43 confidentiality provisions of subsection (b) and to the penalty provisions

1 of subsection (e);

2 (9) permit the commissioner of internal revenue of the United States,  
3 or the proper official of any state imposing an income tax, or the  
4 authorized representative of either, to inspect the income tax returns made  
5 under this act and the secretary of revenue may make available or furnish  
6 to the taxing officials of any other state or the commissioner of internal  
7 revenue of the United States or other taxing officials of the federal  
8 government, or their authorized representatives, information contained in  
9 income tax reports or returns or any audit thereof or the report of any  
10 investigation made with respect thereto, filed pursuant to the income tax  
11 laws, as the secretary may consider proper, but such information shall not  
12 be used for any other purpose than that of the administration of tax laws of  
13 such state, the state of Kansas or of the United States;

14 (10) communicate to the executive director of the Kansas lottery  
15 information as to whether a person, partnership or corporation is current in  
16 the filing of all applicable tax returns and in the payment of all taxes,  
17 interest and penalties to the state of Kansas, excluding items under formal  
18 appeal, for the purpose of determining whether such person, partnership or  
19 corporation is eligible to be selected as a lottery retailer;

20 (11) communicate to the executive director of the Kansas racing  
21 commission as to whether a person, partnership or corporation has failed  
22 to meet any tax obligation to the state of Kansas for the purpose of  
23 determining whether such person, partnership or corporation is eligible for  
24 a facility owner license or facility manager license pursuant to the Kansas  
25 parimutuel racing act;

26 (12) provide such information to the executive director of the Kansas  
27 public employees retirement system for the purpose of determining that  
28 certain individuals' reported compensation is in compliance with the  
29 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and  
30 amendments thereto;

31 (13) (i) provide taxpayer information of persons suspected of  
32 violating K.S.A. 2012 Supp. 44-766, and amendments thereto, to the  
33 secretary of labor or such secretary's designee for the purpose of  
34 determining compliance by any person with the provisions of *subsection*  
35 *(i)(3)(D)* of K.S.A. 44-703~~(i)(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and  
36 amendments thereto. The information to be provided shall include all  
37 relevant information in the possession of the department of revenue  
38 necessary for the secretary of labor to make a proper determination of  
39 compliance with the provisions of *subsection (i)(3)(D)* of K.S.A. 44-703~~(i)~~  
40 ~~(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and amendments thereto, and to  
41 calculate any unemployment contribution taxes due. Such information to  
42 be provided by the department of revenue shall include, but not be limited  
43 to, withholding tax and payroll information, the identity of any person that

1 has been or is currently being audited or investigated in connection with  
2 the administration and enforcement of the withholding and declaration of  
3 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the  
4 results or status of such audit or investigation-;

5 (ii) any person receiving tax information under the provisions of this  
6 paragraph shall be subject to the same duty of confidentiality imposed by  
7 law upon the personnel of the department of revenue and shall be subject  
8 to any civil or criminal penalties imposed by law for violations of such  
9 duty of confidentiality; *and*

10 (iii) each of the secretary of labor and the secretary of revenue may  
11 adopt rules and regulations necessary to effect the provisions of this  
12 paragraph;

13 (14) provide such information to the state treasurer for the sole  
14 purpose of carrying out the provisions of K.S.A. 58-3934, and  
15 amendments thereto. Such information shall be limited to current and prior  
16 addresses of taxpayers or associated persons who may have knowledge as  
17 to the location of an owner of unclaimed property. For the purposes of this  
18 paragraph, "associated persons" includes spouses or dependents listed on  
19 income tax returns; and

20 (15) After receipt of information pursuant to subsection (f), forward  
21 such information and provide the following reported Kansas individual  
22 income tax information for each listed defendant, if available, to the state  
23 board of indigents' defense services in an electronic format and in the  
24 manner determined by the secretary: (A) The defendant's name; (B) social  
25 security number; (C) Kansas adjusted gross income; (D) number of  
26 exemptions claimed; and (E) the relevant tax year of such records. Any  
27 social security number provided to the secretary and the state board of  
28 indigents' defense services pursuant to this section shall remain  
29 confidential.

30 (d) Any person receiving information under the provisions of  
31 subsection (c) shall be subject to the confidentiality provisions of  
32 subsection (b) and to the penalty provisions of subsection (e).

33 (e) Any violation of subsection (b) or (c) is a class A nonperson  
34 misdemeanor and, if the offender is an officer or employee of the state,  
35 such officer or employee shall be dismissed from office.

36 (f) For the purpose of determining whether a defendant is financially  
37 able to employ legal counsel under the provisions of K.S.A. 22-4504, and  
38 amendments thereto, in all felony cases with appointed counsel where the  
39 defendant's social security number is accessible from the records of the  
40 district court, the court shall electronically provide the defendant's name,  
41 social security number, district court case number and county to the  
42 secretary of revenue in the manner and format agreed to by the office of  
43 judicial administration and the secretary.

1 (g) Nothing in this section shall be construed to allow disclosure of  
2 the amount of income or any particulars set forth or disclosed in any  
3 report, return, federal return or federal return information, where such  
4 disclosure is prohibited by the federal internal revenue code as in effect on  
5 September 1, 1996, and amendments thereto, related federal internal  
6 revenue rules or regulations, or other federal law.

7 Sec. 464. K.S.A. 2012 Supp. 79-32,200 is hereby amended to read as  
8 follows: 79-32,200. (a) There shall be allowed as a credit against the tax  
9 liability imposed under the Kansas income tax act of a person who has  
10 entered into an agreement with the secretary ~~of social and rehabilitation~~  
11 ~~services for children and families~~ under K.S.A. 39-7,132, and amendments  
12 thereto, an amount equal to 70% of the amount of financial assistance paid  
13 by such person under K.S.A. 39-7,132, and amendments thereto, as  
14 certified by the secretary ~~of social and rehabilitation services for children~~  
15 ~~and families~~, of not to exceed the amount of financial assistance which  
16 would have been paid under the aid to families with dependent children  
17 program from state matching contributions, as certified by the secretary ~~of~~  
18 ~~social and rehabilitation services for children and families~~, if such person  
19 had not agreed to assume some financial support.

20 (b) An individual may not claim a tax credit under this section if a  
21 credit for child care and dependent care expenses was claimed on either  
22 the state or federal tax return, or if the individual receives payment for care  
23 of the person provided financial assistance.

24 (c) The credit allowed by this section shall not exceed the amount of  
25 tax imposed under the Kansas income tax act reduced by the sum of any  
26 other credits allowable pursuant to law.

27 (d) The provisions of this section shall be applicable to all taxable  
28 years commencing after December 31, 1993.

29 (e) For tax year 2013 and all tax years thereafter, the income tax  
30 credit provided by this section shall only be available to taxpayers subject  
31 to the income tax on corporations imposed pursuant to subsection (c) of  
32 K.S.A. 79-32,110, and amendments thereto, and shall be applied only  
33 against such taxpayer's corporate income tax liability.

34 Sec. 465. K.S.A. 2012 Supp. 79-4805 is hereby amended to read as  
35 follows: 79-4805. (a) There is hereby established in the state treasury the  
36 problem gambling and addictions grant fund. All moneys credited to such  
37 fund shall be used only for the awarding of grants under this section. Such  
38 fund shall be administered in accordance with this section and the  
39 provisions of appropriation acts.

40 (b) All expenditures from the problem gambling and addictions grant  
41 fund shall be made in accordance with appropriation acts upon warrants of  
42 the director of accounts and reports issued pursuant to vouchers approved  
43 in the manner prescribed by law.

1 (c) (1) There is hereby established a state grant program to provide  
2 assistance for the direct treatment of persons diagnosed as suffering from  
3 pathological gambling and to provide funding for research regarding the  
4 impact of gambling on residents of Kansas. Research grants awarded  
5 under this section may include, but need not be limited to, grants for  
6 determining the effectiveness of education and prevention efforts on the  
7 prevalence of pathological gambling in Kansas. All grants shall be made  
8 after open solicitation of proposals and evaluation of proposals against  
9 criteria established in rules and regulations adopted by the secretary of the  
10 ~~department of social and rehabilitation~~ *Kansas department for aging and*  
11 *disability* services. Both public and private entities shall be eligible to  
12 apply for and receive grants under the provisions of this section.

13 (2) Moneys in the problem gambling and addictions grant fund may  
14 be used to treat alcoholism, drug abuse and other addictive behaviors.

15 (d) The secretary ~~of the department of social and rehabilitation~~ *for*  
16 *aging and disability* services is hereby authorized to receive moneys from  
17 any grants, gifts, contributions or bequests made for the purpose of  
18 funding grants under this section and to expend such moneys for the  
19 purpose for which received.

20 (e) All grants made in accordance with this section shall be made  
21 from the problem gambling and addictions grant fund. The secretary shall  
22 administer the provisions of this section and shall adopt rules and  
23 regulations establishing criteria for qualification to receive grants and such  
24 other matters deemed necessary by the secretary for the administration of  
25 this section. Such rules and regulations shall include, but need not be  
26 limited to, a requirement that each recipient of a grant to provide treatment  
27 for pathological gamblers report at least annually to the secretary the  
28 grantee's measurable achievement of specific outcome goals.

29 (f) For the purpose of this section "pathological gambling" means the  
30 disorder by that name described in the most recent edition of the  
31 diagnostic and statistical manual.

32 (g) On the effective date of this act the director of accounts and  
33 reports shall transfer all moneys in the problem gambling grant fund to the  
34 problem gambling and addictions grant fund. Thereupon the problem  
35 gambling grant fund shall be and is hereby abolished.

36 Sec. 466. K.S.A. 12-736, 12-4808, 16-304, 16-311, 17-2264, 17-  
37 5829, 20-319, 22-3723, 22a-243, 22a-244, 38-134, 38-320, 38-1808, 38-  
38 1817, 38-1819, 38-1820, 38-1821, 38-1822, 38-1901, 38-2002, 39-110,  
39 39-111, 39-702, 39-708c, 39-708d, 39-711a, 39-718b, 39-719e, 39-740,  
40 39-744, 39-751, 39-753, 39-755, 39-758, 39-782, 39-783, 39-786, 39-787,  
41 39-788, 39-7,100, 39-7,100a, 39-7,102, 39-7,103, 39-7,104, 39-7,105, 39-  
42 7,109, 39-7,122, 39-7,123, 39-7,125, 39-7,127, 39-7,128, 39-7,130, 39-  
43 7,131, 39-7,139, 39-960, 39-1208, 39-1209, 39-1302, 39-1410, 39-1434,



1 39-1435, 39-1501, 39-1602, 39-1603, 39-1604, 39-1612, 39-1613, 39-  
2 1703, 39-1704, 39-1804, 40-2d02, 40-2256, 40-22a05, 40-3227, 41-1126,  
3 59-2006, 59-2006b, 59-2006c, 59-2130, 59-2135, 59-2801, 59-2803, 59-  
4 2963, 59-2968, 59-2981, 59-29b57, 59-29b60, 59-29b63, 59-29b78, 59-  
5 29b81, 59-3065, 59-3067, 59-3070, 59-3080, 59-3094, 60-2204, 60-2310,  
6 60-2401, 65-116i, 65-116j, 65-116k, 65-116l, 65-116m, 65-1,108, 65-  
7 1,120, 65-1,159, 65-1,162, 65-1,165, 65-507, 65-513, 65-2422b, 65-3507,  
8 65-4432, 65-5101, 65-5115, 65-5902, 72-1046, 72-3608, 72-4311, 72-  
9 4314a, 72-4316, 72-8239, 72-8243, 72-89a02, 72-89b03, 74-5502, 74-  
10 5505, 74-6901, 74-6904, 74-7801, 75-2935c, 75-3303, 75-3303a, 75-3304,  
11 75-3304a, 75-3307, 75-3315, 75-3323, 75-3328, 75-3337, 75-3338, 75-  
12 3339a, 75-3340, 75-3343a, 75-3347, 75-3354, 75-3728a, 75-5308e, 75-  
13 5309a, 75-5310, 75-5310a, 75-5313, 75-5316a, 75-5319, 75-5320, 75-  
14 5321, 75-5326, 75-5328a, 75-5343, 75-5344, 75-5345, 75-5365, 75-5371,  
15 75-5375, 75-5376, 75-5381, 75-5382, 75-5383, 75-5386, 75-5391, 75-  
16 5393, 75-53,100, 75-5902, 75-5923, 75-5925, 75-5940, 75-5946, 75-5947,  
17 75-5949, 75-5952, 75-5956, 76-170, 76-175, 76-317, 76-1237, 76-12a16,  
18 76-12a17, 76-12a22, 76-12a30, 76-1528, 76-17a10, 76-17c07, 76-1936,  
19 76-1958 and 78-101 and K.S.A. 2012 Supp. 8-255, 8-1008, 8-1567, 9-  
20 1216, 12-4509, 12-4516, 12-4516a, 16-312, 17-1762, 19-4001, 19-4007,  
21 20-378, 20-380, 21-5413, 21-5512, 21-5914, 21-5926, 21-5927, 21-6602,  
22 21-6614, 21-6702, 21-6708, 22-2410, 22-3302, 22-3303, 22-3305, 22-  
23 3428, 22-3727a, 22-4612, 23-2202, 23-2203, 23-2204, 23-2209, 23-2212,  
24 23-2213, 23-2219, 23-3102, 23-3109, 23-3113, 23-3114, 23-3121, 23-  
25 3210, 23-36,201, 23-36,310, 32-906, 32-918, 32-930, 38-143, 38-144, 38-  
26 1604, 38-1608, 38-1664, 38-2202, 38-2212, 38-2222, 38-2223, 38-2226,  
27 38-2247, 38-2261, 38-2282, 38-2304, 38-2310, 38-2312, 38-2319, 38-  
28 2326, 38-2335, 38-2350, 38-2356, 38-2361, 39-709, 39-717, 39-754, 39-  
29 756, 39-757, 39-760, 39-784, 39-785, 39-7,108, 39-7,129, 39-7,132, 39-  
30 7,134, 39-7,135, 39-7,138, 39-7,151, 39-7,155, 39-7,156, 39-7,157, 39-  
31 7,158, 39-7,159, 39-7,160, 39-7,161, 39-7,162, 39-923, 39-923a, 39-924,  
32 39-926, 39-930, 39-935, 39-936, 39-938, 39-940, 39-944, 39-945, 39-946,  
33 39-947, 39-947a, 39-948, 39-950, 39-951, 39-952, 39-953a, 39-954, 39-  
34 958, 39-961, 39-963, 39-965, 39-968, 39-969, 39-970, 39-971, 39-1002,  
35 39-1202, 39-1402, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-  
36 1409, 39-1411, 39-1430, 39-1431, 39-1432, 39-1433, 39-1436, 39-1443,  
37 39-1605, 39-1803, 40-2,111, 40-2134, 40-3401, 40-4704, 41-2622, 44-508,  
38 44-575, 44-577, 46-922, 46-1208e, 46-2801, 59-2122, 59-2123, 59-2132,  
39 59-2946, 59-2972, 59-2978, 59-29a02, 59-29a07, 59-29a11, 59-29a22, 59-  
40 29b46, 59-29b66, 59-3069, 60-2308, 65-1,246, 65-445, 65-503, 65-504,  
41 65-506, 65-508, 65-516, 65-1456, 65-1673, 65-1674, 65-2409a, 65-2422d,  
42 65-2895, 65-3503, 65-3504, 65-3506, 65-4024a, 65-4024b, 65-4412, 65-  
43 6205, 65-6207, 65-6210, 65-6214, 65-6217, 65-6218, 65-6220, 65-6501,

1 65-6502, 65-6503, 65-6610, 72-962, 72-973, 72-997, 72-1113, 72-53,106,  
2 72-6407, 72-8187, 72-8223, 73-1209, 74-32,151, 74-32,160, 74-32,161,  
3 74-4902, 74-4911f, 74-4927, 74-5602, 74-6703, 74-8917, 74-9501, 75-  
4 723, 75-725, 75-2935, 75-3306, 75-3307b, 75-3329, 75-3339, 75-37,121,  
5 75-37,121a, 75-4265, 75-4266, 75-4375, 75-4376, 75-4378, 75-5268, 75-  
6 5301, 75-5366, 75-5367, 75-5397a, 75-5399, 75-53,105, 75-53,112, 75-  
7 5674, 75-5675, 75-5741, 75-5742, 75-5743, 75-5903, 75-5908, 75-5910,  
8 75-5914, 75-5928, 75-5933, 75-5945, 75-5951, 75-5958, 75-5961, 75-  
9 6202, 75-6506, 75-6508, 75-7023, 75-7302, 75-7306, 75-7310, 75-7311,  
10 75-7405, 75-7435, 76-375, 76-381, 76-6b05, 76-12a01, 76-12a08, 76-  
11 12a10, 76-12b01, 76-1305, 76-1306, 76-1307, 76-17c08, 79-3221g, 79-  
12 3234, 79-3234c, 79-32,200 and 79-4805 are hereby repealed.

13 Sec. 467. This act shall take effect and be in force from and after its  
14 publication in the Kansas register.